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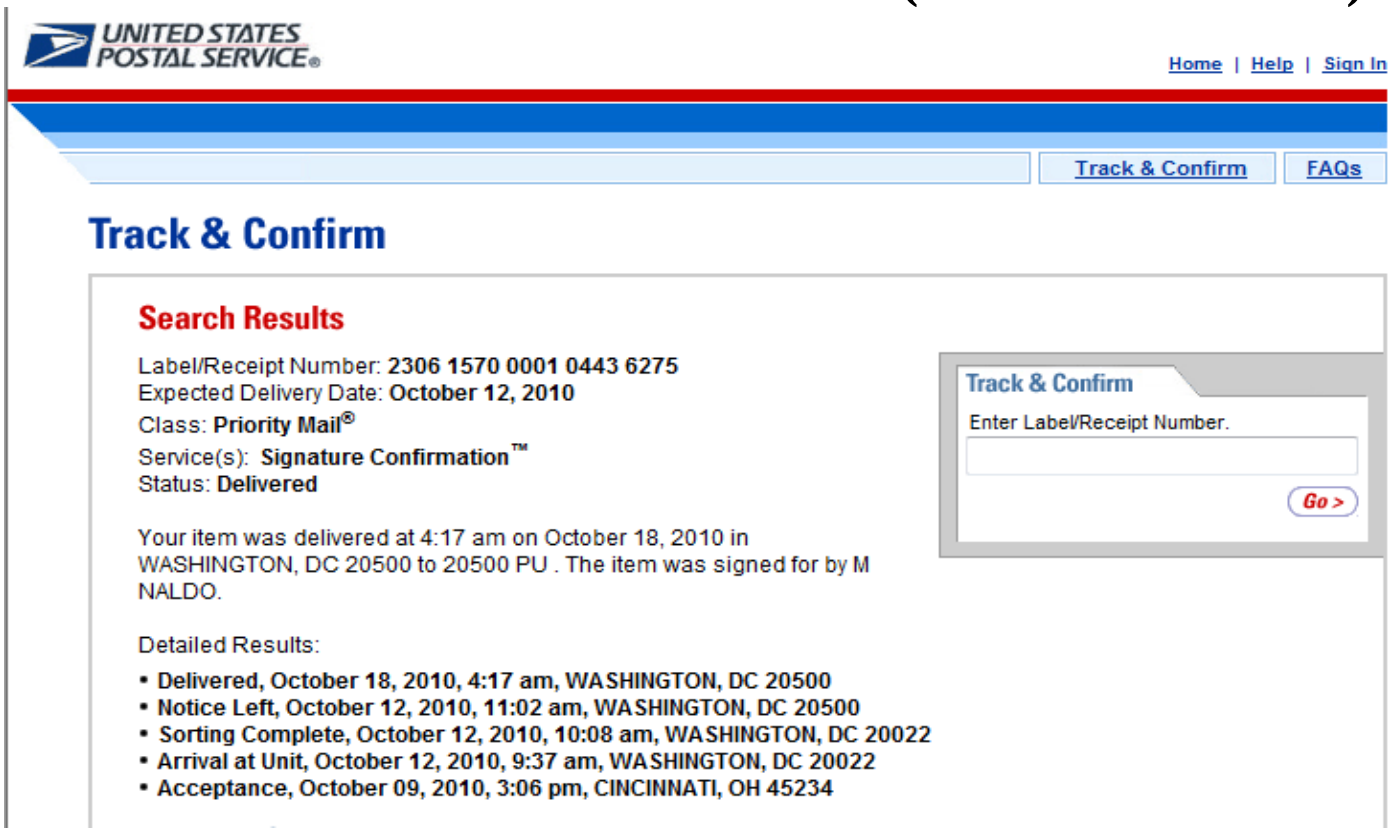

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- **Sorting Complete, October 12, 2010, 10:08 am, WASHINGTON, DC 20022**
- **Arrival at Unit, October 12, 2010, 9:37 am, WASHINGTON, DC 20022**
- **Acceptance, October 09, 2010, 3:06 pm, CINCINNATI, OH 45234**

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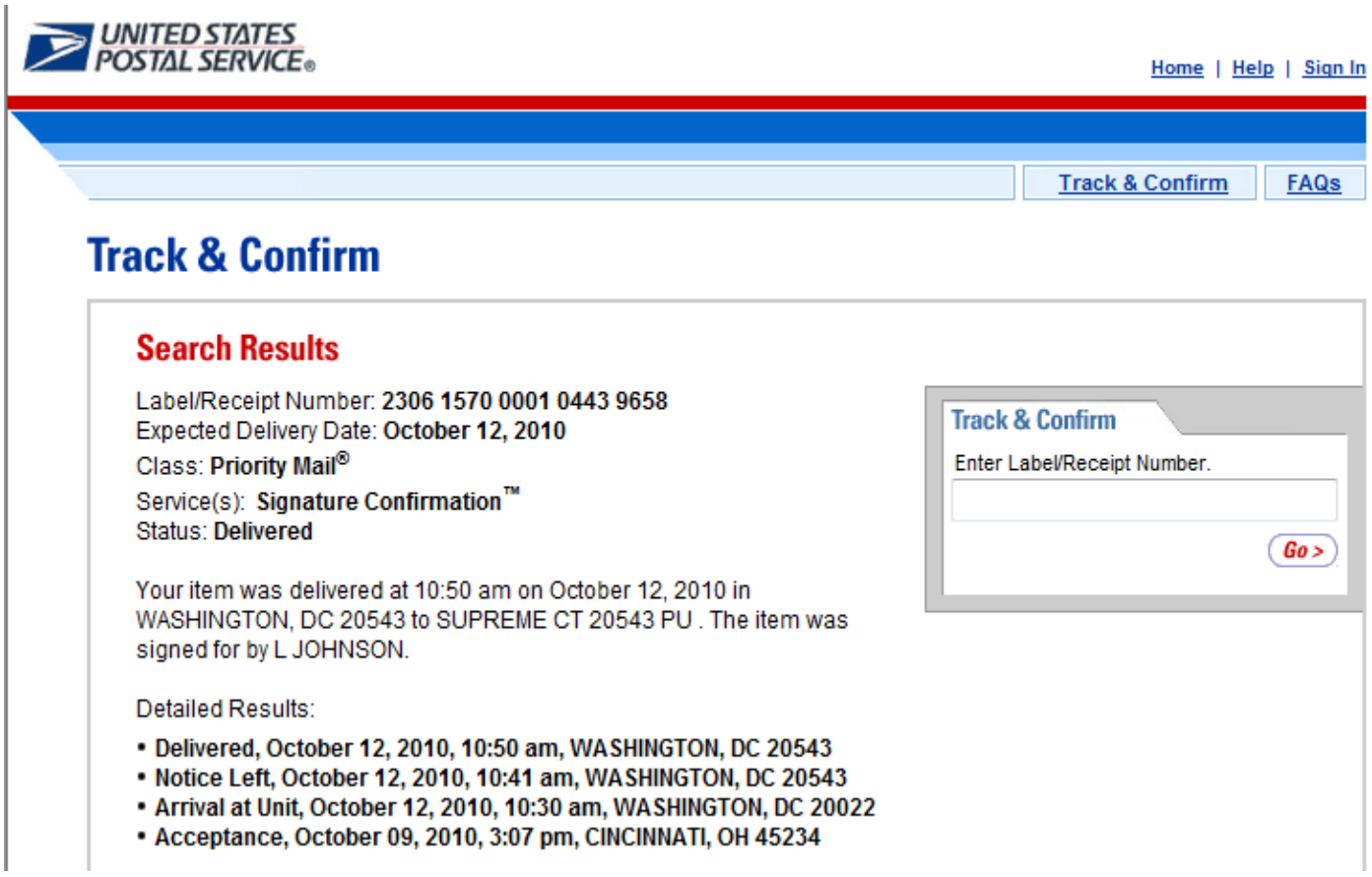

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- **Delivered, October 12, 2010, 10:50 am, WASHINGTON, DC 20543**
- **Notice Left, October 12, 2010, 10:41 am, WASHINGTON, DC 20543**
- **Arrival at Unit, October 12, 2010, 10:30 am, WASHINGTON, DC 20022**
- **Acceptance, October 09, 2010, 3:07 pm, CINCINNATI, OH 45234**

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VOGEL DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

October 9, 2010

VIA U.S. PRIORITY MAIL – Tracking No. 2306 1570 0001 0443 9658
Supreme Court of the United States
ATTN: Chief Justice John G. Roberts
1 First Street, NE
Washington, DC 20543

RE: ***Emergency*** *Motion To Stay;* ***Emergency*** *Motion For Enlargement Of Time and Other Relief The United States Supreme Court Deems Appropriate To Correct The Legal Wrongs/Injustices Reported Herein*
Lower Court Action: *Stor-All Alfred LLC v. Denise V. Newsome;* Hamilton County (Ohio) Court of Common Pleas; Case No. A0901302

Dear Justice Roberts:

Pursuant to the Ohio Supreme Court Rule 22, please find the "ORIGINAL" and two (2) copies of Newsome's *"**Emergency** Motion To Stay; **Emergency** Motion For Enlargement Of Time and Other Relief The United States Supreme Court Deems Appropriate To Correct The Legal Wrongs/Injustices Reported Herein"* in regards to the lower court action. Also enclosed, please find **Money Order No. *1828278292*** in the amount of $300.00 for payment in advance of the required filing fee. From the Docket of the lower court action, it appears that Judge John Andrew West ("Judge West") is looking to carry out his next action (over Newsome's OBJECTIONS – through filing of Affidavit of Disqualification) on *Friday*, ***October 22, 2010***. See **EXHIBIT "51".**

This matter *involves a* ***sitting President of the United States (Barack Obama)***. Newsome submits the advance payment for purposes of securing costs and to AVOID additional attacks that she has suffered as a DIRECT and PROXIMATE result of President Obama and his Administration's RETALIATION against her for exercising her First and Fourteenth Amendment Rights as well as other rights secured/guaranteed under the United States Constitution and other laws. *This is a case of* ***EXTRAORDINARY*** *and* ***EXCEPTIONAL*** *circumstances which requires the Supreme Court of the United States' intervention.* Newsome is not sure whether or not the Justices of this Court have witnessed or experienced what she shares in this instant filing and that to be brought on Appeal.

> This is a classic case of a *"David vs. GOLIATH!"* Moreover, a classic case that will reveal how a sitting President/his Administration and SPECIAL INTEREST GROUPS rely upon their **BIG MONEY** and **POWERFUL INFLUENCE** in the political and judicial arena to ***BULLY indigent*** litigants/citizens and engage in CRIMINAL/CIVIL wrongs for purposes of obtaining an **UNDUE** and unlawful/illegal **ADVANTAGE** over the weak/poor. *Then one may wonder where our children may be learning their* ***BULLYING*** *techniques and criminal behavior from.*

Newsome apologize for the need to submit such a VOLUMINOUS pleading; however, again, *this matter involves a sitting President of the United States (Barack Obama)* and the Exhibits attached supports the facts and legal conclusions set forth in the Motion for purposes of sustaining the relief sought. Newsome knew that mere allegations alone would not be wise and the importance of providing the documentation and/or evidence to sustain allegations and issues raised.

The Appeal action Newsome seeks will be brought in this Court's ***"Original"*** *jurisdiction* (if permissible) and is associated with a lawsuit that was brought ***against*** Newsome by Plaintiff Stor-All Alfred LLC ("Stor-All"). Stor-All's insurance provider is Liberty Mutual Insurance Company ("Liberty Mutual"). Liberty Mutual is a major client of a HUGE law firm (***Baker Donelson Bearman Caldwell & Berkowitz***) which from Newsome's research has a GREAT DEAL of political and judicial clout (i.e. ties to Judges/Justices and role in JUDICIAL Nominations and more)[1] – i.e. see **EXHIBITS "22"**, **"35"**, **"59"**, **"18"**, **"79"**, and **"80"** respectively. Talking about the ***"fox guarding the hen house"*** *– this is a classic example*. Furthermore, it sheds additional light that Newsome believes is of PUBLIC/WORLDWIDE interest as to *who is really running the White House as well as the United States Government* – i.e. who may be the minds and forces behind the decisions being made and wars in Iran, Iraq and Afghanistan; as well as the state of the economy today!

From Newsome's research she was able to find information to support that Baker Donelson and Liberty Mutual are TOP/KEY FINANCIAL Contributors and/or Advisors for President Barack Obama and his Administration (i.e. for instance see **EXHIBIT "24"**). Newsome further believes that the **recent attacks on her** by President Obama and his SPECIAL INTEREST Groups (Baker Donelson, Liberty Mutual and others) *may also be because he may blame her for the reason his POPULARITY with the public has fallen and/or his rating in the POLLS are so poor* because Newsome is exercising her Constitutional Rights and informing the PUBLIC/WORLD of the Corruption (i.e. *as WikiLeaks' Leader (Julian Assange) felt the need to do and has now himself come under attack*) in the United States Government and the Cover-Up of criminal/civil wrongs that have been targeted towards Newsome as well as other citizens. In fact, as early as about

[1] Current and former Baker Donelson attorneys and advisors include, among many other highly distinguished individuals, people who have served as: ***Chief of Staff to the President of the United States;*** **U.S. Senate Majority Leader**; **U.S. Secretary of State**; **Members of the United States Senate**; **Members of the United States House of Representatives**; Acting Administrator and Deputy Administrator of the Federal Aviation Administration; Director of the Office of Foreign Assets Control for the U.S. Department of the Treasury; **Director of the Administrative Office of the United States Courts**; Chief Counsel, Acting Director, and Acting Deputy Director of U.S. Citizenship & Immigration Services within the United States Department of Homeland Security; Majority and Minority Staff Director of the Senate Committee on Appropriations; a member of President's Domestic Policy Council; Counselor to the Deputy Secretary for the United States Department of HHS; ***Chief of Staff of the Supreme Court of the United States***; **Administrative Assistant to the Chief Justice of the United States**; Deputy Under Secretary for International Trade for the U.S. Department of Commerce; Ambassador to Japan; Ambassador to Turkey; Ambassador to Saudi Arabia; Ambassador to the Sultanate of Oman; **Governor of Tennessee**; **Governor of Mississippi**; Deputy Governor and Chief of Staff for the Governor of Tennessee; Commissioner of Finance & Administration (Chief Operating Officer), State of Tennessee; Special Counselor to the Governor of Virginia; **United States Circuit Court of Appeals Judge**; **United States District Court Judges**; **United States Attorneys**; ***and Presidents of State and Local Bar Associations***.

March 2010 [via Email **"2010 & 2012 NOVEMBER ELECTIONS – It's Time to Clean House (Send Obama A Message)"**], it was Newsome who released (i.e. to President Obama/his Administration, *the Media, Church Organizations, Foreign Leaders/Countries*) a PowerPoint Presentation entitled: *"NOVEMBER 2010/2012 ELECTIONS - Vote For Change: It's Time To Clean House - Vote* ***OUT*** *The Incumbents/CAREER Politicians - Where have our CHRISTIAN Morals/Values Gone?"* This presentation is attached to instant filing at **EXHIBIT "166."** Newsome's Email Databases comprises of over 15,000 and is growing. With the November 2010 Elections fast approaching, Newsome believes it is time to submit this PowerPoint presentation and instant filing to the PUBLIC and FOREIGN NATIONS/LEADERS.

For this Court and the PUBLIC/WORLD to understand what the TRUE reasons may be for the RECENT resignations[2] in the Obama Administration and the RETALIATION leveled against Newsome for exercising her Constitutional Rights, in this instant filing she provides the July **13**, 2010 Email entitled, ***"U.S. PRESIDENT BARACK OBAMA: THE DOWNFALL/DOOM OF THE OBAMA ADMINISTRATION – Corruption/Conspiracy/Cover-Up/Criminal Acts Made Public"*** attached to Motion at **EXHIBIT "25."** It was shortly AFTER this email (that was also sent to United States Secretary of Agriculture Thomas Vilsack – Shirley Sherrod's boss) that Sherrod's job was terminated – she was forced to resign by the Obama Administration. See **EXHIBIT "4"**. It was **AFTER** Newsome's email and in RETALIATION that she believes President Obama and his Administration came out and had her Bank Account(s) UNLAWFULLY/ILLEGALLY seized – i.e. requesting that the Commonwealth of Kentucky Department of Revenue ("KYDOR") carry out such criminal/civil wrongs against Newsome for exercising her rights. On approximately July 17, 2010 (i.e. approximately *FOUR days* ***AFTER*** *the July 13, 2010 email*), the KYDOR executed a *"Notice of Levy"* that it knew was SHAM/BOGUS against Newsome. See **EXHIBIT "27"**. Such knowledge may be confirmed in its failure to provide Newsome with copy of the "Notice of Levy" served and *CONSPIRED with bank to EMBEZZLE/STEAL, through fraudulent and criminal activities, monies to which it was not entitled.* In fact, the KYDOR **compromised** the statute KRS §131.130 *by* ***REWRITING*** *and* ***ALTERING*** *wording* to accomplish its goals and alleging reason for levy being that Newsome owed "Child Support" when Newsome has **NO** children. Newsome further believes that the KYDOR's ***MALICIOUS*** ***acts*** were knowingly done *to get around the required court ORDER before such action could be taken.* The record evidence will support that KYDOR, United States Attorney General Eric Holder and **President Obama** were *timely, properly and adequately notified* through Newsome's **August 12, 2009 Complaint** against the KYDOR, that said agency was engaging in unlawful/illegal practices. See **EXHIBIT "26"**. Newsome also provides the CORRECT wording of the KRS §131.130 at **EXHIBIT "28"** *that the KYDOR compromised.*

[2] Chief of Staff Rahm Emanual, Senior Advisor David Axelrod and NOW White House National Security's General Jim Jones.

Newsome believes it is of GREAT importance to note that within an approximate **one-year** period there have been criminal actions brought against judges and/or their aides in legal actions to which Newsome is a litigant. For instance:

a) In the lower court (Hamilton County) matter, Judge West's Bailiff (Damon Ridley) was recently **INDICTED** and found guilty by a jury for "Attempted Bribery." Ridley being known to take bribe(s) in exchange of getting cases dismissed. See **EXHIBIT "6."**

b) In Mississippi a judge (Bobby DeLaughter) has been **INDICTED** and has pled guilty – i.e. OBSTRUCTING justice and lying to federal agent. See **EXHIBIT "11".** The record evidence will support that the employment matter that Judge DeLaughter presided over regarding Newsome was one that she also requested the intervention of the United States Department of Justice on. To no avail. Leaving Judge DeLaughter to be able to go on and become a CAREER criminal hiding behind his robe! The record evidence will support that the MAJORITY of the Ohio Supreme Court Justices are recipients of HUGE campaign contributions from Liberty Mutual and/or its lawyers' law firms. See **EXHIBIT "54"**. Furthermore, Newsome find it hard to believe and a reasonable person/mind also that the United States Supreme Court's recent ruling in ***Citizens United v Federal Election Commission***, 558 U.S. 50 (2010) provides Justices/Judges with a license for CRIMINAL STALKING, HARASSMENT, THREATS, INTIMIDATION DISCRIMINATION and/or PREJUDICES, etc. leveled against Newsome or other citizens – i.e. acts which is of PUBLIC/WORLDWIDE interest and/or impacts the public-at-large.

c) A Louisiana judge (G. Thomas Porteous) is presently up before the Senate for **IMPEACHMENT** proceedings. See **EXHIBIT "12"**. The record evidence will support that Newsome notified the United States Department of Justice about Judge Porteous as early as 2004. See **EXHIBIT "34".** To no avail. Leaving Judge Porteous to go on and become a CAREER criminal hiding behind his robe!

Newsome believes this is information the PUBLIC/WORLD needs to know because President Obama and his Administration are CONSTANTLY up in the face of Foreign Leaders SCOLDING them for the corruption in their government when there is a "BEAM/LOG" in the United States' eyes for the same practices.

Newsome seeks the Supreme Court of the United States' intervention in this matter because the record evidence will support that although she has REPEATEDLY followed required prerequisites in pursuit of justice, President Obama/his Administration and others are determined to deprive her of **equal** protection of the laws, **equal** privileges and immunities under the laws and **due process** of laws. Furthermore, how just as in the instant lawsuit out of which this Appeal is brought, TOP/KEY Financial Contributors and/or SPECIAL INTEREST groups of President Barack Obama, ***FIRST*** *go after Newsome and contact her EMPLOYERS for purposes of getting her terminated so that they can have an UNDUE and UNLAWFUL/ILLEGAL advantage in*

legal actions – i.e. stalking Newsome from state-to-state and employer-to-employer/job-to-job. See **EXHIBIT "13"**. Furthermore, actions are taken to FINANCIALLY devastate Newsome – i.e. as in this instant lawsuit by getting her employment terminated and then attacking her financially (committing criminal/fraudulent acts) by executing sham legal process as the *"Notice of Levy."* The record evidence will even support the VICIOUS attacks of President Obama's TOP/KEY Financial Contributors' lawyers' attacks on attorneys that Newsome has retained; that later result in Newsome being abandoned and having to litigate claims *pro se* – i.e. as in this instant lawsuit. Realizing the CONFLICT OF INTEREST that existed because of Newsome's employment with Wood & Lamping and working directly with a former attorney of one of the law firm's (Schwartz Manes Ruby & Slovin) representing Plaintiff Stor-All. Therefore, to keep Newsome from retaining Wood & Lamping in representing her in any legal matter Stor-All would bring, its insurance provider (Liberty Mutual) and counsel thought *it was necessary to see to it that Newsome's employment with Wood & Lamping was terminated* ***BEFORE*** *filing the MALICIOUS Forcible Entry and Detainer action against her* – i.e. action brought against Newsome in which Stor-All *was* ***already*** *in possession* of storage unit and property ***WITHOUT*** ***legal authority*** (i.e. ***WITHOUT*** ***court order***)!

Again, this is a legal matter of EXTRAORDINARY and EXCEPTIONAL circumstances which require the Supreme Court of the United States' intervention and expertise and addresses the following issues as set forth in the "TABLE OF CONTENTS":

I. AFFIDAVIT OF DISQUALIFICATION
II. SUPREMACIST/TERRORIST/KU KLUX KLAN ACT
III. IRREPARABLE INJURY/HARM
IV. THREATS TO COUNSEL/APPOINTMENT OF COUNSEL
V. UNFIT FOR OFFICE
VI. FINDING OF FACT/CONCLUSION OF LAW
VII. DUE PROCESS OF FOURTEENTH AMENDMENT TO U.S. CONSTITUTION.
VIII. EQUAL PROTECTION OF FOURTEENTH AMENDMENT TO U.S. CONSTITUTION
IX. U.S. OFFICE OF PRESIDENT/EXECUTIVE OFFICE; UNITED STATES DEPARTMENT OF JUSTICE/ DEPARTMENT OF LABOR ROLE IN CONSPIRACY
X. SELECTIVE PROSECUTION
XI. "SERIAL LITIGATOR" ISSUE
XII. CONGRESSIONAL INVESTIGATION(S)
XIII. PROHIBITION/MANDAMUS ACTION(S)
XIV. PATTERN-OF-PRACTICE
A. ENTERGY SERVICES INC./ENTERGY NEW ORLEANS MATTER
B. OTHER FORMER EMPLOYERS OF NEWSOME
BARIA FYKE HAWKINS & STRACENEF
BRUNINI GRANTHAM GROWER & HEWES
MITCHELL MCNUTT & SAMS
PAGE KRUGER & HOLLAND ("PKH")
WOOD & LAMPING LLC ("W&L")
XV. MOTION FOR ENLARGEMENT OF TIME
XVI. RELIEF SOUGHT.

Newsome, is not sure whether the Justices of this Court have ever seen anything like the criminal/civil wrongs complained of herein and one that *involves a sitting United States President and his Administration attempting to OBSTRUCT justice and rely upon its BIG MONEY and POLITICAL ties to impede and influence legal proceedings.* Moreover, a sitting President and his Administration who REFUSES to prosecute crimes reported by Newsome. Crimes which have been prosecuted on behalf of other citizens for similar legal wrongs; nevertheless, Newsome is deprived **EQUAL** protection of the laws, **EQUAL** privileges and immunities and **DUE PROCESS** of laws. A President and his Administration that deprives Newsome rights provided under the Freedom of Information Act ("FOIA").

Newsome is presently unemployed due to the CRIMINAL/CIVIL wrongs leveled against her. The record evidence will also support how the United States Government has gone to great extremes to see that Newsome is BLACKLISTED in retaliation of her having brought legal action against government agency(s). Therefore, Newsome sets forth the EMERGENCY relief she presently seeks until legal issues may be resolved – i.e. beginning at Page 279 of this instant filing. *Temporary relief Newsome prays can be granted* ***by November 5, 2010****, in that the laws governing said matters makes allowances for same – i.e. considering her present unemployment status which is NO FAULT of Newsome! Relief Newsome seeks is further permissible for purposes of MITIGATING damages.*

Newsome further reminds the United States Supreme Court that it appears that the next scheduled action in the lower court matter (in which she seeks a stay) is for ***Friday, October 22, 2010***.

Newsome further request that the United States Supreme Court based on information Newsome has received from research regarding Baker Donelson's past/present relationships to this Court advise her of an CONFLICT OF INTEREST (if any). See **EXHIBIT "22"**. Information that Baker Donelson *has **scrubbed** from the Internet since Newsome has gone PUBLIC*!

Thank you for your assistance in this matter. Should you have questions or comments, please do not hesitate to contact me at **513/680-2922** or **601/885-9536.**

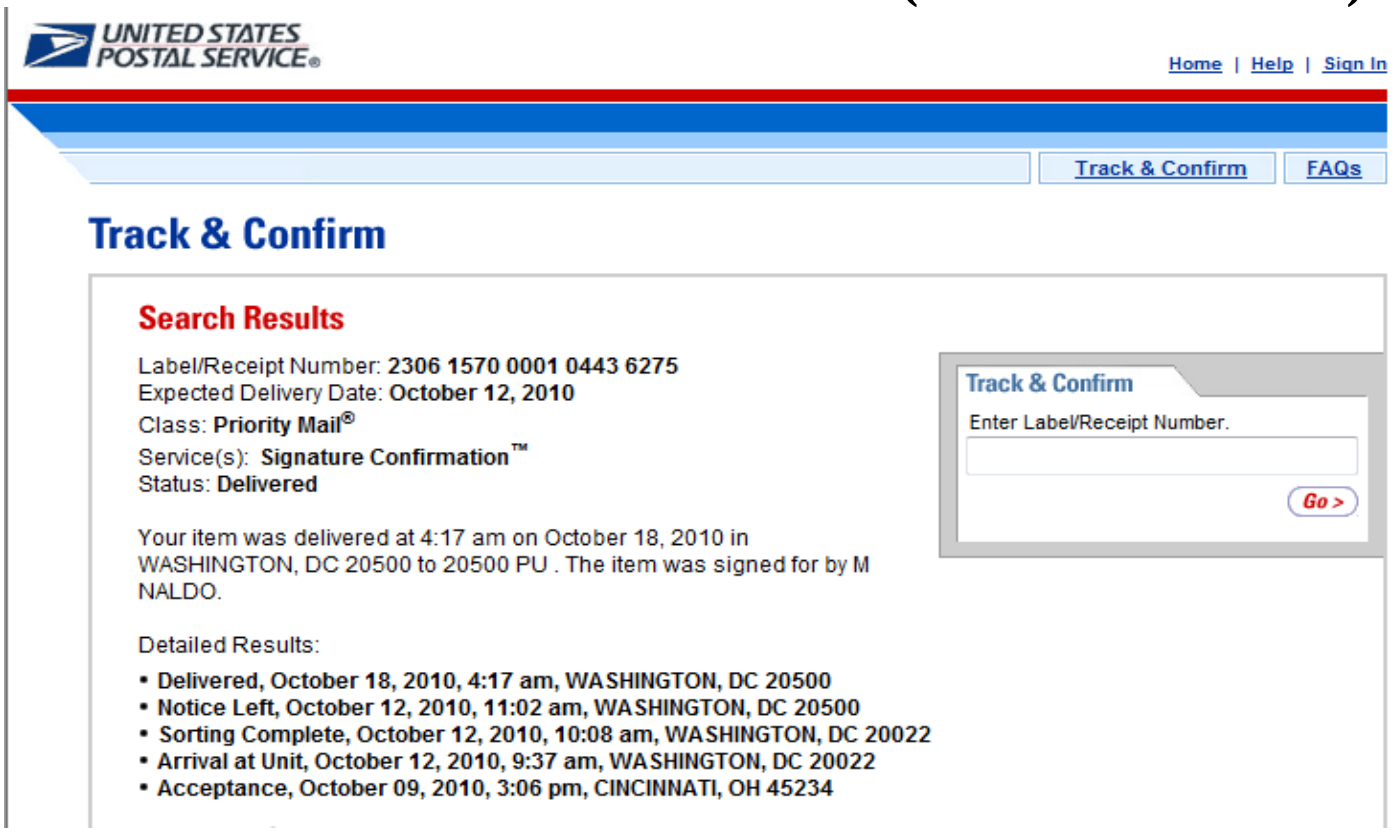
Sincerely,

Vogel Newsome

Vogel Denise Newsome

Enclosures
cc: Judge John Andrews West
U.S. President Barack Obama - **TRACKING NO. 2306 1570 0001 0443 6275**
Michael E. Lively (Counsel for Stor-All/**Liberty Mutual**)
David Meranus (Counsel for Stor-All)
Public/Media (via E-mail)

100910 – USPS MAILING RECEIPTS (OBAMA&ROBERTS)



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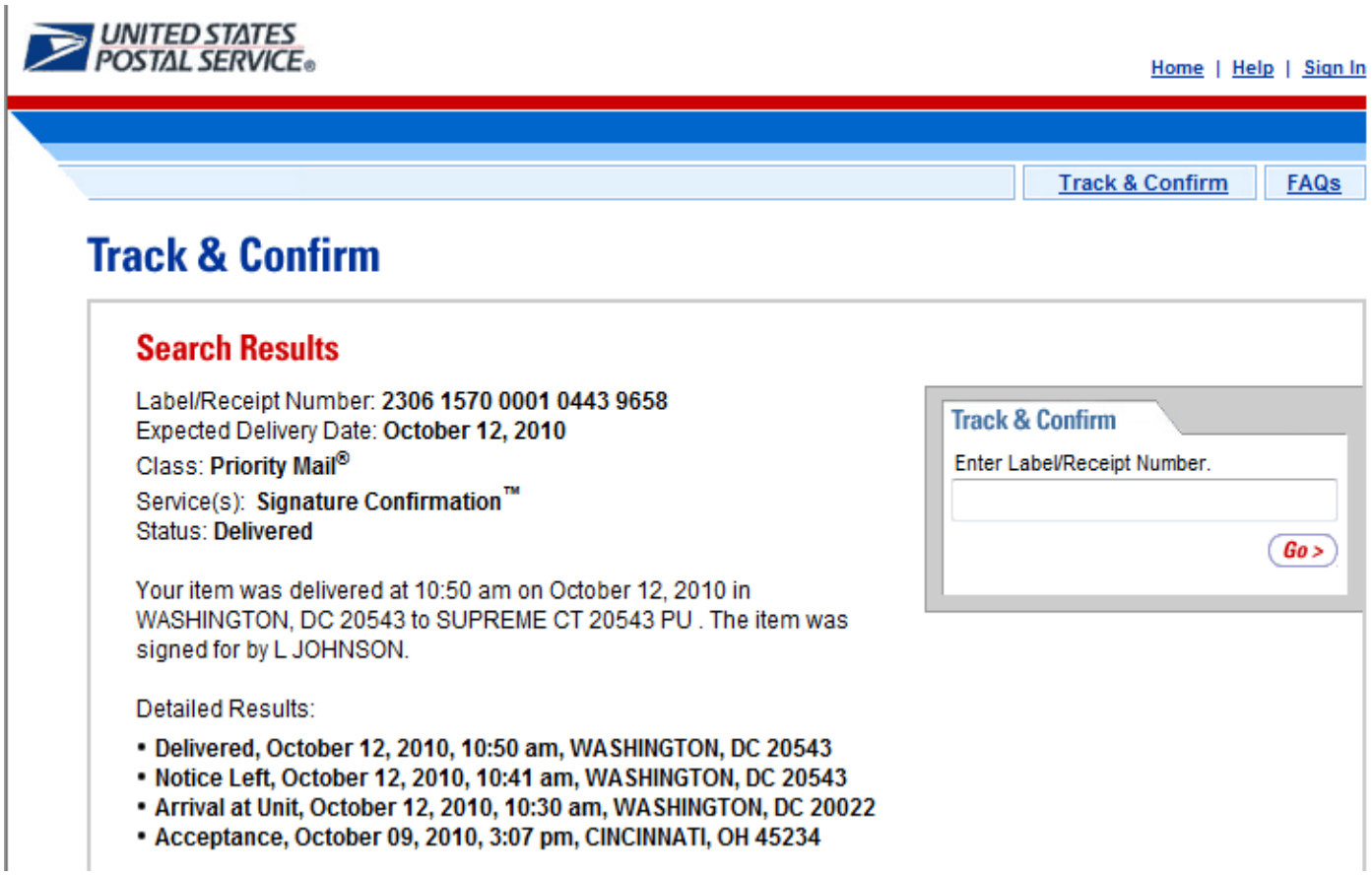

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IN THE
UNITED STATES SUPREME COURT

STOR-ALL ALFRED, LLC	)	
Plaintiff/Appellee	)	CASE NO. _____
	)	
vs.	)	
	)	
DENISE V. NEWSOME	)	
Defendant/APPELLANT	)	

EMERGENCY MOTION TO STAY;
EMERGENCY MOTION FOR ENLARGEMENT OF TIME and
OTHER RELIEF THE UNITED STATES SUPREME COURT DEEMS APPROPRIATE TO CORRECT THE LEGAL WRONGS/ INJUSTICES REPORTED HEREIN

DENISE V. NEWSOME
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922 or
(601) 885-9536
Defendant/APPELLANT

Honorable John Andrew West, JUDGE
Hamilton County Court of Common Pleas
1000 Main Street – Room 595
Cincinnati, Ohio 45202
Phone: (513) 946-5785
Facsimile: (513) 946-5784

Schwartz Manes Ruby & Slovin, LPA
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Phone: (513) 579-1414
Facsimile: (513) 579-1418

Markesbery & Richardson Co., LPA
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Post Office Box 6491
Cincinnati, Ohio 45206
Phone: (513) 961-6200
Facsimile: (513) 961-6201
COUNSEL FOR Plaintiff/APPELLEE STOR-ALL ALFRED LLC

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4. Shirley Sherrod Articles

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6. INDICTMENT: Damon Ridley [Former Bailiff of Judge John Andrew West] Articles

7. August 18, 2010 – *Judgment Entry on Defendant's 8/11/10 Motion for Final Entry and Stay* [Supreme Court of Ohio]

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9. ***Affidavit of Disqualification*** [RE: John Andrew West]

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IN THE
UNITED STATES SUPREME COURT

STOR-ALL ALFRED, LLC Plaintiff/Appellee	))	CASE NO. _____
vs.	)	
DENISE V. NEWSOME Defendant/APPELLANT	))	

EMERGENCY MOTION TO STAY;
EMERGENCY MOTION FOR ENLARGEMENT OF TIME and OTHER RELIEF THE UNITED STATES SUPREME COURT DEEMS APPROPRIATE TO CORRECT THE LEGAL WRONGS/ INJUSTICES REPORTED HEREIN

COMES NOW PETITIONER/DEFENDANT, Vogel Denise Newsome ("Petitioner/Defendant" and/or "Newsome"), ***AFTER first*** seeking relief through the Ohio Supreme Court, and files this her *"**Emergency** Motion To Stay; **Emergency** Motion For Enlargement Of Time and Other Relief The United States Supreme Court Deems Appropriate To Correct The Legal Wrongs/Injustices Reported Herein"* ("*EMTS & MFEOTWOC*") regarding a DECISION set to be rendered on or about **Friday, October 22, 2010** (See **EXHIBIT "51"** attached hereto and incorporated by reference as if set forth in full herein). by the Hamilton County Court of Common Pleas before the Honorable Judge John Andrews West – i.e. to which Newsome has filed a timely *"Affidavit of Disqualification."* With knowledge of Newsome's filing of *Affidavit of Disqualification,* Judge West attempted to move forward with hearing on said Affidavit and Motion to Dismiss on ***Tuesday, September 28, 2010 at 2:15 p.m***. before

Hamilton County Court of Common Pleas (Cincinnati, Ohio);[1] however, said attempt was met with Newsome's filing of "NOTICE OF NONATTENDENCE" which set out the reasons for said action and NOTIFICATION that she would be bringing the matter before the United States Supreme Court in its "ORIGINAL JURISDICTION." See 09/29/10 Docket Entry of the Hamilton County Court of Common Please at **EXHIBIT "51."** Due to the ***exceptional***, ***extreme*** and ***extraordinary*** circumstances addressed herein under the above referenced action. This instant action arises pursuant to 28 USC§ 1257 **State Courts; Certiorari**[2] - which states in part:

---

[1] See **EXHIBIT "1"** attached hereto and incorporated by reference as if set forth in full herein.

[2] *Aetna Life Ins. Co. v. Lavoie,* 106 S.Ct. 1580 (1986) - [n.1] Supreme Court had jurisdiction over question of whether Alabama Supreme Court Justice's participation in case violated . . . rights under due process clause of Fourteenth Amendment [U.S.C.A. Const.Amend. 14], where Alabama Supreme Court's order denying recusal motions clearly demonstrated court reached merits of . . . constitutional challenge, and insurer raised this issue as soon as it discovered facts relating to Justice's state actions . . . alleging bad-faith . . . claims.

[1] We are satisfied as to the Court's jurisdiction over the question of whether Justice Embry's participation violated appellant's Fourteenth Amendment due process rights. Appellees argue that the Alabama Supreme Court did not reach this issue because it was raised only after the court's decision on the merits. We reject that contention as at odds with the record. On March 8, 1985, the court entered the following order:

> "Upon consideration, the Court is of the opinion that under the allegation of said motion in this case each justice should vote individually on the matter of whether or not he or she is disqualified and should recuse. Each justice having voted not to recuse,
>
> > "IT IS, THEREFORE, ORDERED that the 'Motion for Disqualification and Motion for Withdrawal of Opinion of December 7, 1984, and for Hearing De Novo' be ... denied." App. to Juris. Statement 64a.

This order clearly demonstrates that the Alabama court reached the merits of appellant's constitutional challenge, albeit on a justice-by-justice basis. Moreover, appellant raised this issue as soon as it discovered the facts relating to Justice Embry's personal lawsuits. On this record, we conclude jurisdiction is proper. See *820 *Ulster County Court v. Allen*, 442 U.S. 140, 147-154, 99 S.Ct. 2213, 2219-2223, 60 L.Ed.2d 777 (1979); *Ward v. Village of Monroeville*, 409 U.S. 57, 61, 93 S.Ct. 80, 83, 34 L.Ed.2d 267 (1972).

[n.2] Only in most extreme cases of bias or prejudice is disqualification of judge constitutionally required.

[n.4] . . . **We conclude** that Justice Embry's *participation in this case* ***violated appellant's due process rights*** *as explicated in Tumey*, *Murchison*, and *Ward*. We make clear that we are not required to decide whether in fact Justice Embry was influenced, but only whether sitting on the case then before the Supreme Court of Alabama " 'would offer a possible temptation to the average ... judge to ... lead him to not to hold the balance nice, clear and true.' " *Ward*, 409 U.S., at 60, 93 S.Ct., at 83 (quoting *Tumey v. Ohio*, supra, 273 U.S., at 532, 47 S.Ct., at 444). The **Due Process Clause** "may sometimes *bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties. But to perform its* ***high function*** *in the best way, 'justice* ***must*** *satisfy the* ***appearance of justice***.' " *Murchison*, 349 U.S., at 136, 75 S.Ct., at 625 (citation omitted).

> **1257(a)** - - Final judgments or decrees rendered by the highest court of a state in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or ***statute* of the United States is drawn in question** or ***where the validity of a statute of any State is drawn in question*** on the ground of its *being* ***repugnant*** to the Constitution, treaties, *or laws of the United States*, or *where any title, right, privilege, or immunity is specially set up or claimed under the Constitution* or the treaties *or statutes of, or any commission held or authority exercised under, the United States*.

28 U.S.C. §2101 ***Supreme Court: Time for Appeal or Certiorari; Docketing; Stay***, which states in part:

> **2101(c)** - - Any other appeal or any writ of certiorari intended to bring any judgment or decree in a civil action, suit or proceeding before the Supreme Court for review shall be taken or *applied for* ***within ninety days*** *after the entry of such judgment or decree*. A justice of the Supreme Court, for good cause shown, may extend the time for applying for a writ of certiorari for a period not exceeding sixty days.
>
> 2101 (b) - - Any other direct appeal to the Supreme Court which is authorized by law, from a decision of a district court in any civil action, suit or proceeding, shall be taken within thirty days from the judgment, order or decree appealed from, if interlocutory, and ***within sixty days if final***.
>
> **2101(f)** - - In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on a writ of certiorari, *the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court. . .*

and any and all applicable laws known to the United States Supreme Court governing said matters.

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[6] Having concluded that only Justice Embry was disqualified from participation in this case, we turn to the issue of the proper remedy for this constitutional violation. Our prior decisions have not considered the question whether a decision of a multimember tribunal must be vacated because of the participation of one member who had an interest in the outcome of the case. Rather, our prior cases have involved interpretations of statutes with provisions concerning this question, e.g., *Commonwealth Coatings Corp. v. Casualty Co.,* 393 U.S. 145, 89 S.Ct. 337, 21 L.Ed.2d 301 (1968), disqualifications of the sole member of a tribunal, e.g., *Ward v. Village of Monroeville, supra,* and disqualifications of an entire panel, e.g., *Gibson v. Berryhill,* 411 U.S. 564, 93 S.Ct. 1689, 36 L.Ed.2d 488 (1973). Some courts have concluded that a decision need not be vacated where a disqualified judge's vote is mere surplusage. See, e.g., *State ex rel. Langer v. Kositzky,* 38 N.D. 616, 166 N.W. 534 (1918); but see, e.g., *Oakley v. Aspinwall,* 3 N.Y. 547 (1850).FN4 But we are aware of no case, and none has been called to our attention,*828 permitting a court's decision to stand when a disqualified judge casts the deciding vote. Here Justice Embry's vote was decisive in the 5-to-4 decision . . . and he **1589 was the author of the court's opinion. *Because of Justice Embry's leading role in the decision under review, we conclude that the "**appearance of justice**" will best be served by vacating the decision and remanding for further proceedings. Appellees have not contended that, upon a finding of disqualification, this disposition is improper.*

This matter involves ***EXTRAORDINARY*** ***circumstances*** *and evolves from an* ***ONGOING*** *conspiracy*[3] *leveled against Newsome and also* ***involves a sitting United States President (Barack Hussein Obama ["President Obama"])****, his Administration, counselors/advisors and others. It is because of the LEGAL COMPLEXITY and the PATTERN-OF-JUDICAL ABUSE and/or ABUSE-OF-POWER that infringes upon the Constitutional Rights and other protected rights of Newsome that this matter is brought seeking the jurisdiction, expertise and qualifications of the United States Supreme Court for its intervention and to address the issues to be raised in the Writ of Certiorari to be filed.*

> *Salinas v. U.S.,* 118 S.Ct. 469 (1997) - Conspiracy may exist and be punished whether or not substantive crime ensues, for conspiracy *is distinct evil*, **dangerous to public**, and so punishable in itself.
>
> ***It is possible for person to conspire for commission of crime by third person***.
>
> *U.S. v. Schaffer,* 586 F.3d 414 (C.A.6.**Ohio**,2009) - Because the illegality of an agreement to commit an unlawful act, as the basis of a conspiracy charge, does not depend upon the achievement of its ends, it is irrelevant that it may be objectively impossible for the conspirators to commit the substantive offense; indeed, *it is the* ***mutual understanding*** *or* ***agreement*** *itself that is criminal, and whether the object of the scheme actually is, as the parties believe it to be, unlawful is irrelevant.*

Newsome believes a reasonable person/mind may conclude that the United States role as a LEADER to other Nations/Foreign Countries in dealing with Civil Rights/Human Rights issues clearly is not the role model to follow in that it engages in CONSPIRACIES against its citizens and the COVER-UP of criminal/civil wrongs leveled against citizens (i.e. as Newsome) who

[3] *U.S. v. Iribe,* 564 F.3d 1155 (C.A.9.Cal.,2009) - By definition, conspiracy and attempt are inchoate crimes that do not require completion of the criminal objective.

State v. Huff, 769 N.W.2d 154 (2009) - Under the inchoate crime of conspiracy, by definition no substantive crime is ever needed.

U.S. v. Oakar, 924 F.Supp. 232 (D.D.C.,1996) - Conspiracy is committed once agreement is reached and overt act is completed, regardless of whether the crime agreed on is committed.

publicly OPPOSESSES such unlawful/illegal acts. Thus, supporting that President Obama and his Administration are FOLLOWERS and PARTICIPANTS in Supremacist/Terrorist acts leveled against African-Americans and/or people of color – i.e. Foreign Countries they believe are inferior to the United States. If Newsome may borrow information retrieved from:

http://www.fbi.gov/page2/march04/greylord031504.htm

> CUT & PASTED 09/01/10 FROM: ***INVESTIGATIONS OF PUBLIC CORRUPTION: Rooting Crookedness Out of Government***
>
> **That's really the whole point.** *Abuse of the public trust **cannot** and **must not** be tolerated*. ***Corrupt** practices in government **strike at the heart** of social order and justice*. And that's why the FBI has the ticket on investigations of public corruption as a top priority. . . .
>
> **What kind of crimes?** Bribery, kickbacks, and fraud. Vote buying, voter intimidation, impersonation. Political coercion. Racketeering and obstruction of justice. Trafficking of illegal drugs.
>
> **How serious of a problem is it?** Last year the FBI investigated 850 cases; brought in 655 indictments/informations; and got 525 who were either convicted or chose to plead.
>
> **Last words:** Straight from Teddy Roosevelt: "***Unless a man is honest we have no right to keep him in public life, it matters not how brilliant his capacity***, it hardly matters how great his power of doing good service on certain lines may be... ***No man who is corrupt, no man who condones corruption in others, can possibly do his duty by the community.***"

See **EXHIBIT "2"** - *INVESTIGATIONS OF PUBLIC CORRUPTION: Rooting Crookedness Out of Government***,** attached hereto and incorporated by reference as if set forth in full herein. This article stemming from the Federal Bureau of Investigation's ("FBI") handling of **"OPERATION GREYLORD"** – a matter *involving CHICAGO Judges, Attorneys* and other *Public Government Officials*, etc.:



Today marks an important anniversary in the annals of public corruption investigations in the U.S.

> Twenty years ago today, in a federal courtroom in Chicago, a jury found Harold Conn (top center in photo) guilty on all 4 counts of accepting bribes to be passed on to Cook County judges as payment for fixing tickets. The evidence? He had been caught live on FBI tapes.
>
> This "bagman" had been Deputy Traffic Court Clerk in the Cook County judicial system, and he was the first defendant to be found guilty in a mammoth sting investigation of crooked officials in the Cook County courts.
>
> **It was called OPERATION GREYLORD**, named after the curly wigs worn by British judges. And in the end -- through undercover operations *that used **honest** and **very courageous** judges* and *lawyers posing as crooked ones*... and with the strong assistance of the Cook County court and local police -- 92 officials had been indicted, including ***17 judges***, ***48 lawyers***, **8 policemen**, **10 deputy sheriffs**, **8 court officials**, and ***1 state legislator***. Nearly all were convicted, most of them pleading guilty (just a few are shown in our photo). ***It was an important first step to cleaning up the administration of justice*** in Cook County.

The PUBLIC/WORLD needs to know the TRUTH as to why United States President Obama's Administration Leaders are bailing out on him – i.e. they can see the handwriting on the wall. Therefore in support of this instant *"EMTS & MFEOTWOC,"* Newsome further states the following:

1) This instant ***"EMTS & MFEOTWOC"*** is submitted in good faith and is not submitted for purposes of delay, harassment, hindering proceedings, embarrassment, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, etc. and is **filed to protect and preserve the rights of Newsome secured/guaranteed under the United States Constitution and other laws of the United States**.

*While Newsome is presently UNEMPLOYED, she will be proceeding on appeal before this Court as a **PAYING** litigant and has submitted the required $300.00 Filing Fee required via Money Order* ***No. 18282782924*** – See **EXHIBIT "3"** attached hereto and incorporated by reference as if set forth in full herein. *Payment is being submitted in advance in that United*

*States President Barack Hussein Obama and his Administration have elected to engage in criminal acts and have unlawfully/illegally EMBEZZELED remaining monies due Newsome from her 2009 Federal Income Tax Return (i.e. although the Internal Revenue had taken taxes owed by Newsome) and as recent as July **17,** 2010 – approximately **FOUR (4)** days **before** scheduled July 21, 2010 hearing before Judge John Andrew West on Plaintiff Stor-All's motion(s) [i.e. Stor-All **is an insured of one of** President Obama's TOP/KEY FINANCIAL INTEREST/CONTRIBUTORS – **Liberty Mutual Insurance Company** - as well as client(s) of President Obama's **TOP/KEY FINANCIAL INTEREST/SPECIAL INTEREST GROUPS'** counselors/advisors – **Baker Donelson Bearman Caldwell & Berkowitz**], and approximately **FOUR (4)** days **after**, President Obama instructed and/or authorized the unlawful/illegal seizure of Newsome's bank account(s) in **RETALIATION** to Newsome's July **13**, 2010 email entitled, **"U.S. PRESIDENT BARACK OBAMA: THE DOWNFALL/DOOM OF THE OBAMA ADMINISTRATION – Corruption/Conspiracy/ Cover-Up/Criminal Acts Made Public"**[4]* – EMPHASIS ADDED. See **EXHIBIT "25"** attached hereto and incorporated by reference as if set forth in full herein. The unlawful/illegal seizure and EMBEZZLEMENT of monies from Newsome's bank account(s) is further addressed at: Paragraphs 23/Page 34; Paragraph F(i)/Page 49 and Paragraph (i)/Page 248 below of this pleading. Furthermore, the ***recent ESCALATION** of attacks leveled against Newsome* by President Obama and his Administration/Counselors/Advisors and others are for purposes of FINANCIAL DEVASTATION and ***to preclude her from litigating legal actions brought*** against her *because it involves client(s) of his Top/Key Financial Interest/Special Interest Groups and is being done to provide said supporters with an undue/unlawful/illegal advantage in legal actions involving Newsome*. Therefore, supporting and/or sustaining the filing of this instant ***"EMTS & MFEOTWOC."***

[4] **IMPORTANT TO NOTE:** Newsome's email coming **approximately SIX (6)** days prior to the **RETALIATORY** firing and attack on Shirley Sherrod that occurred on or about July 19, 2010 - under the ***direction** and **leadership*** of United States President Barack Obama and/or those in his Administration – See **EXHIBIT "4"** Articles retrieved from the Internet attached hereto and incorporated by reference as if set forth in full herein. Newsome further believes that President Obama's authorization of the firing of Sherrod will sustain and support his and his Administration's ONGOING attacks leveled against African-Americans and/or people of color who are seen as strong people and civil rights activists that he and his counselors/advisors seek to DESTROY/BREAK DOWN/BEAT into slavery, servitude and submission by implementing the practices of the ***WILLIE LYNCH LETTER: The Making Of A Slave*** – see **EXHIBIT "5"** attached hereto and incorporated by reference. It is such practices/policies that were long ABOLISHED with slavery. Nevertheless, President Obama, his Administration, his Counselors/Advisors and others have been ***REPEATELY*** *subjecting* Newsome, African-Americans and/or people of color to such Willie Lynch practices/policies to *for purposes of **BULLYING**, **TERRORIZING** and **BEATING** Newsome into submission because she has **PUBLICLY** objected and spoke out against the RACIAL INJUSTICES/DISCRMINATION/PREJUDICES leveled against her as well as other African-Americans and/or people of color*.

IMPORTANT TO NOTE: The previously scheduled action in the Hamilton County Court of Common Pleas (Cincinnati, Ohio) action out of which this Appeal arises, was set for Tuesday, **September 28, 2010**, at 2:15 p.m. before Judge John Andrew West ("Judge West"). See **EXHIBIT "1"** - *Court Notification* attached hereto and incorporated by reference as if set forth in full herein. Out of concerns of Judge West's/lower court's effort to get Newsome to waive RIGHTS secured under the Constitution, she did not attend and notified lower court (i.e. through NOTIFICATION OF NONATTENDENCE) that she would not be waiving her rights and will be bringing matter before the United States Supreme Court under its "ORIGINAL" jurisdiction (if applicable). Judge West who has engaged in criminal/civil wrongs against Newsome which resulted in her having to file a CRIMINAL COMPLAINT with the United States Department of Justice (Federal Bureau of Investigation ["FBI']). *This lower court matter is a lawsuit that was brought against Newsome by President Obama's Top/Key Financial Supporter and/or Special Interest Group, LIBERTY MUTUAL'S insured (Stor-All).* Just as *recent as* ***May2009***, Judge West's Bailiff (Damon Riley) was indicted for:

(a) Theft in office;
(b) Bribery; and
(c) Attempted Bribery

and on or about **March 9, 2010** a Jury found him "GUILTY" of ***Attempted Bribery***. (**EMPHASIS** ADDED). See **EXHIBIT "6"** attached hereto and incorporated by reference as if set forth in full herein. Considering the circumstances of this lawsuit and the criminal/civil wrongs Judge West has engaged in against Newsome, she believes *a reasonable mind may conclude that Judge West knew and/or should have known of the criminal activities of his Bailiff; moreover, may have been a recipient of such profits and/or may have been a willing participant in such criminal acts.*

2) The *United States Supreme Court's* ***Jurisdiction*** over this action may be asserted and/or retained pursuant to 28 USC§ 1257 – **State Courts; Certiorari** - which states in part:

> **1257(a)** - - Final judgments or decrees rendered by the highest court of a state in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or ***statute of the United States is drawn in question*** or ***where the validity of a statute of any State is drawn in question*** on the ground of its *being* ***repugnant*** to the Constitution, treaties, *or laws of the United States*, or *where any title, right, privilege, or immunity is specially set up or claimed under the Constitution* or the treaties *or statutes of, or any commission held or authority exercised under, the United States*.

The Ohio Supreme Court on or about August 18, 2010, executed its *"Judgment Entry on Defendant's 8/11/10 Motion for Final Entry and Stay,"* ("08/18/10 Judgment Entry") with knowledge and/or knowing that Newsome TIMELY, PROMPTLY and ADEQUATELY requested that said court enter "***Final Judgment/Issuance of Mandate***." A copy of the Ohio Supreme Court's ***"08/18/10 Judgment Entry"*** is attached hereto at **EXHIBIT "7"** and incorporated by reference as if set forth in full herein. Attached to this instant ***EMTS & MFEOTWOC*** is a copy of Newsome's *"Notification of Intent to File EMERGENCY Writ of Certiorari with the United States Supreme Court; Motion to Stay Proceedings – Request for Entry of Final Judgment/Issuance of Mandate as Well as STAY of PROCEEDINGS Should Court Insist on Allowing August 2, 2010 Judgment Entry to Stand"* (**BRIEF** Only) at **EXHIBIT "8"** – which is incorporated by reference as if set forth in full herein. Newsome also attach copies (**BRIEF** Only) of the following:

(a) *Affidavit of Disqualification*; and
(b) *Motion for Reconsideration*

at **EXHIBITS "9"** and **"10"** respectively so that the United States Supreme Court will have before it the ISSUES raised in said pleadings.

> *Berger v. U.S.*, 255 U.S. 22, 41 S.Ct. 230 (1921) - '*Whenever* ***a party*** to any action or proceeding, civil or criminal, *shall* ***make and file an affidavit that the judge*** *before whom the action or proceeding is to be tried or heard has a personal bias or prejudice either against him or in favor of any opposite party to the suit*, ***such judge*** **27 shall proceed* ***no*** *further therein*, but another judge shall be designated in the manner prescribed in the section last preceding, or chosen in the manner prescribed . . . to hear such matter. *Every such affidavit shall state the facts and the reasons for the belief that such bias or prejudice exists,* * * * . . . *no such affidavit shall be filed unless accompanied by a certificate of counsel of record that such affidavit and application are made in good faith*. The same proceedings shall be had when the presiding judge shall file with the clerk of the court a certificate that he deems himself unable for any reason to preside with absolute

> impartiality in the pending suit or action.' . . . '*Upon the making and filing by a party of an affidavit under the provisions . . .of necessity there is imposed upon the judge the duty of examining the affidavit to determine whether or not it is the affidavit specified and required by the statute and to determine its legal sufficiency*. If he finds **it to be legally sufficient** then he has **no** other or further duty to perform . . . *He is* **233 ***relieved from the delicate* and ***trying duty of deciding upon the question*** *of his own disqualification.*'
>
> An affidavit of a judge's bias and prejudice . . . was not insufficient because the remarks alleged as the reasons for defendants' belief in such prejudice were alleged on information and belief to have been made, *where the affidavit referred to a* ***definite incident*** *and gave the time and place thereof. Id.*

Through the "**Writ of Certiorari**" ("WOC")[5] Newsome seeks to bring, she will further show *Judgment Entry draws into question the validity of a statute of the United States and/or the State of Ohio and is repugnant to the United States Constitution as well as the Ohio Constitution*. Furthermore, Newsome will provide *facts, evidence and legal conclusions to support that a title, right, privilege or immunity specially set up or claimed under the Constitution and/or statutes of or any commission held or authority exercised under the United States is drawn into question.*

> **IMPORTANT TO NOTE:** The *"08/18/10 Judgment Entry"* is merely a *DELAY and/or DILATORY tactic* being used by the Ohio Supreme Court to deprive Newsome rights secured and/or guaranteed under the United States Constitution, Civil Rights Act, United States Ohio Supreme Court Rules and other statutes/laws governing said matters. So that the United States Supreme Court ("U.S. Supreme Court") is aware what Newsome requested of the Ohio Supreme Court and was entitled to, please find attached a copy of Newsome's ***"Notification of Intent to File EMERGENCY Writ of Certiorari with the United States Supreme Court; Motion to Stay Proceedings – Request for Entry of Final Judgment/Issuance of Mandate as Well as STAY of PROCEEDINGS Should Court Insist on Allowing August 2, 2010 Judgment Entry to Stand"*** at **EXHIBIT "8"** (BRIEF ONLY) and is incorporated by reference as if set forth in full herein.

[5] Which means and/or includes *Writ of Certiorari and/or* ***"applicable Appeal action."***

3) This is an ***EXCEPTIONAL*** *and/or* ***EXTRAORINDARY*** case which requires the intervention and exercise of jurisdiction of the United States Supreme Court. Therefore, requiring the Staying of proceedings, Enlargement of Time, Immediate Recusal of Judge John Andrew West, and other relief sought herein as well as known to the United States Supreme Court to CORRECT the legal wrongs/injustices reported herein.

4) The record evidence will support that Newsome at EVERY level reported criminal/civil wrongs leveled against her to the proper authorities – to no avail. Therefore, requiring the intervention of the United States Supreme Court and its exercise of "ORIGINAL" jurisdiction that Newsome seeks to bring this matter before it.

5) Newsome seeks this instant *"**Emergency Motion To Stay**"* in that:

A) Newsome believes that the record evidence will support that as a citizen and indigent litigant she is pitted against POLITICIANS, and GOVERNMENT OFFICIALS/EMPLOYEES – i.e. United States President and his Administration – who have a Personal/Financial interest in the outcome of this lawsuit because it involves TOP/KEY Financial Contributors and/or Advisors.

> *Rosenbloom v. Metromedia, Inc.*, 91 S.Ct. 1811(1971) - First Amendment protects all discussion and communication involving ***matters of public*** *or general* ***concern*** *without regard to* ***whether persons involved*** *are* ***famous*** *or* ***anonymous***. (Per Mr. Justice Brennan with the Chief Justice and one Justice joining in the opinion and two Justices concurring in the judgment.) U.S.C.A.Const. Amend. 1.

Moreover, that recent attacks leveled against Newsome may also be a DIRECT and PROXIMATE result of RETALIATION of her releasing PowerPoint Presentation entitled, ***NOVEMBER 2010/2010 ELECTIONS CHANGE:*** *IT'S TIME TO CLEAN HOUSE – VOTE OUT THE INCUMBENTS/**CAREER** POLITICIANS*. See **EXHIBIT "166"** attached hereto and incorporated by reference as if set forth in full herein.

B) As the aggrieved party, said relief is sought to stay the execution and enforcement of the *"08/18/10 Judgment Entry"* so that she may obtain a ***Writ of Certiorari*** from U.S. Supreme Court;

C) While Newsome is **UNEMPLOYED** and proceeding ***pro se***, *she has submitted the $300.00 Filing Fee* required by the U.S. Supreme Court because she believes that there is reasonable probable cause

that Certiorari will be granted and jurisdiction over this matter can be sustained; moreover, concerns that she will be subjected to ***further*** attacks on her finances (i.e. *as that surrounding her federal income tax returns, recent attacks on her bank account(s) as well as* ***BLACKLISTING*** *to see that she is never employed again*);

D) Newsome believes that the facts, evidence and legal precedent will support the reversal of the Ohio Supreme Court's decision as well as intervention by the U.S. Supreme Court;

E) The record evidence will support a timely filing of ***Affidavit of Disqualification*** against Judge John Andrew West resulting in this instant appeal process and appears to be in *furtherance* of a PATTERN-OF-ABUSE and/or PATTERN-OF-PRACTICES (i.e obstruction of justice/obstruction of administration of justice, conspiracy, etc.):

I. AFFIDAVIT OF DISQUALIFICATION

While Newsome brings this instant action in the Original jurisdiction of this Court, it is important to note that said Appeal and Certiorari action to be brought involves efforts taken by the Ohio Supreme Court's efforts to deprive Newsome EQUAL protection of the laws and DUE PROCESS of laws in the handling of the Affidavit of Disqualification filed against Judge John Andrew West and was attempting to force Newsome to appear before Judge West on or about September 28, 2010, and/or in all other matters when the laws clearly support and sustain that he is not qualified to sit/preside over this matter and that Newsome has filed a Criminal Complaint against Judge West, opposing parties in others involved in the criminal acts carried out on or about September 9 or 10, 2009. Now from the record evidence (i.e. Newsome ***has NOT*** received anything from the Hamilton County Court of Common Pleas regarding DECISION set for October 22, 2010) it appears that Judge West is determined to USURP authority, ABUSE judicial powers, etc. and render a DECISION over Newsome' objections. Acts clearly depriving

Newsome rights secured/guaranteed under the United States Constitution. In further support thereof, Newsome states that based upon the following facts and evidence:

A. The *recent* **INDICTMENT** of Judge West's Bailiff (Damon Ridley) and a Jury finding Ridley **"GUILTY"** of "*Attempted Bribery;* "[6]

---

[6] See **EXHIBIT "6"** attached hereto and incorporated by reference as if set forth in full herein: "A former Ohio court bailiff accused of offering to get a case dismissed for money in the courtroom where he worked has been found guilty of attempted bribery."

". . .The former bailiff for Hamilton County Common Pleas Judge John West could be sentenced to up to 18 months in prison. . ."

". . . That alleged incident is the centerpiece of a criminal investigation into Damon Ridley, who was the bailiff of Hamilton County Common Pleas Judge John "Skip" West until Ridley was confronted with allegations and resigned. . . case has investigators poring over thousands of court documents involving criminal cases before West over the last five years. They are looking at why some cases presided over by West never had their sentences carried out and why other cases before him had no activity for years . . .

The issue is whether Ridley. . . accepted money or favors in exchange for fixing sentences handed down by West or delaying them so long that thousands of dollars in fines and court fees were never paid. Bailiffs run the day-to-day operations of courtrooms and schedule when cases are heard. . . Johnson plead guilty March 25 before West to reduced charges that still could have sent him to prison for 5½ years. Instead, West sentenced Johnson to probation and to serve up to six months in the River City Correctional Center, a drug-rehabilitation center by Hamilton County judges. Investigators asked Ridley on October 29 about the allegation. He resigned the next day. "I can tell you (Ridley) has told us numerous stories," Deters said.

". . .Ridley resigned after being questioned, he said, to lessen any impact on the judge. 'I have a lot of respect for Judge West and I wasn't going to bring anything (negative) to him,' Ridley said. He declined to answer additional questions, he said, on the advice of his attorney. He refused to say who his attorney was. If the allegations are proved, Ridley's actions could be disastrous to the Hamilton County court system as the public – and criminals – may infer the judicial system was undermined by one person's greed. "When you've got someone putting their thumb on the scales of justice, it's a very serious offense," University of Cincinnati law professor Christo Lassiter said. 'You lose faith in government and there is a very serious threat to the judicial branch.'

'The whole idea is to have a neutral arbiter. Why do that if there is a judge whose decisions are being bought by a bailiff? We may as well not have a judicial system.' Deters is unsure of what role, if any, the judge has in the delay of cases,. . . 'Wherever this leads, we will go,' Deters said, 'but it would shock me to my core if the judge was involved. The judge is cooperating with us.' West has refused to talk about the investigation, referring questions to Deters. . ."

"Prosecutors became so frustrated with the slow pace of justice in West's courtroom that one, Katherine Pridemore, filed a legal motion requiring her to be contacted on a specific case that had been continued – without her knowledge or agreement – dozens of times.[6]. . .

The investigation has taken an emotional toll on West. West was close personally to Ridley, treating him like family. West and his family vacationed with Ridley and socialized with him. In West's courthouse chambers, there is a studio portrait of West, Ridley and another of West's court workers. . ."

"Damon Ridley. . . had been accused of ***taking money from a defendant in exchange for a GURANTEE on a particular sentence*** *and attempting to extort additional money from the same defendant for a lesser sentence."*

B. The January 6, 2009 **INDICTMENT** of Judge Bobby B. DeLaughter,[7] to which he pled "GUILTY" to *"**LYING** to FBI Agent. .*

[7] DELAUGHTER INDICTMENT:

"6. . . . defendant, did knowingly and willfully conspire with each other and with others. . . to corruptly give, offer and agree to give, and in the case of Circuit Judge BOBBY B. DELAUGHTER to accept and to agree to accept for himself and others, anything of value with the intent that Circuit Judge BOBBY B. DELAUGHTER, as an agent of a state and local government, would be corruptly influenced and rewarded in connection with his handling of . . . case, then the business of such government and judicial agency involving a thing of value of $5,000 or more, when such government and judicial agency received a one-year period benefits in excess of $10,000 under a federal program, in violation of Section 666 of Title 18 of the United States Code.

7. It was part of conspiracy that Ed Peters would be used secretly and corruptly to influence his very close friend BOBBY B. DELAUGHTER and that BOBBY B. DELAUGHTER's ***aspirations to become** a federal judge would also be exploited in order to **secretly and corruptly obtain rulings from the court** that while not plainly unlawful, would ultimately minimize. . . financial liability and preclude his exposure to excessive damages.*

8. *It was further **part of the conspiracy*** that Ed Peters, an attorney, *would **not** officially enter an appearance as counsel of record* in the case. . . , **so that his involvement** . . . ***would be unknown*** to the . . . legal team." . . .

"d. . . . Judge BOBBY B. DELAUGHTER ***accepted a secret, ex parte communication*** from Scruggs legal team, ***essentially reversing his earlier ruling*** and *accepting, almost verbatim, a . . . **order favorable** to Scruggs.*

e. . . . Judge BOBBY B. DELAUGHTER ***secretly provided*** Scruggs legal team *with an ex parte **advance** copy of a court order* in the . . . case *by **electronically** mailing* the same. . .

f. . . . Ed Peters *had a **number** of **improper** **ex parte meetings** with* Judge Delaughter ***designed** and **intended** to **secretly influence** the judge to shade his rulings in favor* of Scruggs.

g. . . . Judge BOBBY B. DELAUGHTER ***secretly and corruptly communicated*** with the Scruggs legal team through Ed Peters, *affording them a **unique and valuable** opportunity to **foresee** and attempt to **influence** his rulings.*

h. . . . in order to exploit Judge Delaughter's aspirations to become a federal judge, . . . SCRUGGS caused his brother-in-law, *then a **United States Senator from Mississippi,*** to offer Judge Delaughter consideration for appointment to a federal judgeship *then open in the **Southern District** of Mississippi.*

i. . . . Joseph C. Langston ***wired approximately $950,000*** from his law office in Booneville, Mississippi, in the Northern District of Mississippi, to Ed Peters *for his **role** in **corruptly influencing** Circuit Judge BOBBY B. DELAUGHTER.*

All in violation of Title 18, United States Code, Section 371. . ."

"11. . . . BOBBY B. DELAUGHTER, defendant, ***aided and abetted** by each other, devised and executed and intended to devise and execute a **scheme and artifice to defraud the plaintiff** in the Hinds County Circuit Court case. . .* thereby ***depriving the plaintiff and citizens** of the State of Mississippi **of their intangible right to the honest services** of Circuit Judge* BOBBY B. DELAUGHTER, *who as circuit court judge **had a duty** to **perform impartially**, without **affording** either side an **unfair** advantage or **secret** access to the court.*"

"12. ***The purpose of the scheme was to ensure** that Scruggs **enjoyed** an unlawful advantage, in **secret** and **unknown to** the plaintiffs*. . . .devised a scheme and artifice to secretly and corruptly influence Hinds County Circuit Judge BOBBY B. DELAUGHTER by exploiting two vulnerabilities: first, his close association with former district attorney Ed Peters and second, his known ambition to become a federal judge. . . paid Ed Peters $50,000 and . . . later paid Peters an additional $950,000, all for the purpose of using Ed Peters to influence BOBBY B. DELAUGHTER. . . SCRUGGS prevailed upon his brother-in-law, then a United States Senator from Mississippi, to offer Judge Delaughter consideration for a federal district judgeship then open in the Southern District of Mississippi. . . . In return, Judge Delaughter afforded Scrugss legal team secret access to the court by way of Ed Peters, forwarding them advance copies of his rulings and proposed orders on issues before the court and on one occasion accepting from Scruggs legal team a . . . order favorable to Scruggs, which the court then adopted, almost verbatim."

"**USE OF THE MAIL**. . . 13. . . for the purpose of executing and attempting to execute the aforesaid scheme and artifice to defraud in the Northern District Court of Mississippi and elsewhere, . . . SCRUGGS, aided and abetted by other non-defendants named but not charged herein, and Circuit Judge BOBBY B. DELAUGHTER, defendant, ***knowingly caused to be deposited in a post office or authorized depository for mail*** matter in the Northern District Court of Mississippi ***to be delivered by the Postal Service according to directions thereon***, . . . *Entry of Appearance* for filing in the Hinds County Circuit Court case. . .

*./**OBSTRUCTION** of Justice;"* (See **EXHIBIT "11"** attached hereto and incorporated by reference as if set forth in full herein; and

C. Now the *present/recent **IMPEACHMENT*** proceedings of Judge G. Thomas Porteous. See **EXHIBIT "12"** Articles attached hereto and incorporated by reference as if set forth in full herein. Judge Porteous is the judge New Orleans, Louisiana lawsuit was REALLOTTED to – i.e. matter that Plaintiff Stor-All's counsel (David Meranus) was so eager to mention. See February 6, 2009 Letter to David Meranus at **EXHIBIT "13"** attached hereto and incorporated by reference as if set forth in full herein.

> "The House of Representatives voted ***unanimously***. . .*to IMPEACH Judge G. Thomas Porteous Jr. of U.S. District Court for the Eastern District of Louisiana. . .*
>
> Our investigation found that Judge Porteous participated in a ***pattern of CORRUPT conduct for YEARS***. . . *says chairman of the* ***House JUDICIARY Committee Task Force on Judicial Impeachment. . .***
>
> 'However, when evidence emerges that an individual ***is abusing his judicial office*** *for his* ***own advantage****, the* ***integrity*** *of the* ***entire*** *judicial system becomes compromised****.'***
>
> In a statement, Porteous' lawyer. . . said the Justice Department had decided ***not to prosecute*** *because it did not have credible evidence.*

All in violation of 18 U.S.C. §§ 2, 1341, and 1346."

"15. . . .for purposes of executing and attempting to execute the aforesaid scheme and artifice to defraud in the Northern District Court of Mississippi and elsewhere, . . . SCRUGGS, ***aided and abetted*** *by other non-defendants named but not charged herein, and Circuit Judge BOBBY B. DELAUGHTER, defendant,* ***knowingly*** *caused* ***to be deposited in a post office*** *or other authorized depository for mail matter* ***to be delivered by the Postal Service*** *in the* Northern District of Mississippi ***according to the directions thereon***, Circuit Judge BOBBY B. DELAUGHTER's '*Memorandum Opinion and Order Adopting in Part and Rejecting in Part Special Master's Report and Recommendation of January 9, 2006*' in the Hinds County Circuit Court case. . .

All in violation of 18 U.S.C. §§ 2, 1341 and 1346."

"17. . . . for the purpose of executing and attempting to execute the aforesaid scheme and artifice to defraud in the Northern District of Mississippi and elsewhere, defendant. . .SCRUGGS, ***aided and abetted*** *by other non-defendants named but not charged herein, and Circuit Judge BOBBY B. DELAUGHTER, defendant,* ***knowingly*** *caused* ***to be deposited in a post office*** *or other authorized depository for mail matter* ***to be delivered by the Postal Service*** *in* the Northern District of Mississippi ***according to the directions thereon***, Circuit Judge BOBBY B. DELAUGHTER's "*Order Quantifying Moneys Due Plaintiffs from Defendants*" in the Hinds County Circuit Court case. . .

All in violation of 18 U.S.C. §§ 2, 1341 and 1346."

"18. . . .in the Northern District Court of Mississippi and elsewhere, BOBBY B. DELAUGHTER, defendant, *did* ***corruptly attempt to obstruct, influence and impede an official proceeding****, that is, while being interviewed by FBI agents in connection with an official federal corruption investigation and grand jury proceeding, he stated that he '****never spoke to*** *Ed Peters regarding. . ." substantive issues related to the case. . . at a time when said case was pending in his court,* ***when in truth and fact he had*** *corruptly discussed with Ed Peters substantive issues in the . . . case on numerous occasions and knew Peters was secretly acting on behalf of Scruggs' lawyers* ***in an attempt to gain favorable rulings for Scruggs, at a time when Peters was not counsel*** *of record,* ***all*** in violation of Title 18, United States Code, Section 1512(c)(2).

> *'Unfortunately, the House has **decided to disregard** the Justice Department's decision and to move forward with impeachment. As a result we will now turn to the Senate to seek a full and fair hearing of all of the evidence. . .'"*
>
> In 2007, after **an FBI** and federal grand jury investigation, the Justice Department alleged "**pervasive** misconduct" by Porteous and evidence "that Judge Porteous may have **violated** *federal and state criminal laws*, ***controlling*** *canons of judicial conduct*, ***rules*** *of professional responsibility*, and *conducted himself in a manner* ***antithetical*** *to the constitutional standard of good behavior required of* ***all*** *federal judges*. The complaint said the department opted not to seek criminal charges for reasons that included issues of *statute of limitations* and **other** ***factors***. But Westling said the *statute of limitations* ***WAS NOT*** *applicable.*

See **EXHIBIT "12"** attached hereto and incorporated by reference as if set forth in full herein.

Newsome believes that it is of PUBLIC/WORLDWIDE importance to note that she first brought Judge Porteous' CRIMINAL/CIVIL wrongs to the attention of the Department of Justice as early as September 2004. See **EXHIBIT "34"** attached hereto and incorporated by reference as if set forth in full herein.

> **IMPORTANT TO NOTE:** That the Department of Justice's/FBI's FAILURE to PROSECUTE may be a direct and proximate result of its knowledge of Porteous' criminal/civil wrongs being reported by Newsome and KNOWLEDGE that criminal conviction would have. Therefore, with knowledge of ***PERVASIVE*** *misconduct*, elected not to bring criminal charges because their information linked him to Newsome – i.e. ***OTHER*** *factors*. The Department of Justice's/FBI's CONTINUED role in COVER-UP of CORRUPT PUBLIC OFFICIALS and those involved in cases involving Newsome. Acts in FURTHERANCE of the Department of Justice/FBI to cover-up criminal/civil wrongs leveled against Newsome.

a reasonable person/mind may conclude that the issues and grounds raised in ***Affidavit of Disqualification*** are sufficient to sustain Newsome's beliefs as well as sustain CONSPIRACIES leveled against her are valid and supportive of the relief sought through said pleading.

> *U.S. v. Thompson*, 483 F.2d 527 (1973) - [n.1] In an affidavit seeking to disqualify trial judge on ground of personal bias or prejudice, affiant has the burden of making a threefold showing: the ***facts must be material*** and ***stated***

with particularity; the facts must be such that, *if true they **would convince a reasonable** man that a **bias** exists*; and the *facts **must** show the bias is **personal**,* as opposed to judicial, in nature.

[n.2] For purposes of motion seeking disqualification of trial judge on ground of personal bias or prejudice, judge must accept all facts stated in the affidavit as true; similarly, reviewing court must treat all the facts alleged as true. . . .

> 2. The facts must be such that, if true they would convince a reasonable man that a bias exists.[FN1]
>
> > FN1. Under the statute, the judge must accept for purposes of the motion that all facts stated in the affidavit are true. *Berger v. United States*, 255 U.S. 22, 41 S.Ct. 230, 65 L.Ed. 481 (1921). Therefore, for purposes of this opinion, we similarly must treat all the facts alleged as true. However, in so doing, we do not intend to express any opinion as to the actual truth of the facts alleged.
>
> 3. The facts must show the bias is personal, as opposed to judicial, in nature. . .

We think defendant's affidavit alleges the material facts with the requisite particularity. *Indeed, the Government does not contend to the contrary.*

We next must examine the facts alleged in this affidavit to determine *if they are sufficient to convince a reasonable man that the judge had a relevant bias*. After evaluating this affidavit, we believe a reasonable man would conclude on the facts stated therein that the district judge had a special bias against defendant as one of those . . . violating the . . . laws. . . .

[n.4] Allegation of personal bias is a proper basis for disqualification of a trial judge; an allegation of judicial bias is not.

6) Under federal law Newsome's ***Affidavit of Disqualification***[8] *meets the pleading requirements* for the filing of said matters and *give fair support to the charge of a bent mind that is determined to impede proceedings, reveals inability to remain impartial and REPEAT efforts to favor party* (i.e. Plaintiff Stor-All) *and its counsel, obstruct the administration of justice and deprive Newsome equal protection of the laws, equal privileges and immunities of the law and due process of law*. Furthermore, the facts set forth in said Affidavit, are in light of facts as they existed.

[8] *Berger v. U.S.*, 41 S.Ct. 230 (1921) - Under 28 U.S.C.A. § 144, the reasons and facts stated in an affidavit charging a judge with bias or prejudice for the belief in such bias or prejudice are an essential part of the affidavit, and must give fair support to the charge of a bent of mind that may prevent or impede impartiality of judgment.

Cheney v. U.S. Dist. Court for Dist. of Columbia, 124 S.Ct. 1391 (2004) - The decision whether a judge's impartiality can reasonably be questioned, for purpose of recusal motion, is to be made in light of the facts as they existed, and not as they were surmised or reported. (Per Justice Scalia, as single Justice).

7) The record evidence supports Newsome's ***Affidavit of Disqualification*** was timely submitted and the facts support her appealing matter to the Ohio Supreme Court and now the United States Supreme Court supports the facts and her concerns of impropriety and impartiality; moreover, Judge West's refusal to adhere to the laws governing said matters.[9] Newsome's Affidavit of Disqualification has been sworn to and notarized. The record evidence will support that Judge West conspired with Conspirators/Co-Conspirators and carried out similar crimes in which football famer (O.J. Simpson) received a 33-year sentence for. Therefore, as a matter of law, Judge West must

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[9] *U.S. v. Professional Air Traffic Controllers Organization* (PATCO), 527 F.Supp. 1344 (1981) - [n.7] Judge presiding over case should resolve motion for disqualification since he or she is in best position to appreciate circumstances surrounding allegations in affidavit.

[n.8] Judge presented with timely motion for disqualification must disqualify himself from further participation in case if, assuming truth of facts alleged, reasonable person would conclude that facts are sufficient to show judicial bias or prejudice.

[n.9] Motion to disqualify judge must be accompanied by affidavit of party to proceedings which must set forth facts supporting allegations of bias or prejudice.

[n.10] While court must accept all factual allegations set forth in affidavit in support of motion for disqualification of judge as true, mere conclusions, opinions, rumors, or vague gossip are insufficient and need not be accepted as true by court. 28 U.S.C.A. § 144.

> [8] [9] [10] . . .A judge presented with a timely [FN11] motion for disqualification pursuant to 28 U.S.C. s 144 must disqualify himself from further participation in a case if, assuming the truth of the facts alleged, a reasonable person would conclude that the facts are sufficient to show judicial bias or prejudice. *United States v. Jeffers,* 532 F.2d 1101, 1112 (7th Cir. 1976), aff'd in part and vacated in part, 432 U.S. 137, 97 S.Ct. 2207, 53 L.Ed.2d 168 (1977); *Mims v. Shapp,* 541 F.2d 415, 417 (3d Cir. 1976); *Davis v. Board of School Commissioners of Mobile County,* 517 F.2d 1044, 1051-52 (5th Cir. 1975), cert. denied, 425 U.S. 944, 96 S.Ct. 1685, 48 L.Ed.2d 188 (1976); *United States v. Baker,* 441 F.Supp. 612, 616 (M.D.Tenn.1977). The motion must be accompanied by an affidavit of a party to the proceedings, *United States ex rel. Wilson v. Coughlin,* 472 F.2d 100, 104 (7th Cir. 1973); *Giebe v. Pence,* 431 F.2d 942 (9th Cir. 1970), which must set forth the facts supporting the allegations of bias or prejudice. While the court must accept all factual allegations as true, *Berger v. United States,* 255 U.S. 22, 41 S.Ct. 230, 65 L.Ed.2d 481 (1921), mere conclusions, opinions, rumors, or vague gossip are insufficient and need not be accepted as true by the court. *Hodgson v. Liquor Salesmen's Union Local No. 2, 444* F.2d 1344, 1348 (2d Cir. 1971); *Action Realty Co. v. Will,* 427 F.2d 843, 844 (7th Cir. 1970). *1356 The obligation to accept the facts alleged as true, however, "does not preclude the court from putting the facts alleged in their proper context and examining the surrounding circumstances." *United States v. International Business Machines Corp., supra,* 475 F.Supp. at 1379-80 and cases cited therein. Moreover, the movant must establish that the alleged bias and prejudice is personal, stemming from an extra-judicial source and resulting in an opinion on the merits other than what the judge has learned from his participation in the case. *United States v. Grinnell Corp.,* 384 U.S. 563, 583, 86 S.Ct. 1698, 1710, 16 L.Ed.2d 778 (1966); *United States v. Patrick,* 542 F.2d 381, 390 (7th Cir. 1976), cert. denied, 430 U.S. 931, 97 S.Ct. 1551, 51 L.Ed.2d 775 (1977). Finally, the judge is presumed to be impartial, and the movant faces a substantial burden in order to rebut that presumption. Id.; *United States v. Jeffers, supra,* 532 F.2d at 1112.7

[n.14] For purposes of motion to disqualify judge, "personal bias or prejudice" refers to some sort of antagonism or animosity toward party arising from sources or events outside scope of particular proceeding.

[n.19] Negative bias or prejudice that requires disqualification of judge exists only if it is attitude or state of mind that belies aversion or hostility of kind or degree that fair-minded person could not entirely set aside when judging certain persons or causes.

disqualify himself. However, based upon the facts, evidence and legal conclusions contained herein, Judge West was determined on September 28, 2010, to fulfill his end of CONSPIRACY Agreement and dismiss the lower court lawsuit. Now, from the record evidence, appears to want to move forward on **Friday, October 22, 2010,** to render his DECISION over Newsome's OBJECTIONS to his presiding over lawsuit. Thus, supporting this instant appeal to the United States Supreme Court.

8) The record evidence will support that although Newsome has filed pleadings in accordance with the Ohio Rules of Civil Procedures and has set forth ISSUES distinctly and clearly in lower court actions, the Ohio Supreme Court and the lower courts have REPEATEDLY failed to address the issues sufficiently and adequately before the lower courts. Therefore, as a matter of law, Newsome has REPEATEDLY been subjected to a miscarriage of justice.[10] Therefore, without the intervention of the United States Supreme Court, Newsome will be deprived EQUAL protection of the laws and DUE PROCESS of laws in violation of her Constitutional Rights; moreover, deprived rights that are afforded to other citizens similarly situated. Newsome further believes that the record evidence will sustain/support issues were timely, properly and adequately raised and preserved in the lower courts.

> *Delesdernier v. Porterie*, 666 F.2d 116 (C.A.La., 1982) - [n.5] Ordinarily, Court of Appeals will not consider issues which are raised for first time only on appeal; ***exceptions*** *occur where* ***refusal to consider*** *the issue would result in a* ***miscarriage of justice****, Calmaquip Engineering West Hemisphere Corp. v. West Coast Carriers*, Ltd., 650 F.2d 633 (5th Cir. 1981); *In Re Corrugated Container Antitrust Litigation*, 647 F.2d 460 (5th Cir. 1981), or where there is no opportunity to make a timely objection, *In Re Novack*, 639 F.2d 1274 (5th Cir. 1981).

9) The record evidence will support that on or about August 27, 2009 Newsome submitted for filing with the Ohio Supreme Court her pleading entitled, "***EMERGENCY Writ of Prohibition and Supporting Affidavits***." See

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[10] *Hormel v. Helvering*, 61 S.Ct. 719 (1941) - [4] Ordinarily an appellate court does not give consideration to issues not raised below. For our procedural scheme contemplates that parties shall come to issue in the trial forum vested with authority to determine questions of fact. *This is essential in order that parties may have the opportunity to offer all the evidence they believe relevant to the issues which the trial tribunal is alone competent to decide; it is equally essential in order that litigants may not be surprised on appeal by final decision there of issues upon which they have had no opportunity to introduce evidence.* And the basic reasons which support this general principle applicable to trial courts make it equally desirable that parties should have an opportunity to offer evidence on the general issues involved in the less formal proceedings . . . entrusted with the responsibility of fact finding. Recognition of this general principle has caused this Court to say on a number of occasions that the reviewing court should pass by, without decision, questions which were not urged . . . *But those cases* ***do not*** *announce* ***an inflexible*** *practice, as indeed they could not without* *557 *doing violence to the statutes which give to . . . Courts . . . reviewing decisions . . . the power to modify, reverse or remand decisions not in accordance with law 'as* ***justice*** *may require*.' There *may always be* ***exceptional cases*** *or* ***particular circumstances*** *which will prompt a reviewing or appellate court,* where ***injustice*** **might otherwise result**, *to consider questions of law which were neither pressed nor passed upon by the court* or administrative agency below. See *Blair v. Oesterlein Machine Co.*, 275 U.S. 220, 225, 48 S.Ct. 87, 88, 72 L.Ed. 249.

EXHIBIT "14" attached hereto and incorporated by reference as if set forth in full herein. At the present time, further documents in this matter may be retrieved online at:

> http://www.supremecourt.ohio.gov/Clerk/ecms/resultsbycasenumber.asp?type=3&year=2009&number=1690&myPage=searchbypartyname.asp

When the Prosecuting Attorney's Office (*Joseph Deters*)[11] [***EMPHASIS** Added*] moved to dismiss Newsome's Prohibition action, it was met with a timely ***"Relator's Rebuttal/Opposition to Motion to Dismiss and Memorandum in Support of Motion to Dismiss of Respondents; and Request/Motion for Sanctions."*** See **EXHIBIT "15"** attached hereto and incorporated by reference as if set forth in full herein. However, in efforts of depriving Newsome EQUAL protection of the laws and DUE PROCESS of laws – rights secured under the Constitution – Justices and/or Officials of the Ohio Supreme Court *engaged in criminal acts*[12] *for purposes of providing opposing parties with an undue and unlawful/illegal advantage in lawsuit – i.e. resulting the filing of Newsome's December 28, 2009 FBI Criminal Complaint*[13] (See **EXHIBIT "16"** attached hereto and incorporated by reference as if set forth in full herein). The record evidence will support how the lower courts REPEATEDLY withhold rulings from Newsome for purposes of OBSTRUCTING the Administration of Justice and/or OBSTRUCTING Justice. Furthermore, the record evidence, facts and legal conclusions provided herein as well as in the lower courts' action will reveal EXECEPTIONAL circumstances exist and that Judges/Justices REPEATEDLY engaged in matter amounting to judicial usurpation of power, obstruction of justice, and a clear abuse of discretion justifying the relief sought through this instant ***EMTS & MFEOTWOC*** as well as the Certiorari to be filed with the United States Supreme Court.[14]

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[11] Prosecutor who handled the CRIMINAL matter involving Damon Ridley – Judge West's Bailiff. See **EXHIBIT "6"** attached hereto and incorporated by reference as if set forth in full herein. Therefore, a reasonable mind conclude that Prosecuting Attorney's Office knew and/or should have known of the PATTERN-OF-ABUSE and JUDICIAL MISCONDUCT of Judge West and the appearance of impropriety/violation to Canon, etc.

[12] See DeLaughter INDICTMENT at **EXHIBIT "11"** which supports unlawful/illegal practices. Judge DeLaughter being the Judge assigned to handle the Mitchell McNutt & Sams matter addressed in this instant filing.

[13] Complaint and Request for Investigation Filed By Vogel Denise Newsome with the Federal Bureau of Investigation – Cincinnati, Ohio; and Request for United States Presidential Executive Order(s)

[14] *Commonwealth of Virginia v. Rives*, 100 U.S. 313 (1879) - Mandamus may be used *to restrain inferior courts to keep them within their lawful bounds*.

Cheney v. U.S. Dist. Court for Dist. of Columbia, 124 S.Ct. 2576 (2004) - *Only exceptional circumstances amounting to a judicial **usurpation** of power or a **clear abuse** of discretion will justify the invocation of writ of mandamus*. 28 U.S.C.A. § 1651(a).

> *Duignan v. U.S.*, 47 S.Ct. 566 (1927) - *Only in exceptional cases* will Supreme Court *review questions **not** pressed below*. . . .This court sits as a court of review. It is only in exceptional cases coming here from the federal courts that questions not pressed or passed upon below are reviewed. See *Montana Ry. Co. v. Warren*, 137 U. S. 348, 351, 11 S. Ct. 96, 34 L. Ed. 681; *Old Jordan Mining Co. v. Socie te Anonyme Des Moines*, 164 U. S. 261, 264, 265, 17 S. Ct. 113, 41 L. Ed. 427; *Magruder v. Drury*, 235 U. S. 106, 113, 35 S. Ct. 77, 59 L. Ed. 151; *Gila Valley Ry. v. Hall*, 232 U. S. 94, 98, 34 S. Ct. 229, 58 L. Ed. 521; *Grant Bros. v. United States*, 232 U. S. 647, 660, 34 S. Ct. 452, 58 L. Ed. 776; *Ana Maria Sugar Co. v. Quinones*, 254 U. S. 245, 251, 41 S. Ct. 110, 65 L. Ed. 246. Cf. *West v. Rutlege Timber Co.*, 244 U. S. 90, 99, 100, 37 S. Ct. 587, 61 L. Ed. 1010; *United States v. Tennessee & Coosa R. R.*, 176 U. S. 242, 256, 20 S. Ct. 370, 44 L. Ed. 452.
>
> *Allied Chemical Corp. v. Daiflon, Inc.*, 101 S.Ct. 188 (U.S.,1980) - Only exceptional circumstances, *amounting to a **judicial usurpation** of power*, justify the invocation of mandamus.
>
> *Schlagenhauf v. Holder*, 85 S.Ct. 234 (U.S.Ind.,1964) - The writ of mandamus is appropriately issued when there is ***usurpation of judicial** power or a **clear abuse** of discretion*.

10) Newsome believes that Certiorari will be granted in that Judge John Andrew West and the Justices of the Ohio Supreme Court (who will be watching the outcome of this case) may be taken that they think that the United States Supreme Court will stand by and CONDONE/SANCTION criminal/civil wrongs of Judges/Justices who receive **SUBSTANTIAL/ASTRONOMICAL** *Campaign Contributions* from BIG MONEY/SPECIAL INTERESTS GROUPS ***to cover-up the criminal/civil wrongs*** of their clients and/or others. Newsome further believes that the recent actions of the Ohio Supreme Court and its failure to ***report crimes, take the required legal action when crimes involving judges/attorneys are made known*** and/or comply with the statutes/laws governing said matters may be due its misunderstanding and/or simple arrogance that it is above the law and intent to hide behind the United States Supreme Court's recent decision in ***Citizens United v Federal Election Commission***, 558 U.S. 50 (2010) to support the CRIMINAL STALKING, HARASSMENT, THREATS, INTIMIDATION DISCRIMINATION and/or PREJUDICES, etc. by the lower Court Judges/Justices, attorneys and others leveled against Newsome (i.e. African-Americans, people of color and/or citizens of the United States) for exercising her rights under the United States Constitution and other laws of the United States.

11) Newsome believes that the record, facts and legal conclusions in this instant ***EMTS & MFEOTWOC*** will support the granting of Certiorari in the INTERVENTION of the United States Supreme Court in light of the CONSPIRACIES leveled against her. Conspiracies which interfere with (a) the performance of official duties – i.e. OBSTRUCTION of justice and/or OBSTRUCTION of administration of justice; (b) a ***Pattern-Of-Practice***

which interferes with the administration of justice in FEDERAL courts; (c) a Pattern-Of-Practice which interferes with the administration of justice in STATE courts; and a Pattern-Of-Practice that interferes with Newsome's private enjoyment of EQUAL protection and EQUAL privileges and immunities under the law. Supporting the Supreme Court's need to retain jurisdiction in this matter, report the criminal/civil wrongs leveled against Newsome herein and see that justice is rendered and the integrity of the lower courts are restored in the interest of PUBLIC TRUST and CONFIDENCE that citizens of the United States expect and entitled to receive.

> *Kush v. Rutledge*, 460 U.S. 719, 103 S.Ct. 1483 (1983) - Although § 2 contained only one long paragraph when it was originally enacted, that single paragraph outlawed five broad classes of conspiratorial activity. In general terms, § 2 proscribed **conspiracies that interfere** with (a) *the* ***performance of official duties*** *by federal officers*; (b) the ***administration of justice*** *in* ***federal*** *courts*; (c) *the* ***administration of justice*** *in* ***state*** *courts*; (d) *the* ***private enjoyment*** *of "****equal*** *protection of the laws" and "****equal*** *privileges* and **1487 ***immunities*** *under the laws*"; and (e) the right to support candidates in federal elections. As now codified in § 1985, the long paragraph is divided into three subsections. One of the five classes of prohibited conspiracy is proscribed by § 1985(1), two by § 1985(2), and two by § 1985(3). *The civil remedy for a violation of any of the subsections is found at the end of § 1985(3)*. The reclassification was not intended to change the substantive meaning of the 1871 Act.

12) Newsome seeks an Appeal/WOC that is of National and WORLDWIDE importance and a decision by the United States Supreme Court will impact and/or have a longstanding impact and legal precedent in dealing with such issues which have for decades ADVERSELY impacted the lives of citizens – i.e. more specifically African-Americans and/or people of color.

13) Newsome believes that Certiorari will be granted in that the facts, evidence and legal conclusions to be provided will support said matter and sustain/support concerns of Newsome as well as other citizens of those who have leveled such racist/discriminatory/prejudicial attacks against her may be members of SUPREMACIST/TERRORIST groups who ***"have turned in their white hoods, for business suits and judicial robes."*** See **EXHIBIT "17"** – DAVID DUKE Information (i.e. former Grand Wizard of the Knights of the Ku Klux Klan) attached hereto and incorporated by reference. Furthermore, concerns that ***UNDERCOVER SUPREMACIST/TERRORIST groups (i.e. such as Baker Donelson)*** have strategically placed their people

throughout offices of the government and courts – *i.e. being sure to put themselves in a position to be on the PANEL/BOARD that is behind providing NOMINEES for judicial vacancies, state Governors, Whitehouse/Executive Office vacancies, United States Senate/House of Representatives vacancies, etc*. See for example **EXHIBIT "18"** – *"**JUDICIAL** NOMINATIONS"* [**EMPHASIS** Added] information attached hereto and incorporated by reference as if set forth in full herein. Supporting Baker Donelson's ability to get their lawyer(s) assigned to ***federal*** *JUDGESHIPS* (i.e. as Samuel H. Mays, Jr.).

14) Newsome believes that Certiorari will be granted in that it will allow the United States Supreme Court to uphold the Constitution and/or laws of the United States and ***even out the playing field*** *in this instant action between the STRONG/POWERFUL/EVIL forces that look to destroy the lives of the weak/poor/good/innocent that do not have the legal arsenal and/or financial resources at their disposal to defend their lawsuits*.

II. SUPREMACIST/TERRORIST/KU KLUX KLAN ACT

Newsome believes this matter needs to be addressed in light of the "INFAMOUS RACE SPEECH" provided by then Presidential Candidate Barack Obama. See **EXHIBIT "139"** attached hereto and incorporated by reference as if set forth in full herein. Newsome believes that the facts, evidence and legal conclusions contained herein as well as in the record of the lower courts will support/sustain that due to *the **EXCEPTIONAL** and **EXTREME** circumstances* involved in this matter; as well as the information contained herein this is of PUBLIC/WORLDWIDE interest and of NATIONAL security that impacts the lives of the citizens of the United States as well as those in foreign countries, the intervention of the United States Supreme Court is required. Moreover, because of ***the SUPREMACIST/TERRORIST attacks leveled against*** Newsome by United States President Obama and his Administration; by those who are members of the Bar to practice before this Court as well as lower courts; by members of the United States Senate/United States House of Representatives; by Judges/Justices; by employers, etc. that it is important to go PUBLIC and expose the

CONSPIRACY and COVER-UP of criminal/civil wrongs leveled against Newsome and other citizens that are RACIALLY motivated and appear to be efforts to take Newsome as well as other African-Americans and/or people of color back into SLAVERY/BONDAGE!! To understand the tactics and methods used to carry out such SUPREMACIST/TERRORISTIC efforts, Newsome attaches a copy of a document entitled, "***The Willie Lynch Letter: The Making Of A Slave!***" ("WILLIE LYNCH") – See **EXHIBIT "5"** attached hereto and incorporated by reference as if set forth in full herein.[15] While some may find such information as WILLIE LYNCH highly sensitive, Newsome believes that this information is PERTINENT and RELEVANT as it reveals the use of practices/tactics (***OUTLAWED*** *many years ago*) that have been REPEATEDLY used on Newsome as well as other African-Americans and/or people of color by SUPREMACIST/TERRORIST groups to beat her/her class of people into submission and servitude to accept the RACIAL biases and RACIAL injustices that have plagued Newsome and those of her class for years. Information which Newsome believes is of PUBLIC/NATIONAL/WORLDWIDE importance considering President Obama and those in his Administration has come out and PUBLICLY ridiculed Iran/Iraq, Afghanistan and other countries for their Human Rights violations; nevertheless are allowing and involved CONSPIRACIES and COVER-UP of Human Rights/Civil Rights violation, Constitutional violations and other criminal/civil wrongs leveled against Newsome and other African-American and/or people of color (i.e. citizens of the United States). *Information that Newsome*

[15] "In my bag here, I have a foolproof [sic] method of controlling your black slaves. I guarantee every one of you that if installed correctly it will control the slaves for at least 300 years. . . Any member of your family or your ***overseer*** can use it. . . I use **fear**, **distrust** and **envy** ***for control***. . .

The Breaking Process of the African Woman

Take the female and run a ***series of tests*** on her to see if she will submit to your desires willingly. TEST her in every way, because she is the most important factor for good economics. If she shows any sign of resistance in submitting completely to your will, do not hesitate to use the bull whip on her to extract the last bit of resistance out of her. Take care not to kill her, for in doing so, you spoil good economic. . . ."

believe is also PERTINENT and RELEVANT ***to the United Nations*** *and* ***other foreign nations/foreign leaders*** *in that the United States puts itself out there to other countries as a Leader and Role model and an* ***activist AGAINST*** *such abuses and violations, yet* ***is engaging in*** *CONSPIRACIES and CORRUPTION to cover-up said criminal/civil wrongs. Newsome believes that a reasonable mind may conclude that United States President Obama and his Administration's failure to prosecute and/or engagement in DILATORY practices in the handling of Conspiracies and Corruption reported as that leveled against Newsome, is evidence that supports and sustains the deprivation of* ***EQUAL*** *protection of the laws and* ***DUE PROCESS*** *of laws to Newsome as well as other African-Americans and/or people of color.* ***In further support thereof,***

Newsome states:

> *Griffin v. Breckenridge*, 91 S.Ct. 1790 (U.S.Miss.,1971) - [n.1] Ku Klux Klan Act, affording civil remedy for conspiracy to deprive person or class of persons of equal protection of laws or equal privileges and immunities, covers private conspiracies. 42 U.S.C.A. § 1985(3).
>
> Ku Klux Klan Act language *requiring* ***intent to deprive*** *of* ***equal*** *protection or* ***equal*** *privileges and immunities means that there must be some racial*, or perhaps otherwise class-based, ***invidiously*** *discriminatory* ***animus behind*** *conspirators' action*; *conspiracy* ***must*** *aim at deprivation of equal enjoyment of rights secured by law to all.*
>
> [n.3] Complaint under Ku Klux Klan Act **must** allege that *defendants* ***conspired*** or went in disguise on highway or premises of another *for* ***purpose of depriving****, directly or indirectly, any person* or class of persons of ***equal*** *protection of laws* or ***equal*** *privileges and immunities under laws,* and ***must*** *assert that one or more of conspirators did*, or *caused to be done*, and *act in*

furtherance of object of conspiracy whereby another was injured in person or property or deprived of having and exercising any right or privilege of a citizen.

[n.8] Thirteenth Amendment is not mere prohibition of state laws establishing or upholding slavery, *but absolute declaration that slavery or involuntary servitude shall not exist in any part of United States*.

[n.9] *Varieties of private conduct which Congress may make criminally punishable or civilly remediable, under Thirteenth Amendment, extend beyond actual imposition of slavery or involuntary servitude.* 42 U.S.C.A. § 1985(3); U.S.C.A.Const. Amend. 13.

[n.10] Thirteenth Amendment *committed nation to proposition that former slaves and their descendants should be forever free and to keep that promise Congress has power rationally to determine what are badges and incidents of slavery and authority to translate that determination into effective legislation.*

.

[n.11] Ku Klux Klan Act is constitutional under Congress' powers under Thirteenth Amendment ***to create statutory cause of action for Negro citizens who have been victims of conspiratorial, racially discriminatory private action aimed at depriving them of basic rights that law secures to all free men***.

15) The record evidence, facts and legal conclusions contained herein will support that the acts of Judge West, opposing counsel, President Obama, his Administration and other Conspirators/Co-Conspirators are WILLFUL, MALICIOUS and WANTON. Moreover, that said attacks on Newsome have been done with deliberate intent to deprive her equal protection or equal privileges and immunities because of racial bias, racial prejudices, discriminatory and prejudicial *animus* towards her as well as other African-Americans and/or people of color for purposes of deprivation of EQUAL enjoyment of rights secured by law to all.

16) The record evidence will support that Plaintiff Stor-All, its counsel, along with Conspirators/Co-Conspirators, and others under the direction and/or leadership of Judge John Andrews West and Judge Nadine L. Allen did conspire and went on the premises of Newsome (i.e. storage unit) for purposes of depriving, directly or indirectly of EQUAL protection of laws and EQUAL privileges and immunities under laws, and by abusing judicial authority, usurping power/authority, Judge West, Judge Allen, Plaintiff Stor-All, its opposing counsel, its insurance provider and others did knowingly, willingly and with malicious intent caused to be done and did act in furtherance of object of conspiracy whereby Newsome has sustained irreparable injury/harm; moreover, Newsome has been injured in her person and property as well as deprived of having or exercising rights or privileges as a citizen of the United States.

17) The record evidence will support that the criminal/civil wrongs leveled against Newsome by Judge John Andrew West, Judge Nadine Allen, Plaintiff Stor-All, its attorneys, its insurance provider, and others are willful, malicious and wanton acts in furtherance of CONSPIRACY to enslave Newsome and subject her to involuntary servitude in the State of Ohio and/or states/cities in which she resides and/or do business.

18) The record evidence will support that the Newsome has REPEATEDLY been subjected to private conduct which Congress and/or other laws make criminally punishable and civilly remediable under the Thirteenth Amendment. Moreover, said private conduct which extends beyond actual imposition of slaver or involuntary servitude.

19) The record evidence will support that Newsome (an African-American and United States citizen) has REPEATEDLY been a victim of CONSPIRACY leveled against her which is racially discriminatory private action aimed at depriving her as well as other African-Americans of basic rights that law secures to all free men. Moreover, that Judge West, Judge Nadine Allen, Plaintiff Stor-All, its counsel, its insurance provider and other Conspirators/Co-Conspirators did knowingly, willingly and with malicious intent engage in CONSPIRACY fueled by racial bias, racial prejudices, racially discriminatory private action, etc. aimed at depriving Newsome and other African-Americans of basic rights that law secures to all free men.

20) The record evidence will support and sustain that United States President Barack Obama, his Administration, United States Department of Justice, and the United States Congress/Legislature were timely, properly and adequately notified of criminal/civil wrongs leveled against Newsome as well as other African-Americans that are in violations of the Ku Klux Klan Act and other laws of the United States. *Therefore, further supporting that this instant **EMTS & MFEOTWOC** involves EXTREME and EXCEPTIONAL circumstances which warrants the United States Supreme Court's intervention and exercise jurisdiction of this matter to correct the criminal/civil wrongs leveled against Newsome, other African-Americans and/or citizens that have been victims of such crimes outlawed by the Ku Klux Kan Act and other laws of the United States.*

21) Newsome believes Certiorari will be granted because it is of NATIONAL/WORLDWIDE importance to *PUBLICLY expose* the ***SUPREMACIST/TERRORISTIC*** ***practices*** of two MAJOR businesses –

Liberty Mutual Insurance Company and their lawyers (i.e. ***Baker Donelson***, etc.) – *who are* ***behind the terrorist/hostile/bullying attacks*** *against* Newsome and *may be behind the decisions made into going into NEEDLESS/SENSELESS wars in Iran/Iraq and Afghanistan for purposes of unlawfully/illegally seizing*[16] *these countries' lands, take away their way of live/liberties and control of their resources* (i.e. oil, gas, coal, etc.). Newsome believes the evidence will support/sustain such racists groups as Liberty Mutual's and Baker Donelson's need to prove their SUPREMACY and/or DOMINENCE over other races and Nations/Leaders they see as weak and/or INFERIOR to them or the United States:

> *Scheidler v. National Organization for Women, Inc.*, 123 S.Ct. 1057 (U.S.,2003) - **Crime of "coercion"** *is separate from extortion* and **involves the use of force or threat of force to restrict another's freedom of action**.

TERRORISM: The unlawful use or threatened use of force or violence by a person or an organized group against people or property with the intention of intimidating or coercing societies or governments often for ideological or political reasons.[17]

DOMESTIC TERRORISM: Terrorism that occurs primarily within the territorial jurisdiction of the United States. [18 USCA § 2331(5)] Terrorism that is carried out against one's own government or fellow citizens.[18]

INTERNATIONAL TERRORISM: Terrorism that occurs primarily outside the territorial jurisdiction of the United States, or that transcends national boundaries by the means in which it is carried out, the people it is intended to intimidate, or the place where the perpetrators operate to seek asylum.[19]

TERRORIST:

1) One who engage in acts or an act of terrorism.[20]

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[16] Resorting to TERRORISTIC/HOSTILE/AGGRESSIVE measures and SUPERIOR ARSENAL OF WEAPONS *as used to* ***STEAL/OBTAIN the land*** *from the natives of this country* upon which the United States has been built.

[17] The American Heritage Dictionary of the English Language (4th Edition).
[18] Black's Law Dictionary (8th Edition).
[19] *Id.*
[20] The American Heritage. . .

2) Somebody who uses violence or the threat of violence, especially bombing, kidnapping, and assassination, to intimidate, often for political purposes.[21]

TERRORIZE:

1) To fill or overpower, with terror; terrify.
2) Coerce by intimidation or fear.[22]
3) ***Motivate somebody by violence*** to intimidate or coerce somebody with violence or the threat of violence.[23]
4) ***Make somebody very fearful*** to fill somebody with feelings of intense fear over a period of time.

TERRORIST - a radical who ***employs terror as a political weapon***; usually organizes with other terrorists in small cells; ***often uses religion as a cover*** for terrorist activities. (**EMPHASIS ADDED**).

ACT OF TERRORISM, TERRORISM, TERRORIST ACT - the ***calculated use of violence*** (or the threat of violence) against civilians in order **to attain goals** that are political or religious or ideological in nature; *this is done through **intimidation** or **coercion** or **instilling fear***.

RADICAL CELL, TERRORIST CELL - a cell of terrorists (usually 3 to 5 members); "*to insure operational **security*** the members of adjacent terrorist cells ***usually*** *don't know each other* or *the **identity** of their leadership*."

SUPREMACIST:

1) A person who believes in or advocates the supremacy of a particular group, esp. a racial group.[24]
2) One who believes that a certain group is or should be supreme.[25]
3) Somebody who holds the view that a particular group is innately superior to others and therefore, is entitled to dominate them.[26]

SUPREMACY: A position of superiority or authority over all others.[27]/[28]

[21] Encarta World English Dictionary (1999).
[22] The American Heritage. . .
[23] Encarta World. . .
[24] Random House Webster's Unabridged Dictionary (2nd Edition).
[25] The American Heritage Dictionary of the English Language (4th Edition).
[26] Encarta World English Dictionary (1999).
[27] Encarta World. . .

This instant appeal and lawsuit will address just how Liberty Mutual/Baker Donelson and its attorneys/lawyers may be using such TERRORISTIC and/or BULLYING tactics to incite fear in Judges/Justices to obtain an undue/unlawful/illegal advantage in this lawsuit.

> **IMPORTANT TO NOTE:** Moreover, how President Obama, his Administration and other Government Officials (Senators/Representatives, Judges, etc.) are allowing such ***SUPREMACIST/TERRORIST organizations to counsel and advise them*** as well as those in President Obama's Administration/Staff and may be ***CONTROLLING and/or RUNNING the United States*** – i.e. by placing their people in TOP/KEY positions under the Obama Administration, throughout the judiciary, United States Senate/House of Representatives, etc.

Foreign Leaders **are NOT** going to be deceived. They are aware of such SUPREMACIST and TERRORIST groups that are running the United States Government. For example, see the Interview Transcript with Iran President Mahmoud Ahmadinejad wherein said knowledge is made known. Knowledge confirming statements in Newsome's July 13, 2010 Email.

> **Transcript: *U.S. has 'hostility against our people,' Ahmadinejad says*[29]**
>
> . . .And-- all-- these years, they-- stood against our people. ***They continued hostilities, and they cooperated with all of our enemie***s. President Obama said, "**We are going to make it-- to make it up**." *And we welcomed that idea and position. I sent a message for him after his election*. Of course, **I received no answer**. He just gave a general response. And that is not considered a response to my message. We think maybe President Obama wants to do something, but there are pressures-- pressure groups in the United States who do not allow him to do so. Even if he wants to do something, apparently there are certain groups who do not allow him to do it.
>
> **Andrea Mitchell**: You're suggesting that President Obama—
>
> **President Ahmadinejad**: We think they are –

[28] This can be said of this instant lawsuit. If it had not been for Newsome's *patience, diligence, research, etc.* the United States Supreme Court as well as United States citizens would not be ***aware of the TERRORISTIC acts and CONSPIRACY*** *that has been orchestrated and carried out under the Leadership/Direction of Baker Donelson, its client (Liberty Mutual) and others against African-Americans and/or people of color; as well as smaller countries/nations*. **Why?** Because this instant action will EXPOSE ***just how subtle/elusive such SUPREMACIST/TERRORIST in not wanting to be detected and their intelligence/experience/expertise in covering up their RACIST/DISCRMINATORY/ PREJUDICIAL motives/agenda*** – i.e. *exchanging the white hoods for business suits and judicial robes, etc. to AVOID detection*. See **EXHIBIT "17"** – DAVID DUKE/KU KLUX KLAN attached hereto and incorporated by reference as if set forth in full herein.

[29] http://www.msnbc.msn.com/id/39210911/ns/world_news-mideast/n_africa.

> **Andrea Mitchell**: --doesn't have-- doesn't have-- the-- as Commander in Chief and leader of the United States does not have the decision-making power over what he does?
>
> **President Ahmadinejad**: ***Do you really think President Obama can do anything he wishes to***?
>
> **Andrea Mitchell**: Within-- within the—
>
> **President Ahmadinejad**: He does not—
>
> **Andrea Mitchell**: --the constructs of the United States Constitution. But what would you like to hear from President Obama? And what would you like to say to him?
>
> **President Ahmadinejad**: The Constitution is already on the *[unintel]*. ***What about the political scene? The reality on the ground? Is he able to do everything he wishes to? Personally, it's not true. There are different political group, there are a lo—different lobbyist pressure groups, and more important, there are Zionists there. We say, if he wants to do something, there are certain groups who do not allow him to do so***.

The record evidence will further support the RETALIATION President Obama and his Administration has leveled against Newsome because of her going PUBLIC and releasing the July 13, 2010 email to PUBLIC and/or Foreign Leaders/Foreign Countries. See **EXHIBIT "127"** attached hereto and incorporated by reference as if set forth in full herein. Thus, sustaining Newsome having contacted, United States Senators and their Aides, United States Representatives and their Aides, Media and other citizens.

> Muhammad Habib, first deputy to the general guide of the Muslim Brotherhood, said: *"the US Administration **employs all cards to serve its own interests**." He said that the speech that Obama intends to deliver in Egypt is "of no value*." He added: *"Statements and speeches **must** be associated with, or preceded by real change in policy on the ground, because policy is judged by deeds, **not** words*."

See **EXHIBIT "91"** attached hereto and incorporated by reference as if set forth in full herein. As well as the following information at:

> http://www.mcclatchydc.com/2009/06/03/v-print/69398/obama-to-lay-out-vision-of-muslim.html
>
> *. . . Bin Laden said that Obama's approach to the Muslim world was no different from that of Bush[30], whose policies* — from the invasion of Iraq to the use of some interrogation methods widely considered torture — convinced many Muslims that the United States had launched a war on Islam. . .

[30] PUBLIC/WORLD needs to know because President Obama may be relying upon the advice of the same counsel and/or advisors used by President Bush.

> However, Gamal Eid, the head of the Arabic Network for Human Rights Information, said he planned to decline the invitation. The Israeli ambassador to Egypt also is invited, and Eid said *he didn't want to be in the same room as a representative of what he called a "**criminal**" government.*

The United States may be seen as a "CRIMINAL Government" because it allows such SUPREMACIST/TERRORIST and Racial Injustices to continue although citizens (i.e. as Newsome) have taken the time to bring the matter to the attention of the President of the United States (Barack Obama); nevertheless, nothing is done. Newsome as recent releasing August 19, 2010 email entitled, ***UNITED STATES PRESIDENT BARACK OBAMA: A CALL FOR IMPEACHMENT/RESIGNATIONS/FIRINGS---COVER-UP OF RACIAL INJUSTICES – How Many More Senseless/Needless Shootings As The Connecticut/Port Gibson/Virginia Tech, etc. Will Have To Continue – CLEARLY UNACCEPTABLE!!! What Is President Obama/Obama Administration Doing Regarding Complaints Filed by Newsome Which Addresses Such Matters? –*** See **EXHIBIT "167"** - Proof of Mailing ONLY attached hereto and incorporated herein by reference as if set forth in full herein.

Newsome believes it is of PUBLIC/WORLDWIDE interest that the reasons for the ***DETERIORATING*** relationship of the United States with Foreign Countries/Leaders may be due to the TRUTH being released of what is really going on in the United States. The United States want to place itself on a PLATFORM as a country to follow; nevertheless, its government is involved in SUPREMACIST/TERRORIST acts and seek to silence and destroy the lives of citizens (i.e. as Newsome, *WikiLeaks' Leader [Julian Assange]*, etc.) who have stepped up to exercise their CONSTITUTIONAL Rights and release and share information about the CORRUPTION and COVER-UP by the United States Government. Newsome believes it was only because of Susan Reverby's uncovering of the *"Sexually Transmitted Disease Inoculation Study"* that the United States is doing everything **to DIVERT** the Public's/World's attention from ***further CRIMINAL and UNETHICAL*** *practices of the United States Government*. See **EXHIBIT "152"** attached hereto and incorporated by reference as if set forth in full herein.

22) Newsome believes that with the recent resignation of Rahm Emanuel, and President Obama's appointment of Pete Rouse to fill the Chief of Staff (in the interim) is still efforts of TERRORIST/SUPREMACIST groups to shield illegal animus and racial injustices leveled against Newsome and other people of color. In fact, Emanual being pleased that President Obama selected Pete Rouse because he could continue "to ***LEAD*** *the OPERATION* forward" that has been set in play to destroy Newsome as well as other people of color:

". . .a post that has been described as the ***second most powerful*** *job in the U.S. government."*

*"Obama **laughingly** described as "leaving his post today to explore other opportunities."*

*"As difficult as it is to leave, I do so with the great comfort that Pete Rouse will be there to lead **the operation** forward," **Emanuel said."***

Tom "Daschle **handed over** *to Obama **dozens** of his **most trusted** aides* and **political supporters**, a **gift** *that **continues** to **PAY DIVIDENDS***. Obama has already placed Daschle **allies** *Pete Rouse* **and** *Phil Schiliro in **TOP** White House **POSITIONS**, and named **former** DASCHLE **adviser*** John Podesta as co-chairman of the transition team.

Republicans made clear. . . Daschle can expect questions at this confirmation hearing about ***lobbying by his law firm,*** *as well as his **wife's work as a Washington lobbyist.***

"Barack Obama is ***filling his administration with longtime*** *Washington insiders,". . . "For voters hoping to see new faces and fewer lobbyist connections in government, Daschle's nomination will be another disappointment."*

Moreover, take advantage of the *second most powerful job in United States Government*. See **EXHIBIT "168" –** Pete Rouse information attached hereto and incorporated by reference as if set forth in full herein.

IMPORTANT TO NOTE: The PUBLIC/WORLD needs to know who is running the White House/United States Government and the racial bias/prejudices of said CONTROLLERS and/or DECISIONMAKERS!! *Baker Donelson being sure to have their people in KEY/TOP positions so that it can continue to RUN the United States and PROMOTE its **racist agenda** against people of color and Foreign Countries/Leaders as those of Iran, Iraq and Afghanistan.*

23) Newsome believes that Judges like Judge West, Judge Porteous, Judge DeLaughter encourage SUPREMACIST/TERRORIST acts by accepting bribe of parties, engaging in conspiracies and then attempting to COVER-UP their crimes. Furthermore, the record evidence, facts and legal conclusions support that in the Conspiracies leveled against Newsome, law firms such as: Baker

Donelson; Schwartz Manes Ruby & Slovin; and Markesbery & Richardson Co, etc. merely are TERRORIST CELLS.

TERRORIST CELLS which operate in placing lies (false and/or misleading information) on the Internet -- *just as the United States lied about "WEAPONS OF MASS DESTRUCTION" to get other countries/nations to join them in the wars in Iran/Iraq because it wanted to shield/hide from its allies the real reason for going into Iran/Iraq may have been for their resources (i.e oil, gas, gold, coal, etc.). In order to be successful, the United States needed allies who were likeminded and has a hatred towards African-Americans and/or people of color, people of different faiths/religions* - - as it relates to Newsome so that those who rely upon the internet would see information MALICIOUSLY posted by the United States Government that it knew as FALSE, MALICIOUSLY and placed on the Internet for purposes of BLACKLISTING Newsome. Such practices which clearly are in violation of Newsome's Constitutional Rights, Civil Rights and other governing statutes/laws. United States Government has placed information on the Internet regarding Newsome for purposes of depriving her life, liberties and the pursuit of happiness.

Both Judge West and President Obama (with those of his Administration) have aligned themselves with SUPREMACIST Terrorist Groups/Cells that are determined, obsessed and consumed with not only destroying Newsome's life but the lives of many other citizens (i.e. with main focus on the African-American communities and/or the lives of people of color).

Just as it did to finance its attacks on Newsome, such SUPREMACIST Terrorist Groups are financed/fueled through their (Baker Donelson) own monies and/or those of their clients (i.e. *Liberty Mutual*, ***JP Morgan Chase** Bank*, ***PNC** Bank*, etc.) who back such criminal/civil injustices.[31] Then when

[31] It is no secret that banks make a profit off of charging "FEES." Therefore, JP Morgan Chase engaged in CONSPIRACY with the Commonwealth of Kentucky Department of Revenue with knowledge that said agency had NOT complied with the statutes laws governing said matters. Moreover, with knowledge and/or should have known that the statute(s) provided by the Kentucky Department of Revenue had been COMPROMISED (i.e. falsified and rewritten) for purposes of FRAUD. According to representative (**LaTrenda** – Supervisor in the *Levy Department of Chase Bank*) at JP Morgan have an AGREEMENT and that JP Morgan Chase has acted upon such demands presented on other citizens and clients of said bank. Therefore, supporting that this matter is of PUBLIC/WORLDWIDE interest. From additional information Newsome retrieved from the Internet, it appears that JP Morgan Chase, its counsel and/or Baker Donelson may just conveniently find themselves on the other end of deals that may involve defrauding MUNICIPALITIES and citizens for "FINANCIAL/PERSONAL" interest and *making profits off of fees charged through unlawful/illegal SCHEMES/SCAMS* – i.e. for instance see **EXHIBIT "27."** Also see **EXHIBIT "144"** attached hereto and incorporated by reference as if set forth in full herein:

Interest Swap Deal Bad News For Jackson:

> . . . ***a local government slowly dragged into bankruptcy*** after it bet its municipal bonds on complex derivatives. . .
>
> . . . Unfortunately for the rest of us, the gang of four voted for this deal along with *swap-promoter and Finance Director Rick Hill probably had no real idea of what they were doing, as many officials in other cities have discovered to their dismay.*

it is time to pay Newsome for the liability sustained from the injury/harm caused, such SUPREMACIST Terrorist Groups then look to UNLAWFULLY/ILLEGALLY seizure of her property, bank accounts, etc. for purposes of ***DESTROYING*** evidence and COVERING UP their

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. . .*Jackson is exposed to an **adjustable rate agreement** similar to those that **have devastated other** local governments*. The fees were not even mentioned or made available to the public yet we were expected *to fork over millions of dollars of our money to bankers and "advisers."*

Councilman Jeff Weill of Ward 1 voted against the bill and sent this statement. . .

"I had no comfort level with the swap initially proposed last November. Since that time the *mayor of Birmingham's been indicted* and attorneys general across the U.S. have convened grand juries ***looking into these schemes***. *They are **purely fee** driven. Even the 'independent' financial advisers who advised the council had an interest in the transaction, not to mention the players and the bond **lawyers**.*

"Most of those proposing this deal worked hard to obscure the costs of issuance. As a lawyer and former prosecutor that was a giant red flag to me. . ."

Bloomberg reported how Birmingham's Jefferson County thought it could use these swaps to its advantage as it fell for some sweet talk from Wall Street:

"***The county relied on advice from a bank, JP Morgan Chase and Co**., to arrange its funding, rather than use **competitive** bidding. . .*

'The county *paid banks $120 million **in fees*** – six times the prevailing rate – *for $5.8 billion in interest-rate swaps*. That was supposed to protect the county from rising rates for their bonds. Lending rates went the wrong way, putting the county $277 million deeper into debt . . ."

"*Officials there (in Birmingham) relied on the advice of JP Morgan* in 2002 and 2003 while refinancing almost all of the $3.2 billion of fixed-rate debt that built sewers into variable-rate bonds coupled with interest-rate swaps. . .

When Birmingham tried to escape the death spiral it faced, the bankers from New York turned into Bruno and Vito from Jersey when it failed to post $184 million collateral and was in technical default. ***JP Morgan** and other counterparties wanted Jefferson County **to raise taxes to cover the debt**.* Jefferson in turn wanted Wall Street to renegotiate the swaps. One County Commissioner told the Birmingham News, "We are dealing with a virtual immovable force on Wall Street." Consequently, *several commissioners are pushing the county to declare bankruptcy while the mayor of Birmingham faces criminal prosecution for receiving bribes and favors for these no-bid contracts. Such a bankruptcy will be the largest municipal bankruptcy in American history.*

Birmingham is not the only city suffering from the interest rate swap time bomb. The New York Times reported the rate adjustments on *these swaps harmed **many** small towns in **Tennessee**. **Lewisburg**, a town of only 11,000,* saw its "annual interest payments on the bond had **quadrupled to $1 million** this year." Some municipalities tried to withdraw from these bond market traps:

In ***Claiborne County**, north of Knoxville,. . .* municipal bond derivative **would cost $3 million**, a sum the poor county cannot afford. . ."

In ***Mount Juliet**, a suburb east of Nashville. . .*bonds had **increased by 500 percent to $478,000**. . ."

. . . **The city has brought on** Stern Agee and Leach Inc., a national investment firm with an office in Jackson, to serve as its financial advisor, as well as two local law firms – ***Baker Donelson Bearman Caldwell and Berkowitz**, . . .* to serve as legal counsel for the transaction.

. . .The reporter failed to ask Mr. Hill what happened if the rates adjusted. No serious person expects the interest rates to remain near zero as they are now. As interest rates increase (*not to mention the **effect** Obama's **deficit spending** will have on the bond markets*) over the next few years, *any deal using these variable rates will cost Jackson much more money*. Something ignored by Mr. *Hill while **he pimped this deal** for the **loan sharks***.

. . . Since the ***fees** for these refinances will cost us up to **more than $4 million***, Mr. Hill *should have sought **competitive** bids*. What was his criteria for choosing these banks? What are the fees going to be and why are we awarding contracts worth millions in fees without any bidding whatsoever? In fact, the story says the terms are being negotiated. *The city council approved these swaps without even **knowing the final terms** of the agreement*. .

See **EXHIBIT "144"** attached hereto and incorporated by reference as if set forth in full herein.

criminal/civil violations. Just as the United States Government is doing now to pay its debt – i.e. starting SENSELESS/NEEDLESS wars against smaller countries (i.e. Iran/Iraq and Afghanistan) that they believe are WEAKER, DEFEATABLE and WORTHLESS with intent of going in and ***enslaving*** the citizens of Iran/Iraq and Afghanistan for purposes of stealing and/or taking control of their resources (i.e. oil, gas, gold, fuel, coal, etc.).

24) Newsome believes that based upon the EXCEPTIONAL and EXTREME circumstances, it is for NATIONAL/WORLDWIDE ***security*** to stop such SUPREMACIST/TERRORIST groups (i.e. as Liberty Mutual, Baker Donelson, their insureds and those that Conspire with them) from engaging in such Terrorist acts that are FUELED by racial bias, racial prejudices, discriminatory animus and hatred towards Newsome as well as other African-Americans and/or people of color. Moreover, to EXPOSE the true reasons and who was behind the TERRORISTIC acts to go to war against Iran, Iraq and Afghanistan and that said decisions which determined such actions may have indeed been FUELED by Racial bias, Racial prejudices, Discriminatory animus and the need by those in whom the President of the United States harbor DEEP resentment and HATRED towards African-Americans and/or people of color and place themselves in a position of SUPREMACY and believe that **ALL** other groups (i.e. African-Americans, Arabs, Iranians, Iraqis, Afghanis, etc.) are in INFERIOR!

25) Newsome believes that Certiorari will be granted in that the record evidence, facts and legal conclusion to be presented will support/sustain Judge West's ties to such ***TERRORIST/BULLYING*** groups that rely upon him to enter into CONSPIRACY and cover-up the criminal/civil wrongs of Liberty Mutual, its clients, its lawyers and/or others. Moreover, *the **NEXUS** between President Obama and his Administration's **FINANCIAL** and/or **PERSONAL** **interest** in this matter and how they have **FAILED to prosecute** Criminal Complaints filed by Newsome because their supporters involved are TOP/KEY Financial Campaign Contributors.*

> **Important To Note:** *Failing to **arrest**, **indict** and **prosecute*** Judge West and others ***so that they can fulfill their role in the CONSPIRACY*** *and dismiss the lawsuit as he had planned to do on September 28, 2010,* and deprive Newsome of JURY Trial as well as relief sought in PENDING motions that take ***priority*** over any motions that he had set for September 28, 2010.

26) This Appeal will be of National and/or WORLDWIDE importance because it involves a sitting United States President – Barack Hussein Obama ("President Obama") and his role in the CONSPIRACY leveled against Newsome and will expose his knowledge of RACIAL INJUSTICES and DISCRIMINATORY/PREJUDICIAL practices not only leveled against Newsome but other citizens (i.e. African-Americans and/or people of color). *While President Obama has **demanded** that foreign nations/leaders **clean up the CORRUPTION**, Human Rights/Civil Rights violations in their countries, he himself (as well as his Administration) has CONSPIRED and sought to COVER-UP and has failed to prosecute criminal complaints filed by Newsome. Said failure which the record evidence will support is in furtherance of CONSPIRACY leveled against Newsome known to President Obama and his Administration.*

27) Newsome believes that Certiorari will be granted in that just as President Obama, Government Agency(s) and those they rely upon for counsel/advice *have elected to RECENTLY come out and attacked Newsome's finances and EMBEZZLE monies due her as well as the government going PUBLIC and advertising/posting **FALSE/MALICIOUS** information **on the INTERNET** it knew and/or should have known **was obtained through unlawful/illegal practices*** (**i.e bribery, coercion, blackmail, extortion, etc.**), thus, *requires **PUBLIC EXPOSURE** and PUBLIC RESPONSE through the United States Supreme Court **that such TERRORISTIC and/or BULLYING of citizens** for exercising their Constitutional Rights **will NOT** be tolerated by the high Court*.

> *Milkovich v. Lorain Journal Co.*, 110 S.Ct. 2695 (1990) - Where statement of "opinion" ***on matter of public concern*** *reasonably implies **false** and **defamatory** facts involving private figure*, plaintiff must *show that **false** implications were made with some level of fault* to support recovery. U.S.C.A. Const.Amend. 1.

Moreover, the need for the United States Supreme Court's sending a message through its decision(s) that the ***evening out of the playing field for the strong versus the weak*** will be determined by the laws of the land and **not** by BIG MONEY/SPECIAL INTERESTS Groups **who engage in criminal actions and civil violations** *to obtain an undue/unlawful/illegal advantage over the poor and/or disadvantaged citizens*:

> Paul proclaimed his innocence to . . . leaders. ***When is it wise to make a public response to false accusations***, and when should we just let them go?
>
> In the case of Paul, the gospel would have been discredited if he had not spoken up. His circumstances made him look like a criminal, and he had no history with these leaders to expect them to assume otherwise without a proper defense.
>
> ***If we have been publicly slandered by credible sources***, ***we should probably make a public response***. Otherwise our own witness will be compromised. . . Jesus warned us that some people will ***say all manner of evil against us falsely***, so we should not be surprised when it happens. But ***we do need to exercise wisdom when we become aware of it***.[32]

See **EXHIBIT "19"** – Excerpt from Commentary attached hereto and incorporated by reference as if set forth in full herein. Therefore, Newsome is reminded of another scripture provided by King James out of 1 Timothy 1:8 - *But we know that* ***the law is good***, ***if a man use it lawfully***. Therefore, rather than take the laws into her own hand, Newsome brings this matter before the United States Supreme Court.

28) On or about January 27, 2010, United States President Obama, through his *State of the Union Address*, **PUBLICLY** *chastised* and/or *humiliated* the United States Supreme Court for its decision in ***Citizens United v Federal Election Commission***, 558 U.S. 50 (2010) stating:

> But we can't stop there. *It's time to require* ***lobbyists to disclose each contact*** *they make on behalf of a client with my Administration or Congress*. And it's time to *put strict limits on the contributions that lobbyists give to candidates for federal office*. Last week, ***the Supreme Court reversed a century of law to open the floodgates for special interests*** – including foreign corporations – ***to spend without limit in our elections***. Well *I don't think American elections should be bankrolled by America's most powerful interests, or worse, by foreign entities*. They should be decided by the American people, and that's why ***I'm urging Democrats and Republicans to pass a bill that helps to right this wrong***.

See **EXHIBIT "20"** at Page 8 – 01/27/10 ***State of the Union Address*** attached hereto and incorporated by reference as if set forth in full herein. Therefore, President Obama should be required to DISCLOSE his lobbyists and require his lobbyists to disclose each contact they make on behalf of him,

[32] 2009-2010 Standard Lesson Commentary (King James Version) - August 29, 2010 Lesson Entitled: "*Upheld By God*" - Subtitle: "*Let's Talk It Over*."

his Administration and/or Congress. Moreover, lobbyists to disclose each contact they make on behalf of a client with President Obama, his Administration and/or Congress.

To Newsome it appears President Obama uses such platforms to *embellish* and *stroke* his oversized EGO while abandoning the ***"Oath of Office"*** taken and ignoring the protected rights of citizens secured under the United States Constitution. *The eloquent speeches of President Obama appear to be merely those filled with "hot air" and/or "mere ramblings" lacking substance and action by him, his Administration and Party.* However, President Obama failed to mention in his speech the following – the FINANCIAL/PERSONAL INTEREST and ***his role***, his Administration's and his SPECIAL INTEREST GROUPS'/LOBBYISTS' role in the lawsuit out of which this appeal arises; as well as:

a. The COVER-UP of criminal/civil wrongs leveled against Newsome that were timely, properly and adequately reported to President Obama and his Administration through the applicable complaints filed – i.e. while complaints were properly brought, to date **NO** arrests, indictments and/or prosecutions have resulted from reporting of crimes - - resulting *in FAILURE to prosecute* crimes reported and clearly in violation of rights secured under the United States Constitution and/or governing statutes/laws of the United States. Moreover, **depriving Newsome rights afforded to other citizens**; however, **deprived her in RETALIATION**. Thus, *supporting failure to provide her with equal protection of the laws and due process of laws secured/guaranteed under the United States Constitution*;

b. That President Obama may be relying upon the counsel/advice of Baker Donelson whose TOP LOBBYIST was (and/or still may be) Linda Daschle – the wife of Tom Daschle. Tom Daschle being the person that President Obama's counselors/advisors wanted for the position of ***United States Secretary of Health and Human Services*** so that he could help push the Health Care Reform Bill through that other U.S. Presidents before him failed to get passed. *However, Newsome believes that the strategy of those in whom President Obama seeks counsel/advice from thought that changing the color of the skin of the President of the United States would allow them to be successful in the passing of the Health Care Reform Bill they are claiming success on; however, FAIL to reveal just how far they may have gone to get the votes needed.*

IMPORTANT TO NOTE: This information is pertinent in that the Certiorari action Newsome will bring will expose the PATTERN-OF-CRIMINAL practices leveled against

> her and other citizens for purposes of obtaining an undue/unlawful/illegal advantage in legal matters. Furthermore, when Newsome submitted her Criminal/Civil Complaints to the attention of President Obama and others in his Administration, he knowingly, willingly and maliciously withheld information from Newsome as to any CONFLICT OF INTEREST (if any) regarding those who counsel/advise him, LOBBYISTS (if any) retained by him and conducting business on his behalf who may have a financial/personal interests in matters involving Newsome. President Obama and those under his Administration failed to advise Newsome of any CONFICLT OF INTEREST (if any) regarding the POWERFUL/SPECIAL INTERESTS groups known to him that has a Personal/Financial Interest in the outcome of the lower court action and/or any other legal actions in which Newsome is involved and/or may be brought by her.

This is a United States President who is also an attorney and one schooled in the laws of the United States – *finishing in the top of his Harvard Law School Class*. Moreover, makes known his Area of Specialty is Constitutional Law, Civil Rights Law, etc. Nevertheless, has made a knowingly WILLFUL and CONSCIOUS decision to abandon the ***"Oath of Office"*** for the President of the United States as well as the one taken when he became and attorney (i.e. member of the Bar):"

> *I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my ability, **preserve**, **protect** and **defend the Constitution** of the United States.*

Therefore, there is **NO** excuse for President Obama's ARROGANCE and placing himself, his Administration and those engaged in conspiracy, above the law because he is the President of the United States. It appears that President Obama is an embarrassment and disgrace not only to the office that he holds but to the United States citizens, Newsome and other African-Americans and/or people of color because such behavior is UNACCEPTABLE.[33]

c. The COVER-UP of criminal/civil wrongs of President Obama's Top/Key Financial Supporters/Advisors leveled against Newsome

[33] Teddy Roosevelt: "***Unless a man is honest we have no right to keep him in public life, it matters not how brilliant his capacity***, it hardly matters how great his power of doing good service on certain lines may be... ***No man who is corrupt, no man who condones corruption in others, can possibly do his duty by the community.***

are in violation of the United States Constitution and other governing statutes/laws;

d. The COVER-UP of a Pattern-Of-Criminal/Civil wrongs leveled against Newsome as well as other citizens (i.e. African-Americans and/or people of color) *are in violation of the United States Constitution and other governing statutes/laws*;

e. The COVER-UP of Racial Injustices and Discriminatory/Prejudicial practices leveled against Newsome and/or other citizens *are in violation of the United States Constitution and other governing statutes/laws*;

f. The **RETALIATION** leveled against Newsome and other citizens for her exposing and coming forth revealing President Obama and his Administration's/Advisors' role in the COVER-UP of criminal/civil wrongs leveled against Newsome and/or people of color *are in violation of the United States Constitution and other governing statutes/laws*;

g. ***Supreme Court Chief Justice John Roberts*** addressed the remarks made by President Obama in his 01/27/10 State of the Union Address to students:

> Speaking in response to a law student's question, Roberts said anyone could criticize the court and, indeed, our governmental system of separation of powers encourages such opinionated diversity. Then, the chief justice added:
>
> I have no problems with that. On the other hand, there is the issue of the setting, the circumstances and the decorum.
>
> The ***image of having the members of one branch of government standing up***, literally surrounding the Supreme Court, ***cheering and hollering while the court*** — according to the requirements of protocol — has to sit there expressionless, I think is very troubling.

Many citizens are not aware of President Obama's need to *beat, encourage and entice* such supporters into such frenzy – they just happened to be some of those who surrounded the Supreme Court. *Most likely the very ones that may have links/ties to the BIG MONEY Interests Groups which fuel President Obama, his Administration, their Agendas and other campaigns.* From Newsome's research it

appears that President Obama's Top/Key counselors/advisors hold, held and/or know those in PROMINENT positions in the Executive Office of the United States/White House, United States Senate/United States House of Representatives. **IMPORTANT TO NOTE:** See List below at Paragraph 28(h)/Page 44 of this pleading. Most likely such BIG INTEREST GROUP supporters may assist in the drafting of President Obama's speech(es).

h. That while President Obama went ***PUBLIC*** on the attacks of Justice Roberts for instance stating:

> ***Why Obama Voted Against Roberts***
> *'He has used his formidable skills* ***on behalf of the strong*** *in opposition to the weak.'*
>
> *The following is from then-Sen. Barack Obama's floor statement explaining why he would vote against confirming Supreme Court Chief Justice John Roberts (September 2005): . . .*
>
> I talked to Judge Roberts about this. Judge Roberts confessed that, unlike maybe *professional* politicians, it is not easy for him to talk about his values and his deeper feelings. That is not how he is trained. He did say ***he doesn't like bullies*** and *has always viewed the law as a* ***way of evening out the playing field*** *between the strong and the weak.*
>
> I was impressed with that statement because ***I view the law in much the same way***. The problem I had is that when I examined Judge Roberts' record and history of public service, it is ***my personal estimation*** *that he has far more often used his formidable skills on behalf of the strong in opposition to the weak.* In his work in the **White House and the Solicitor General's Office**, *he seemed to have consistently sided with those who were* ***dismissive of efforts to eradicate the remnants of racial discrimination*** *in our political process. In these same positions, he seemed dismissive of the concerns that it is* ***harder to make it in this world*** *and in*

this economy ***when you are a woman*** *rather than a man*.

I want to take Judge Roberts at his word that ***he doesn't like bullies*** and *he* ***sees the law and the court*** *as a* ***means of evening the playing field*** *between the strong and the weak*. But given the gravity of the position to which he will undoubtedly ascend and the gravity of the decisions in which he will undoubtedly participate during his tenure on the court, I *ultimately have to* ***give more weight to his deeds*** and the overarching political philosophy that he appears to have shared with those in power ***than to the assuring words that he provided me in our meeting***.

The bottom line is this: I will be ***voting against*** John Roberts' nomination. . . .

See **EXHIBIT "21"** – June 2, 2009 Wall Street Journal Article, attached hereto and incorporated by reference as if set forth in full herein. ***It is President Obama himself who has used his formidable skills, political clout and is now using the Office of the President of the United States to COVER-UP criminal/civil wrongs leveled against Newsome*** *and other citizens that have been timely, properly and adequately reported to him and his Administration.* Said acts/practices by President Obama which are clearly in violation of the OATH of the President of the United States Administered by Justice Roberts.

IMPORTANT TO NOTE: Newsome through her Certiorari action will show *how the actions of Judge West which resulted in her filing of Affidavit of Disqualification as well as those he has knowingly and willingly CONSPIRED with will support the ongoing CONSPIRACY, BULLYING, SUPREMACIST/TERRORISTS actions, etc. leveled against Newsome in* ***efforts of forcing/coercing her to forego rights secured under the United States Constitution*** *and other statutes/laws governing said matters.* Furthermore, Newsome's Certiorari action will provide facts, evidence and legal conclusions to support PATTERN-OF-CRIMINAL and CIVIL wrongs leveled against Newsome (*pro se/indigent litigant*) to assure that the playing field is HEAVILY tilted in

favor of BIG MONEY Insurance Company(s), Employer(s) and their attorneys/law firms. *Practices which apparently was of grave concern that the United States Congress had to create a Bill to address said matters and concerns of INJUSTICES House Report No. 92-23*8:

> By including this provision in the bill, the **committee emphasizes** *that the nature of . . . actions more often than not* ***pits*** *parties of unequal strength and resources against each other. The* ***complainant, who is usually a member of the disadvantaged class, is opposed by an employer who . . . has at his disposal a vast of resources and legal talent****.*

Nevertheless, President Barack (*while he has a history of attacking Justice Roberts out of concerns of that expressed by Congress*) is now **himself** engaging in CRIMINAL/CIVIL wrongs to cover-up the CONSPIRACY leveled against Newsome because those involved are Top/Key Financial Contributors/Advisors to his political campaign. Not only that, information Newsome has been able to retrieve from the Internet supports that President Obama's Top/Key Financial Contributors/Supporters **STRATEGICALLY** and/or **ADVANTAGEOUSLY** place their people in CRITICAL positions for purposes of unlawfully/illegally influencing decisions of factfinders – i.e. Judges/Justices. For example one of President Obama's Top/Key Supporters/Advisor, *Baker Donelson Bearman Caldwell & Berkowitz ["Baker Donelson"]* **PRIOR** to Newsome's going *PUBLIC* regarding criminal/civil wrongs (i.e. CRIMINAL STALKING, harassment, discriminatory practices, etc.) leveled against her and other African-Americans and/or people of color, Baker Donelson advertised the following information via the INTERNET:

> ***Current*** *and* ***former*** *Baker Donelson attorneys and advisors include, among many other highly distinguished individuals, people who have served as*:
>
> - **Chief of Staff** *to the President of the United States*
> - **United States Secretary of State**
> - United States **Senate** ***Majority*** Leader
> - **Members of** the *United States Senate*

- **Members of** the *United States House of Representatives*
- Director of the *Office of Foreign Assets Control for United States*
- **Department of Treasury**
- **Director** of the *Administrative Office of the United States*
- Chief Counsel, Acting Director, and Acting Deputy Director of United States Citizenship & Immigration Services within the *United States Department of Homeland Security*
- **Majority** and **Minority Staff Director** of the ***Senate Committee on Appropriations***
- ***Member of United States President's Domestic Policy Council***
- Counselor *to the Deputy Secretary for the United States Department of HHS*
- **Chief of Staff** *of the Supreme Court of the United States*
- **Administrative Assistant** to the ***Chief Justice*** *of the United States*
- *Deputy under Secretary of International Trade for the United States Department of Commerce*
- *Ambassador* to Japan
- *Ambassador* to Turkey
- *Ambassador* to Saudi Arabia
- *Ambassador* to the Sultanate of Oman
- *Governor of Tennessee*
- *Governor of Mississippi*
- *Deputy Governor and Chief of Staff for the Governor of Tennessee*
- *Commissioner of Finance & Administration* (Chief Operating Officer) - State of Tennessee
- Special Counselor to the Governor of Virginia
- *United States* ***Circuit Court of Appeals Judge***
- *United States* ***District Court Judges***

- **United States Attorneys**
- ***Presidents*** *of State and Local Bar Associations*

EMPHASIS ADDED in that information is pertinent to establish the CONSPIRACY and PATTERN-OF-CRIMINAL/CIVIL wrongs leveled against Newsome out of which this Appeal arises. This information was originally located at:

http://www.martindale.com/Baker-Donelson-Bearman-Caldwell/law-firm-307399.htm

see attached as **EXHIBIT "22"** attached hereto and incorporated by reference as if set forth in full herein. It is such information which had been posted for several years. See **EXHIBIT "23"** listing pulled approximately September 11, **2004**. However, *since Newsome has gone PUBLIC and is releasing this information, Baker Donelson has* ***SCRUBBED*** *this information from the Internet*. It was a good thing Newsome retained copy for her record to EVIDENCE information posted on the Internet. Information supporting FINANCIAL SUPPORT and SPECIAL/PERSONAL Interest of Baker Donelson and the role it may have played can also be found in information Newsome was able to retrieve from the Internet to support this listing and the role President Obama, his Administration and counselors and/or advisors are playing in the handling of this instant lawsuit in the lower Ohio Courts as well as other matters involving Newsome – see **EXHIBIT "24"** – ***Financial Contribution Information*** attached hereto and incorporated by reference as if set forth in full herein.

i. This is an action in which ***a sitting President*** of the United States Barack Obama (as Head of the EXECUTIVE Branch of the United States Government) ***is attempting to ABUSE his Executive powers and influence outcome in matters occurring under the jurisdiction of the Judicial Branch*** for **purposes of providing** his Top/Key FINANCIAL and/or SPECIAL INTEREST GROUPS with an **undue/unlawful advantage** over matters (i.e. criminal and civil) brought to his attention. The Certiorari action Newsome seeks to bring evolves from an ONGOING conspiracy involving the Top/Key Financial Supporters and/or Contributors of President Obama, his Administration and

others wherein the most recent *PLAN-OF-ATTACK* that was leveled against Newsome was set for September 28, 2010 at 2:15 p.m. (*i.e. to throw said lawsuit in favor of President Obama's supporters' insured [Stor-All] and deprive Newsome rights secured/guaranteed under the Constitution*) and now a DECISION is set to be rendered by Judge West on or about **Friday, October 22, 2010.** Therefore, requiring the relief Newsome seeks through this instant ***EMTS & MFEOTWOC***.

j. President Obama and his Administration have a REPUTATION of coming out PUBLICLY/NATIONALLY and using VICIOUS and DEPLORABLE tactics for purposes of getting their agenda and viewpoints across. *The Obama Administration is one of* ***HYPOCRISY*** *in that while it has* ***repeatedly*** *gone after foreign countries/leaders for their HUMAN RIGHTS and/or CIVIL RIGHTS violations, is an Administration that is presently and continues to engage in said violations themselves.* Moreover, resorting to CRIMINAL and BULLYING tactics for purposes of getting Newsome to forego protected rights. Clearly, placing themselves above the law and/or seeing themselves as being SUPERIOR/SUPREME to the laws of the United States.

k. Newsome ***believes that Certiorari action is of National/Worldwide importance*** *in that it may not only sustain/support some of the beliefs of United States citizens but that of Foreign Nations/Foreign Leaders as to why the United States is seen as a RACIST and EVIL country and not one to be trusted; moreover, why it is hated by so many Foreign Leaders and/or Foreign Countries/Citizens*. Furthermore, how some *Foreign Nations/Foreign Leaders* ***were not*** *deceived by the election of President Obama*. **IMPORTANT TO NOTE:** The MAJORITY of votes of the United States citizens for United States President **DO NOT** count – the *Electoral Colleges decide who the United States President will be*.

III. IRREPARABLE INJURY/HARM

Newsome believes that the record evidence, facts and legal conclusions will sustain that based upon the EXCEPTIONAL and EXTREME circumstances out of which this Appeal and/or Certiorari action will be brought will support/sustain that without the United States Supreme Court's intervention and retaining jurisdiction of this matter that Newsome will sustain ***further*** IRREPARABLE injury/harm to her person and property. Moreover, due to the EXCEPTIONAL and EXTREME circumstances addressed herein, it is of PUBLIC/WORLDWIDE interest that the United States Supreme Court intervene to put an end to the SUPREMACIST/TERRORISTIC practices of Plaintiff Stor-All, its counsel, its insurance provider and their Conspirators/Co-Conspirators – i.e. for FAILURE to do so will cause irreparable injury/harm to others citizens as well as foreign nations if such CONSPIRACIES and CORRUPTION is allowed to continue to RUN RAPIDLY through our culture and society without consequences for the willful, malicious and wanton acts carried out against innocent citizens and/or civilians. In further support thereof, Newsome states:

F) Newsome will sustain ***IRREPARABLE*** *injury/harm* should this Court deny her *Emergency Motion to Stay* and/or ***EMTS & MFEOTWOC*** – in that:

> Under this section which authorizes the stay of execution and enforcement of a judgment or decree to enable an aggrieved party to obtain a writ of certiorari form the United States Supreme Court, a stay is authorized only if the judgment sought be stayed is final and is subject to review by the Supreme Court on writ of certiorari. *New York Times Co. v. Jascalevich* (1978), 99 S.Ct. 6, 439 U.S. 1317, 58 L.Ed.2d 25; 99 S.Ct. 11, 439 U.S. 1331, 58 L.Ed.2d 38.
>
> Three conditions **must** be met before single justice of the Supreme Court will issue a stay; there ***must*** *be a reasonable probability that certiorari will be granted or probable jurisdiction noted, significant possibility that judgment below will be reversed,* and *likelihood of irreparable harm,* assuming the correctness of the applicant's position, if the judgment is not stayed. (Per Justice Scalia, as Circuit Justice.) *Barnes v. E-Systems, Inc. Group Hosp. Medical & Surgical Ins. Plan,* (1991), 112 S.Ct. 1, 501 U.S. 1301, 115 L.Ed.2d 1087.

i. President Obama, his Administration and others in efforts of providing their BIG MONEY/SPECIAL INTERESTS groups' clients with an undue/unlawful/illegal advantage in the instant lawsuit have:

(1) unlawfully/illegally EMBEZZLED Newsome's 2009 Federal Income Tax Return (*i.e. IRS had already taken out taxes owed it*); and

(2) prior to the originally scheduled **July 21, 2010** hearing before Judge West, on **July 17, 2010**, criminal actions where initiated *under the direction/leadership of President Obama* which resulted in the unlawful/illegal SEIZURE of Newsome's Bank Account(s) for purposes of *financially devastating* her and causing her *financial ruin* in **RETALIATION** to Newsome's releasing of July 13, 2010 email entitled, **"U.S. PRESIDENT BARACK OBAMA: THE DOWNFALL/DOOM OF THE OBAMA ADMINISTRATION– Corruption/Conspiracy/Cover-Up/ Criminal Acts Made Public,"** – See **EXHIBIT "25"** - (**LETTER** Only – supporting attachments referenced were provided in email) attached hereto and incorporated by reference; wherein she was ***exercising her rights under the First Amendment*** of the United States Constitution. *Newsome believes upon the release of the July 13, 2010 email, President Obama and his Administration may have recalled the August 12, 2009 Complaint submitted to his attention and United States Attorney Eric Holder's attention regarding the Kentucky Department of Revenue* – See **EXHIBIT "26"**- Complaint and USPS Mailing Receipts - *and used said knowledge to instruct and/or encourage it to carry out the execution of the unlawful/illegal seizure of Newsome's Bank Account(s) alleging claim for **"CHILD SUPPORT"*** – when *Newsome has **no** children and neither has there ever been a Court Order issued against her to sustain such an action* - and ***Kentucky Department of Revenue REWRITING*** *statutes (creating "**sham** legal process" and encouraging others to act upon such frivolous document)* by stating:

KRS 131 130(11) provides:

> (11) The cabinet may enter into annual memoranda of agreement with any state agency officer board, commission, corporation, institution, cabinet, department, or other state organization to assume the collection duties for any liquidated debts due the state entity and may renew that agreement for up to five (5) years. Under such an agreement, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of those liquidated debts as provided under
>
> (a) KRS Chapters 131 134 and 135 for the collection, refund and administration of delinquent taxes, and (b) Any applicable statutory provisions governing the state agency, officer board, commission, corporation, institution, cabinet, department, or other state organization for the collection, refund and administration of any liquidated debts due the state entity.
>
> **Pursuant to KRS 131 130(11)**[34] the Department of Revenue has entered into a memoranda of agreement with *Cabinet for Health and Family Services, **Division of Child Support.*** The memoranda of agreement authorizes the Department of Revenue assist the Cabinet for Health and Family Services ***in the collection of child support**, which includes **attaching** the delinquent parent's assets maintained in financial institutions.* The above statute authorizes the Department of Revenue to utilize the same collection tools ***to collect child support arrearages*** as used to collect delinquent taxes. As a result, the financial institutions will receive the Department of Revenue's levy instead of the Order to Withhold and Deliver or an order from the court, for the child support cases enforced by the Department of Revenue.

See **EXHIBIT "27"** attached hereto and incorporated by reference as if set forth in full herein. **IMPORTANT TO NOTE:** The Kentucky Revise Statute 131. 130(11) merely states:

> (11) The department may enter into annual memoranda of agreement with any state agency, officer, board, commission, corporation, institution, cabinet, department, or

[34] There is no such statute as referenced by the Kentucky Department of Revenue – ***TAMPERED*** and/or ***COMPROMISED*** *wording of statute(s)* for purposes of SHAM legal process used to engage others to participate in CONSPIRACY.

> other state organization to assume the collection duties for any debts due the state entity and may renew that agreement for up to five (5) years. Under such an agreement, the department shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of those liquidated debts as provided under:
>
> (a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and
>
> (b) Any applicable statutory provisions governing the state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization for the collection, refund, and administration of any liquidated debts due the state entity.

See **EXHIBIT "28"** KRS 131.130(11) attached hereto and incorporated by reference as if set forth in full herein. Furthermore, record evidence will support that as early as August 12, **2009**, the Kentucky Department of Revenue's Commissioner (Thomas B. Miller), United States Department of Justice Attorney General (Eric H. Holder, Jr.) and United States President Obama were timely, properly and adequately provided with Complaint filed by Newsome regarding this matter and Newsome requested:

> II. That the Commonwealth of Kentucky Department of Revenue provide its response to this instant Complaint and Rebuttal to August 1,2009, FINAL NOTICE BEFORE SEIZURE - providing U.S. Attorney Eric Holder with a copy of said response as well. (See at Page 12).

See **EXHIBIT "26"** – 08/12/09 Complaint and PROOF of Mailing and RECEIPT attached hereto and incorporated by reference. *Supporting that the Kentucky Department of Revenue knew and/or should have known that it was engaging in criminal/civil wrongs. Moreover, supporting that the Kentucky Department of Revenue* ***knowingly*** *and* ***willingly*** *opened up the Commonwealth for legal action and/or lawsuit* – See at Page 3, Paragraphs (12) and (14).

ii. Based upon the above facts and evidence, Newsome believes a reasonable mind may conclude that ***the Kentucky Department of Revenue/Officials for purposes of fulfilling its role*** in CONSPIRACY for purposes of providing President Obama's Top/Key Financial Campaign Contributors with an undue and unlawful/illegal advantage in the lawsuit – attacking

Newsome's finance's to hinder, obstruct justice, and deprive her EQUAL protection and DUE PROCESS of laws secured under the United States Constitution. NEXUS - - Newsome having established the connection/relationship with the TERRORIST groups (Liberty Mutual/Baker Donelson) and their relationship to President Obama (i.e. Top/Key Financial Campaign Contributors) having a PERSONAL/FINANCIAL interest in the outcome of this lawsuit and/or legal actions involving Newsome and/or to be brought by Newsome. Further supporting the ***IRREPARABLE*** *injury/harm* Newsome will sustain should this Court deny her *Motion to Stay* and/or ***EMTS & MFEOTWOC***.

iii. *The lower state courts* (i.e. Ohio Supreme Court, Hamilton County Court of Common Pleas – Cincinnati, Ohio and Hamilton County Municipal Court – Cincinnati, Ohio) *are attempting to cover-up their role in CONSPIRACY and CRIMINAL/CIVIL wrongs leveled against Newsome*. Further supporting the ***IRREPARABLE*** *injury/harm* Newsome will sustain should this Court deny her *Motion to Stay* and/or ***EMTS & MFEOTWOC***.

iv. This is an action in which the Plaintiff in the lower court action (Hamilton County Court of Common Pleas/Hamilton County Municipal Court) **failed to file** *timely* Answer to Counterclaim and has made NUMEROUS errors in which it is now attempting to use the lower courts to *AID and ABET* through criminal/civil wrongs as well as unlawfully/illegally get the lawsuit dismissed. Further supporting the ***IRREPARABLE*** *injury/harm* Newsome will sustain should this Court deny her *Motion to Stay* and/or ***EMTS & MFEOTWOC***.

v. Newsome is a paying litigant and paid the required **"JURY FEE"**[35] – See **EXHIBIT "29"** – Court RECEIPT attached

[35] *Baylis v. Travelers' Ins. Co.*, 113 U.S. 316, 5 S.Ct. 494 (1885) - . . .But, without a waiver of the right of trial by jury, by consent of parties, the court errs if it substitutes itself for the jury, and, passing upon the effect *321 of the evidence, finds the facts involved in the issue, and renders judgment thereon.

This is what was done in the present case. It may be that the conclusions of fact reached and stated by the court are correct, and, when properly ascertained, that they require such a judgment as was rendered. That is a question not before us. The plaintiff in error complains that he was entitled to have the evidence submitted to the jury, and to the benefit of such conclusions of fact as it might justifiably have drawn; a right he demanded and did not waive; and that he has been deprived of it, by the act of the court, in entering a judgment against him on its own view of the evidence, without the intervention of a jury. In this particular, we think error has been well assigned.

The right of trial by jury in the courts of the United States is expressly secured by the seventh article of amendment to the constitution, and congress has, by statute, provided for the trial of issues of fact in civil cases by the court without the intervention of a jury, only when the parties waive their right to a jury by a stipulation in writing. Rev. St. §§ 648, 649. This constitutional right this court has always guarded with jealousy. *Doe v. Grymes*, 1 Pet. 469; *D'Wolf v. Rabaud, Id.* 476; *Castle v. Bullard*, 23 How. 172; *Hodges v. Easton*, 106 U. S. 408; S. C. 1 SUP. CT. REP. 307.

hereto and incorporated by reference; nevertheless, the Ohio Supreme Court and the lower Ohio Courts are attempting to STRIP/DEPRIVE Newsome of protected rights secured/guaranteed under the United States/Ohio Constitution. Further supporting the ***IRREPARABLE*** *injury/harm* Newsome will sustain should this Court deny her *Motion to Stay* and/or ***EMTS & MFEOTWOC***.

Moore v. Guthrie Hospital, Inc., 403 F.2d 366 (1968) - [n.1] When evidence against a defendant affords a rational choice for competing inferences, seventh amendment requires that the claim be submitted to jury. U.S.C.A.Const. Amend. 7.

Apodaca v. Oregon, 92 S.Ct. 1628 (1972) - Purpose of trial by jury is to prevent oppression by government by providing a safeguard against corrupt or overzealous prosecutor and against complaint, biased, or eccentric judge. (Per Mr. Justice White with the Chief Justice and two Associate Justices concurring and one Associate Justice concurring in judgment.) U.S.C.A.Const. Amend. 6.

Town of Grand Chute v. Winegar, 82 U.S. 373 (1872) - The right to jury trial is a great constitutional right, of which a party may be deprived only in exceptional cases and for specified causes.

U.S. v. Harris, 1 S.Ct. 601 (1883) - The right of trial by jury is a constitutional one.

U. S. ex rel. Toth v. Quarles, 76 S.Ct. 1 (1955) - Right of trial by jury ranks very high in catalogue of constitutional safeguards. U.S.C.A.Const. art. 3, § 2; Amend. 6.

Belding v. State, 169 N.E. 301 (**Ohio**,1929) - Constitution guarantees right of trial by jury in cases where it existed before its adoption. Const. art. 1, § 5.

Cleveland Ry. Co. v. Halliday, 188 N.E. 1 (**Ohio**,1933) - Right to jury trial is a substantial right and does not involve merely procedural matter.

Kneisley v. Lattimer-Stevens Co., 533 N.E.2d 743 (**Ohio**,1988) - Right to jury trial, where it exists, is substantive, not procedural, for purposes of determining whether law affecting that right is subject to constitutional prohibition on retroactivity; there is no right to jury trial, however, unless that right is extended by statute, or existed at common law prior to adoption of State Constitution. Const. Art. 2, § 28.

Douglas v. Burroughs, 598 F.Supp. 515 (N.D.**Ohio**.E.Div.,1984) - Determination of the right to a jury trial in a civil action is purely a matter of federal law; it is a federal question. U.S.C.A. Const.Amend. 7.

Boyd v. Allied Home Mortg. Capital Corp., 523 F.Supp.2d 650 (N.D.**Ohio**.W.Div.,2007) - Seventh Amendment right to a jury is fundamental and its protection can only be relinquished knowingly and intentionally. U.S.C.A. Const.Amend. 7.

Betz v. Timken Mercy Med. Ctr., 644 N.E.2d 1058 (**Ohio**.App.5.Dist. 1994) - Fundamental to our justice system is right to jury of our peers.

U.S. v. Martin, 704 F.2d 267 (C.A.6.**Ohio**,1983) - **Purpose** of jury trial is ***to prevent*** *governmental* ***oppression*** *and* ***arbitrary*** *law enforcement*.

Bertram v. Kroger Co., 135 N.E.2d 681 (**Ohio**.App.2.Dist. 1955) - The **constitutional right** of trial by jury *is* ***carefully*** *guarded by courts*, and trial court . . . **may not** *make finding of fact, weigh evidence, draw inferences therefrom, or determine fact issue upon which reasonable minds may differ*.

vi. The lower Ohio Courts' files will further sustain that Newsome, timely, properly and adequately notified Plaintiff Stor-All, that she would move for MOTION FOR DEFAULT JUDGMENT if a timely Answer to her Counterclaim *was* ***not*** filed. *Despite Newsome's timely notification as well as the lower court's (Hamilton County Court of Common Pleas) notification to Plaintiff advising when Answer to Counterclaim was due, Plaintiff KNOWINGLY, WILLINGLY and DELIBERATELY ignored notification and failed to file a timely Answer; moreover, resorted to violations of court Rules (Ohio Rules of Civil Procedure) and* ***REPEATEDLY*** *refused to "ENTER an APPEARANCE" for purposes of preventing the lower court from obtaining jurisdiction* over the Insurance Company ("LIBERTY MUTUAL INSURANCE COMPANY") and its attorney ("Molly Vance") relying upon UNLAWFUL/ILLEGAL *tactics to* ***merely walk in off the street*** *and file pleadings without entering an appearance* – i.e. actions clearly in violation of Ohio laws and/or United States law on the same issues. The record evidence will support that said issue was well argued in briefs presented by Newsome along with LEGAL CONCLUSIONS to sustain it. *Now the lower courts are attempting to deny Newsome DEFAULT JUDGMENT relief to which she is entitled*. Further supporting the ***IRREPARABLE*** *injury/harm* Newsome will sustain should this Court deny her *Motion to Stay*.

> *Maryhew v. Yova,* 464 NE2d 538 (1984) – [HN 11] *Obtaining a stipulation to extend time in which to answer is not a waiver of the defense of lack of jurisdiction of the person.*[36]. . .
>
> An exception to the general rule that an appearance does not waive objections to jurisdiction is when the defendant's appearance gives rise to some prejudice or detriment to the plaintiff, such as the expiration of the statute of limitations. *Blank v. Bitker*, (7th Cir. 1943), 135 F.2d 962; *Spearman v. Sterling Steamship Co., supra,* at 289.
>
> To conclude otherwise is to give *carte blanche* to keen defense lawyers to *play a jurisdictional game of cat and mouse,*

[36] [***543] Finally, in *Spearman v. Sterling Steamship Co. (E.D. Pa 1959), 171 F.Supp. 287, 289,* [*159] the court stated the general rule that [HN11] "obtaining a stipulation to extend time in which to answer is not a waiver of the defense of lack of jurisdiction of the person. . .

> *promoting judicial* ***chicanery****,* ***frustrating*** *justice and the application of substantive law.* It **does violence to a basic tenet** from the *Apostle Paul*: "**The letter of the law killeth; the spirit giveth life**."

vii. Without intervention by the U.S. Supreme Court, Newsome will continue to suffer IRREPARABLE injury/harm in that she has become the victim of ***CRIMINAL STALKING***, HARASSMENT, etc. by President Obama's special/personal interest groups, Plaintiff (Stor-All), its counsel/attorneys and the judges/justices assigned lawsuits involving her. Further supporting the ***IRREPARABLE*** *injury/harm* Newsome will sustain should this Court deny her *Motion to Stay* and/or ***EMTS & MFEOTWOC***.

viii. The most recent criminal/civil actions of Judge John Andrew West ("Judge West") will support the PATTERN-OF-ABUSE, USURPATION-OF-POWER, ABUSE-OF-DISCRETION, etc. that has been leveled against Newsome to deprive her of protected rights (i.e. Jury Trial, etc.) secured under the United States/Ohio Constitution. **IMPORTANT TO NOTE:** As recent as March 2010, Judge West's Bailiff (Damon Riley) was indicted and found guilty by a JURY for "attempted BRIBERY" - *taking money to* ***guarantee*** *certain sentence* - although indicted for: ***Theft in Office***, ***Bribery*** and ***Attempted Bribery*** - See **EXHIBIT "6"** attached hereto and incorporated by reference as if set forth in full herein.

> *Liljeberg v. Health Services Acquisition Corp.*, 108 S.Ct. 2194 (1988) - Violation of statute which requires a judge to disqualify himself in any proceeding in which his impartiality might reasonably be questioned is established when a reasonable person, knowing the relevant facts, would expect that the judge knew of circumstances creating an appearance of partiality, notwithstanding finding that the judge was not actually conscious of those circumstances. 28 U.S.C.A. § 455(a).

Based on said information regarding Ridley, Newsome believes a reasonable mind may conclude based upon the facts, evidence and legal conclusions contained in this instant EMTS & MFEOTWOC, lower court records, PATTERN-OF-PRACTICE, etc., that Judge West may have known and/or should have known of the crimes of Ridley. Further supporting the ***IRREPARABLE*** *injury/harm* Newsome will sustain should

this Court deny her *Motion to Stay* and/or ***EMTS & MFEOTWOC***.

ix. *On or about September 9-10, 2009*, Judge West and others engaged in CRIMINAL/CIVIL wrongs leveled against Newsome which resulted in Newsome filing an OFFICIAL FBI Criminal Complaint **on or about September 24, 2009**, which ***is presently pending*** and includes (however not limited) to the following Charges/Counts:

a. Conspiracy;[37]

b. Public Corruption;

c. Complicity;[38]

d. Corruption;

e. Aiding and Abetting;[39]

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[37] *Pinkerton v. U.S.*, 66 S.Ct. 1180 (1946) - A conviction for conspiracy to commit a substantive offense may be had though the substantive offense was completed.

A "conspiracy" is a partnership in crime, with ingredients as well as implications, distinct from completion of the unlawful project. *Id.*

Goldman v. U.S., 38 S.Ct. 166 (1918) - Under Criminal Code, § 37, 18 U.S.C.A. § 88, an unlawful conspiracy and the doing of overt acts is a punishable crime, whether or not the conspiracy accomplishes its illegal purpose.

Iannelli v. U. S., 95 S.Ct. 1284 (1975) - "Conspiracy" is an inchoate offense, the essence of which is an agreement to commit an unlawful act; *the agreement **need not be shown** to have been explicit*; *it can instead **be inferred from the facts** and **circumstances** of the case*. 18 U.S.C.A. § 371.

Norfolk Monument Co. v. Woodlawn Memorial Gardens, Inc., 89 S.Ct. 1391 (1969) - No formal agreement is necessary to constitute an unlawful conspiracy.

State v. Lucas, 85 N.E.2d 154 (**Ohio**.Com.Pl.,1949) - Unlawful combination and confederacy constitute the essential elements of criminal conspiracy rather than overt acts done in pursuance thereof, and neither success nor failure of criminal conspiracy is determinative of guilt. Gen.Code, § 13116-1.

[38] *Scales v. U.S.*, 81 S.Ct. 1469 (1961) - Legal concepts of conspiracy and complicity manifest general principle that society, having power to punish dangerous behavior, cannot be powerless against those who work to bring about that behavior.

"Complicity" means that a person is an accomplice of another person in commission of a crime, if with purpose of promoting or facilitating commission of the crime he commanded, requested, encouraged or provoked such other person to commit it, or aided, agreed to or attempted to aid such other person in planning or committing it, or, acting with knowledge that such other person was committing the crime, knowingly, substantially facilitated its commission. *Id.*

[39] *Pereira v. U.S.*, 74 S.Ct. 358 (1954) - One who aids, abets, counsels, commands, induces, or procures the commission of an act is as responsible for that act as if he had directly committed the act himself. 18 U.S.C.A. § 2(a).

"Aiding, abetting and counseling" are not terms which presuppose existence of an agreement, but such terms have a broader application, making defendant a principal when he consciously shares in a criminal act, regardless of existence of a conspiracy. *Id.*

U.S. v. Williams, 71 S.Ct. 595 (1951) - "Aiding and abetting" means to assist the perpetrator of the crime.

f. Extortion and Blackmail;

g. Bribery;

h. Coercion;

i. Retaliation;

j. Pattern of Conduct;

k. Intimidation;

l. Deprivation of Rights;

m. Power/Failure to Prevent;

n. Stalking/Menacing by Stalking;

o. Burglary and Breaking & Entering;

p. Theft;

q. Trespass;

r. Larceny

s. Invasion;

t. Unlawful Entry/Forcible Action;

u. Obstruction of Justice/Process;

v. Color Law;

w. Conspiracy Against Rights; and

x. Conspiracy to Interfere With Civil Rights.

Judge West's role and engagement in the above criminal acts **IS NOT** protected under the Cloak of Immunity. The role Judge West played in the carrying out of the above crimes was done knowingly, willingly and maliciously for purposes of *aiding and abetting* Stor-All, its attorneys and others in criminal/civil wrongs leveled against Newsome.

> *Dennis v. Sparks,* 101 S.Ct. 183 (U.S.Tex.,1980) - **State judge** *may be found* ***criminally*** *liable* for violation of civil rights *even though the judge may be immune from damages under the civil statute*. 18 U.S.C.A. § 242; 42 U.S.C.A. § 1983.
>
> *Ocala Star-Banner Co. v. Damron,* 91 S.Ct. 628 (1971) - ***Charge of criminal conduct*** *against* ***public official*** or candidate for public office, *no matter how remote in time or place, is* ***always*** *relevant to his fitness for office*. . .
>
> *Gandia v. Pettingill,* 32 S.Ct. 127 (1912) - ***Anything*** *bearing upon the acts of a public officer connected with his office* ***is a***

> ***legitimate subject*** *of statement and comment*, at least in the absence of express malice.

In support of this instant ***EMTS & MFEOTWOC***, Newsome attaches a copy of the "*Criminal Complaint and Request for Investigation Filed by Vogel Denise Newsome With The Federal Bureau of Investigation – Cincinnati, Ohio September 24, 2009"* at **EXHIBIT "30"** (**BRIEF** ONLY and *Proof-Of-Mailing Receipts*) as if set forth in full herein. EVIDENCE of filing can be further sustained/supported by the following United States Postal Receipts to support mailing and receipt by President Obama as well as United States Attorney General Eric Holder. Newsome being provided with "***Business Card***" wherein Receptionist at the United States Department of Justice (Cincinnati, Ohio Office) advised would be handling this matter. See **EXHIBIT "31"** – copy of *Business Card of* ***Brick Bradford*** attached hereto and incorporated by reference as if set forth in full herein.

> **IMPORTANT TO NOTE:** That while Newsome filed the required Criminal Complaints, that President Obama and U.S. Attorney General Eric Holder have ***FAILED TO PROSECUTE*** - i.e. moreover, *may have failed to REPORT and handle in accordance with the laws* - because criminals involved, consist of those who are members of SPECIAL and/or PERSONAL interest groups to President Obama and his Administration and are being extended SPECIAL FAVORS in the covering up of criminal/civil wrongs *because of the SCANDAL, DISGRACE, EMBARASSMENT, etc. that is inevitable once information becomes public*. Moreover, concerns about the ***appearance*** and ***impropriety*** that the ROLE of the first *alleged* African-American President (President Obama) is playing in the CONSPIRACY and COVER-UP of such criminal/civil wrongs leveled against Newsome and other citizens who have been victimized by such unlawful/illegal practices addressed herein and to be addressed in the Writ of Certiorari.
>
> ***While the WATERGATE scandal was serious and embarrassing; this instant legal proceeding exposes and addresses WORST legal violations***

which also involves a sitting President of the United States *(President Obama).* It appears that President Obama is willing to *go down with the "burning ship"* and criminals that helped put him in office to further their PERSONAL/SPECIAL interest/agenda not made known to the PUBLIC – i.e. ***at least not until Newsome began going PUBLIC and exposing said agenda through her July 13, 2010 Email and others which was met SWIFTLY/PROMPTLY with the RETALIATORY actions of President Barack Obama,*** his Administration and others ***to punish her*** *for exercising rights secured under the United States Constitution*. Unlawful/Illegal tactics which have been directed and instructed under the leadership of President Obama, his Administration and others to ***BULLY*** and ***force/beat*** *Newsome into silence and* ***submission*** *to their authority*.[40]

Further supporting the ***IRREPARABLE*** *injury/harm* Newsome will sustain should this Court deny her *Motion to Stay* and/or ***EMTS & MFEOTWOC***.

x. Record evidence will support Newsome's ability to be successful on Appeal; however, *upon learning and seeing Newsome's* ***ability to be successful*** *on Appeal*; ***opposing*** *parties and/or those* ***launching racist/discriminatory attacks*** (i.e. such as Stor-All) ***against Newsome*** as well as their counsel/attorneys along with their insurance company (LIBERTY MUTUAL) ***rely upon the special TIES/RELATIONSHIPS of Liberty Mutual's attorney/lawyers*** (i.e. such as Baker Donelson) to the Judges/Justices -

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[40] WILLIE LYNCH PRACTICES (**EXHIBIT "5")** - - "In my bag here, I have a foolproof [sic] method of controlling your black slaves. I guarantee every one of you that if installed correctly it will control the slaves for at least 300 years. . . Any member of your family or your ***overseer*** can use it. . . I use **fear**, **distrust** and **envy** ***for control***. . .

The Breaking Process of the African Woman

Take the female and run a ***series of tests*** on her to see if she will submit to your desires willingly. TEST her in every way, because she is the most important factor for good economics. If she shows any sign of resistance in submitting completely to your will, do not hesitate to use the bull whip on her to extract the last bit of resistance out of her. Take care not to kill her, for in doing so, you spoil good economic. . . ."

- **Chief of Staff** *of the Supreme Court of the United States*
- **Administrative Assistant** to the ***Chief Justice*** *of the United States*
- ***United States Circuit Court of Appeals Judge***
- ***United States District Court Judges***
- **United States Attorneys**

See **EXHIBIT "22"** attached hereto - and rely upon said special ties/relationships to obtain rulings in their favor. See **EXHIBIT "32"** – *July 12, 2000* ***JUDGMENT*** issued by the Fifth Circuit Court of Appeals [**EMPHASIS** Added] attached hereto and incorporated by reference, *in which said court ruled in favor of Newsome*. However, **AFTER** such success by Newsome on Appeal, Baker Donelson felt the need to rely upon its special ties/relationships to Judges/Justices for purposes of obtaining rulings in its favor and/or in favor of its clients. **AFTER** Newsome's *success on appeal*, it appears Judge Morey L. Sear **did NOT** want any part of the lawsuit – i.e. *FAILED to advise Newsome of any potential CONFLICT OF INTEREST and/or RELATIONSHIPS to opposing counsel/parties* – and case was ***reallotted*** to *Judge Thomas G. Porteous*. See **Docket Sheet** at No. 74 (date of 10/25/00) at **EXHIBIT "33"** attached hererto and incorporated by reference as if set forth in full herein. Judge Thomas G. Porteous who has been brought up on IMPEACHMENT charges:

- *Involvement in a corrupt kickback scheme*
- *Failure to* ***recuse*** *himself* from a case he was involved in
- Allegations that Porteous *made* ***false*** *and* ***misleading*** *statements*, including concealing debts and gambling losses
- Allegations that Porteous *asked for and* ***accepted*** *"numerous things of value*, including meals, trips, home and car repairs, *for his* ***personal*** *use and benefi*t" **while taking official actions *on behalf* of his benefactors**
- Allegations that Porteous lied about his past to the U.S. Senate and to the FBI about his nomination to the federal bench "*in order to* ***conceal corrupt*** *relationships,*" Schiff said in his floor statement as prepared for delivery

. . .Schiff said. "His ***long-standing*** *pattern of corrupt activity*, so utterly lacking in *honesty and integrity*, *demonstrates* his **unfitness to serve** as a United States District Court judge . . . "

See **EXHIBIT "12"** – CNN, FoxNews and Washington Post Articles attached hereto and incorporated by reference as if set forth in full herein. Article going on to state:

> "Our investigation found that Judge Porteous participated in a pattern of corrupt conduct for years," said U.S. Rep. Adam Schiff, DCalifornia, chairman of the House Judiciary Committee Task Force on Judicial Impeachment.
>
> "Litigants have the right to expect a judge hearing their case will be fair and impartial, and avoid even the appearance of impropriety.
>
> Regrettably, no one can have that expectation in Judge Porteous' courtroom." . . .
>
> "Today's vote marks only the second time in over 20 years that this has occurred," Goodlatte said in a House news release. "However, when evidence emerges that an individual is abusing his judicial office for his own advantage, the integrity of the entire judicial system becomes compromised."
>
> In a statement, Porteous' lawyer Richard W. Westling said the Justice Department had decided not to prosecute because it did not have credible evidence.
>
> "Unfortunately, the House has decided to disregard the Justice Department's decision and to move forward with impeachment. As a result, we will now turn to the Senate to seek a full and fair hearing of all of the evidence."

IMPORTANT TO NOTE: Not that the Justice Department "did not have credible evidence," Newsome believes it is merely further evidence by the United States Department of Justice to COVER-UP in furtherance of conspiracy the acts of CORRUPT judges – i.e. judges involved in matters regarding Newsome. The Department of Justice was first notified as early as September 17, 2004 of Newsome's concerns and the unlawful/illegal and unethical practices of Porteous through Newsome's ***Petitioner's Petition Seeking Intervention/Participation of the United States Department of Justice*** – See **EXHIBIT "34"** (BRIEF ONLY) attached hereto and incorporated by reference as if set forth in full herein.

Newsome attaches a list of Judges/Justices associated in legal matters involving her that have SPECIAL/PERSONAL relationships with Baker Donelson at **EXHIBIT "35"** – ***Baker Donelson Supreme Court Clerks*** attached hereto and incorporated by reference. From said list, the evidence supports the relationship of Baker Donelson to legal actions/lawsuits

involving Newsome. Nevertheless, neither Baker Donelson, Judges/Justices nor opposing parties made known such relationships to Newsome. *Therefore, a reasonable mind may conclude that said relationships were kept secret for arbitrary and capricious purposes to shield an ILLEGAL ANIMUS.* For example, in the New Orleans matter(s), it appears that Baker Donelson and/or Liberty Mutual/Counsel having ties/relationships to the following Judges/Justices involved in action(s):

Entergy (Louisiana Matter)[41]	• Judge Morey L. Sear (Eastern District Court) • Justice Rhesa H. Barksdale (5th Circuit Court of Appeals) • Justice W. Eugene Davis (5th Circuit Court of Appeals)
Spring Lake Apartments (Mississippi Matter)	Judge Tom S. Lee
Stor-All (Ohio Matter)	• Judge John Andrew West • Judge Nadine Allen • Justice Thomas J. Moyer • Justice Maureen O'Connor • Justice Evelyn Stratton • Justice Robert Cupp • Justice Judith Lanzinger • Justice Terrence O'Donnells

Nevertheless, based upon the facts, evidence and legal conclusions contained herein, *Newsome believes the United States Supreme Court and/or a reasonable person/mind may conclude that the Department of Justice's failure to act on Newsome's September 2004 Petition/Complaint as well as other Complaints filed by Newsome is in* ***RETALIATION*** *to her engagement in protected activities; moreover WILLFUL and DELIBERATE acts of the Department of Justice's role in CONSPIRACY and allowing relationships to* Baker Donelson (i.e. and its attorneys/employees - see Paragraph 28(h)/Page 44, Paragraph 82/Page 203 and **EXHIBIT "22"**) *to INFLUENCE and OBSTRUCT justice and/or*

[41] Eastern District Court of Louisiana: Judge Stanwood R. Duval Jr., Chief Judge Frederick Heebee, Judge Carl J. Barbier, Judge George Arceneaux Jr., Judge Henry A. Mentz Jr.

Southern District Court of Mississippi: Judge William H. Barbour Jr., Chief Magistrate Judge John M. Roper.

Fifth Circuit Court of Appeals: Justice James L. Dennis.

Mississippi Court of Appeals: Justice Donna Barnes (former attorney with Mitchell McNutt & Sams and was employed during Newsome's employment) .

the ADMNISTRATION of justice. Furthermore, that actions by the Department of Justice is RACIALLY motivated by bias towards Newsome and are done to deprive her equal protection of the laws and due process of laws. Therefore, the Department of Justice infringing upon rights secured/guaranteed under the United States Constitution. Further supporting the ***IRREPARABLE*** *injury/harm* Newsome will sustain should this Court deny her *Motion to Stay* and/or ***EMTS & MFEOTWOC***.

IMPORTANT TO NOTE: Only **AFTER** Newsome's going PUBLIC with such information has Baker Donelson attempted to move this information from its original location at:

http://www.bakerdonelson.com/courtclerks.htm

however, transferred to another website location at:

http://www.bakerdonelson.com/appellate-practice-sub-practice-areas/

only **AFTER** learning of Newsome's going PUBLIC and ***exposing*** *what Judges/Justices may have been purchased by BIG MONEY law firms as Baker Donelson and its client(s)* – i.e such as Liberty Mutual Insurance Company. However, upon conducting further searches, Newsome was able to retrieve and/or find where this information was moved. Newsome believes it is because of Baker Donelson's ***oversized*** *EGO* and the need to ADVERTISE such special relationships/interests and ties to Judges/Justices as well as PROMINENT positions that attorneys with their law firm hold and/or held in the Government, *she has been able to establish the NEXUS between adverse decisions in legal matters in which Judges/Justices on the list presided over and the undue/unlawful/illegal advantage they provided to opposing parties in legal actions involving Newsome* – **IMPORTANT TO NOTE:** Judges/Justices *failing to make known to Newsome of any potential CONFLICT OF INTEREST and their relationship to opposing parties/opposing counsel involved in legal actions involving Newsome*. From this information, Newsome was able to establish the NEXUS between Judges/Justices assigned lawsuits involving her which she believes a reasonable mind may conclude influenced DECISIONS of said Judges/Justices in favor of those opposing Newsome.

> *Scheidler v. National Organization for Women, Inc.*, 123 S.Ct. 1057 (U.S.,2003) - **Crime of "coercion"** *is separate from*

> *extortion* and **involves the use of force or threat of force to restrict another's freedom of action**.

Moreover, *CONSPIRACY(S) to see that certain decisions **were POSTED on the Internet** with knowledge that Judges/Justices may have engaged in **criminal/civil violations** and rendered their decisions for purposes of providing Baker Donelson and/or Liberty Mutual's counsel with an **undue/unlawful/illegal** advantage based on a **RACIST/DISCRMINATORY/PREJUDICIAL/BIAS** leveled against Newsome*.

> **IMPORTANT TO NOTE:** Like most CAREER criminals who just do not know when to stop and have to continue to commit crimes, President Obama and/or his Top/Key Financial Supporters and/or SPECIAL INTEREST groups just did not know when to stop and, as with said CAREER criminals which may eventually get caught, they have committed one crime too many that may lead to their downfall/demise!

Further supporting the ***IRREPARABLE*** *injury/harm* Newsome will sustain should this Court deny her *Motion to Stay* and/or ***EMTS & MFEOTWOC***.

xi. The record evidence will further support that *Newsome has suffered and will continue to **suffer further irreparable injury/harm in furtherance** of the PATTERN-OF-ABUSE, USURPATION OF POWER, JUDICIAL ABUSES, abuses already suffered at the hands of Judge West. Furthermore, Judge West will **attempt** to dismiss this action and deprive Newsome of her right to have matter tried before a jury if the United States Supreme Court does not intervene*. Judge West having already committed an **EGREGIOUS** acts of *miscarriage of justice* and other criminal and civil wrongs against Newsome that resulted from such violation of the laws to bifurcate the lawsuit in his court when the record evidence will sustain that he had AMPLE and SUFFICIENT rulings of the higher court(s) to sustain that bifurcation of lawsuit was unlawful/illegal; moreover, deprived Newsome of EQUAL protection of the laws, EQUAL privileges and immunities and DUE PROCESS of laws afforded to other citizens on the same issue(s):

> ***Isaiah's Wings, LLC vs. Diana R. McCourt, et al.,*** 2006 Ohio 3573; 2006 Ohio App. LEXIS 3512 – See **EXHIBIT "36"** attached hereto and incorporated by reference as if set forth in full herein.
>
> **Procedural Posture:** "Appellee landlord brought a forcible entry and detainer (FED) action against appellant tenants. . . The

> Municipal Court of Mount Vernon, Knox County (Ohio), bifurcated the action and evicted the tenants."
>
> **Outcome:** . . . "The order of eviction was vacated, and the matter was remanded to the trial court with instructions to transfer the matter to common pleas court.
>
> **Opinion:** [*P1]. . . Appellants counterclaimed and also made a third-party complaint against the principals of Isaiah's Wings, which exceeded the jurisdictional amount of the municipal court. The municipal court bifurcated the action and ruled on the forcible entry and detainer action, evicting the appellants.
>
> [*P12] *We find the issues in the counterclaim and third party complaint are so intertwined with the forcible entry and detainer action that the municipal court* ***should not have*** *bifurcated the matter*. In the event appellants prevail in common pleas court, their monetary remedy may be inadequate if they have already lost possession of the property, their option to purchase it, and the animals.

xii. The United States Constitution as well as laws passed by the United States Congress will further support the need for the passing of **House Report No. 92-238**. Congress demonstrated its awareness that claimants might not be able to take advantage of the federal remedy without appointment of counsel. As explained in House Report No. 92-238:

> By including this provision in the bill, the **committee emphasizes** *that the nature of . . . actions more often than not pits parties of unequal strength and resources against each other. The* ***complainant, who is usually a member of the disadvantaged class, is opposed by an employer who . . . has at his disposal a vast of resources and legal talent****.*

H.R. Rep. No. 238, 92nd Cong., 2d Sess., reprinted in 1972 U.S.C.C.A.N. 2137, 2148.

> **IMPORTANT TO NOTE:** Supporting the concerns of U.S. Supreme Court Chief Justice John Roberts, Sonia Sotomayor and other Justices. Moreover, apparently that of President Obama although it appears that he has sold out such beliefs for justice and integrity to BIG MONEY interests and SPECIAL FAVORS.

IV. THREATS TO COUNSEL/APPOINTMENT OF COUNSEL

Newsome believes that the record evidence will support an ONGOING conspiracy leveled against her by Plaintiff Stor-All, its counsel, its insurance provider and others which involves level of attacks and threats against her as well as attorneys she has retained to represent

her in legal actions. Furthermore, how Plaintiff Stor-All, its counsel, its insurance provider and others CONSPIRE to interfere with Newsome's legal representation for purposes of obtaining an UNDUE, unlawful/illegal advantage in legal actions and/or lawsuits. Moreover, how such Conspirators (i.e. as Stor-All, its counsel, its insurance provider and others) may use their relationships to TOP/KEY Government Officials/Agencies as a means of COERCION, THREATS, INTIMIDATION, BLACKMAIL, HARASSMENT, etc. against legal counsel that Newsome has retained to represent her. In fact, there is evidence in the record of federal court to sustain just how VICIOUS, HOSTILE and BELLIGERENT that counsel (Clark Monroe) for LIBERTY MUTUAL's clients became because Newsome was filing pleadings in lawsuit in which she had legal representation. Clark Monroe ***escalating*** such AGGRESSIVE, FEROCIOUS and BARBARIAN attacks not only on Newsome and her attorney; but then TURNED on THE COURT for allowing Newsome to filing pleadings in lawsuit. Clark Monroe apparently then looked to the court to aid and abet him in depriving Newsome EQUAL protection of the laws, EQUAL privileges and immunities and DUE PROCESS of laws. WHY SO MUCH HOSTILITY BY CLARK MONROE toward Newsome and her attorney? Newsome believes a reasonable person/mind may conclude that through his THREATFUL, HARASSING, COERCION, INTIMIDATION, BLACKMAIL, etc. practices leveled against Newsome's attorney (Wanda Abioto) to get her to withdraw lawsuit she filed on her client's behalf, he FAILED and Abioto refused to withdraw lawsuit. In fact, the laws clearly support Newsome's rights to have filed pleadings in lawsuit because she is a party to the action.[42]

[42] *Business Guides, Inc. v. Chromatic Communications Enterprises, Inc.*, 498 U.S. 533, 111 S.Ct. 922 (1991) - **(n. 2)** Rule 11 sanctions can be imposed against any attorney ***or*** party signing document whether or not signatures on documents are required; certification requirement mandates that all signers consider behavior in terms of duty owed to court system. **(n. 3)** Fact that, under Rule 11, party represented by counsel *is not* required to sign most papers or pleadings does not relieve party who signs document from conducting inquiry into facts and law in order to be satisfied that document is well grounded; represented parties are not free to sign frivolous or vexatious document with impunity. **(n. 4)** ***Represented*** party who signs his or her name to documents filed in court bears personal, nondelegable

Bockman v. Lucky Stores, Inc., 108 F.R.D. 296 (1985) - Defendants' counsel would be required to pay, pursuant to Federal Civil Rule 11 governing signing of pleadings, reasonable costs and attorney fees incurred by plaintiffs in defending a motion to decertify the plaintiffs' class or disqualify class counsel because of counsel's alleged ethical violations; **before** filing a motion filled with such ***sweeping*** *accusations*, defense counsel *should have*, at **a minimum**, first filed a request for an extension of the deadline based on newly discovered evidence rather than choosing to **impugn** the professional integrity of plaintiffs' counsel ***on basis of*** *unverified*, *unsubstantiated*, and ***inherently*** *unreliable* information. Fed.Rules Civ.Proc.Rule 11, 28 U.S.C.A.

Spillers v. Tillman, 959 F.Supp. 364 (**S.D.Miss.**W.Div.,1997) (**BRAMLETTE**) - Rule 11 does not authorize one party to make representations or file pleadings on behalf of another, but rather, requires that each pleading, motion, or other paper submitted to court *be signed* ***by party*** or its attorney of record, if represented.

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responsibility to certify truth and reasonableness of document and failure to meet that duty may subject signer to Rule 11 sanctions. **(n. 5)** Use of word "party" in Rule 11 refers to any signer of document, whether represented or unrepresented or required or not required to sign documents. **(n. 6)** Certification standard for party for purposes of determining whether party is subject to Rule 11 sanctions is one of reasonableness under the circumstances, just as for attorneys; rule states unambiguously that any signer which does not conduct reasonable inquiry will face sanctions. **(n. 7)** Public policy did not require that parties not be held to reasonable inquiry standard for purposes of assessing Rule 11 sanctions; client is often **in better position** *than* attorney **to *investigate* facts** supporting paper or pleading.[1]

[1] Federal Rule of Civil Procedure 11 provides, in relevant part, that "*[t]he signature of an attorney* ***or party*** *constitutes a certificate by the signer that the signer has read the pleading, motion, or other paper*" and "*to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact,*" and that a court shall impose an appropriate sanction " upon the person who signed " a pleading, motion, or other paper in violation of the Rule. (Emphasis added.) *Id.* p. 3.

A represented party's signature would *fall outside* the Rule's scope ***only*** *if* the phrase "attorney or **party**" were given the ***unnatural*** reading "attorney or *unrepresented* party." **Had** the Advisory Committee responsible for the Rule *intended to* ***limit*** the certification requirement's application to pro se parties, it would have expressly distinguished between represented and unrepresented parties, *which it did elsewhere in the Rule*, rather than **lumping** *534 the two types together. Including all parties is also an eminently sensible reading of the Rule, since the Rule's essence is that signing denotes merit. *Pavelic & LeFlore v. Marvel Entertainment Group*, 493 U.S. 120, 110 S.Ct. 456, 107 L.Ed.2d 438, which held that the Rule contemplates sanctions against an attorney signer rather than the law firm of which he or she is a member, is entirely consistent with the result here that a represented party who signs his or her name bears a personal, nondelegable responsibility to certify the document's truth and reasonableness. *Id.* p. 4.

The only way that Business Guides can avoid having to satisfy the certification standard is if we read "attorney or party" as used in sentence [5] to mean "attorney or unrepresented party." Only then would the signature of a represented party fall outside the scope of the Rule. We decline to adopt this unnatural reading, as there is no indication that this is what the Advisory Committee**930 intended. Just the opposite is true. Prior to its amendment in 1983, sentence [5] referred solely to "[t]he signature of an attorney" on a "pleading." The 1983 amendments deliberately expanded the coverage of the Rule. *Wright & Miller* § 1331, at 21. Sentence [5] was amended to refer broadly to "[t]he signature of an attorney or party" on a "pleading, motion, or other paper" (emphasis added). Represented parties, despite having counsel, *545 routinely sign certain papers-declarations, affidavits, and the like-during the course of litigation. Business Guides, for example, submitted to the District Court no fewer than five signed papers in support of its TRO application. The amended language of sentence [5] leaves little room for doubt that the signatures of the "party" on these "other papers" must satisfy the certification requirement. *Id.* p. 9.

Had the Advisory Committee **intended to *limit*** the application of the certification standard to parties proceeding *pro se*, it would surely have said so. . . .Sentence [1] refers to specifically a "a party represented by an attorney," while sentence [2] applies to "[a] party who is *not* represented by an attorney" (emphasis added). Sentence **[5], however, draws no such distinction; it lumps together the two types of parties. By using the more expansive term "party", the Committee *called for more expansive coverage*.** The natural reading of this language is that *any* party who signs a document, whether or not the party was required to do so, is subject to the certification standard of Rule 11. *Id.* p. 10.

> *Devine v. Wal-Mart Stores, Inc.*, 52 F.Supp.2d 741 (**S.D.Miss.,**1999) (**WINGATE**) - Where a client is shown to have been personally aware of, or otherwise responsible for, *a bad faith procedural action, client may be sanctioned individually without also imposing the sanction on client's attorney*. Fed.Rules Civ.Proc.Rule 11, 28 U.S.C.A.

Nevertheless, Newsome and her attorney had to endure such *unethical* MAULINGS by Clark Monroe because Judge (Tom S. Lee), from the list[43] provided by LIBERTY MUTUAL's other attorney's law firm (Baker Donelson), may have accepted bribes and/or gratuities/special favors for purposes of rendering their client's UNDUE and unlawful/illegal advantage in lawsuit.

Newsome believes that the record evidence, facts and legal conclusions will sustain the CRIMINAL STALKING of Newsome by Plaintiff Stor-All, its counsel, its insurance providers and others are WILLFUL, MALICIOUS and WANTON acts to interfere with Newsome's legal representation as well OBSTRUCT the administration of justice. Furthermore, the role opposing parties, their counsel and insurance providers engage in to get Newsome's counsel to UNLAWFULLY/ILLEGALLY withdraw from representation to leave her to have to defend legal actions ***pro se*** for purposes of obtaining an undue, unlawful/illegal advantage in legal actions. Then when opposing parties are UNSUCCESSFUL in obtaining said advantage they have REPEATEDLY engaged in criminal/civil attacks on Newsome to deprive her EQUAL protection of the laws, EQUAL privileges and immunities and DUE PROCESS of laws secured under the Constitution. Moreover, engaging in criminal/civil wrongs leveled against Newsome for purposes of OBSTRUCTING justice and/or OBSTRUCTING the Administration of Justice. In further support thereof and to understand ***the PATTER-OF-PRACTICE*** of opposing parties, its counsel, its insurance provider and other Conspirators/Co-conspirators, Newsome states:

> *Henry v. City of Detroit Manpower Dept.*, 739 F.2d 1109 (1984) - Trial court *abused its discretion in failing to conduct hearing on civil rights* claimant's financial ability to retain counsel, even though claimant had paid filing fee and

[43] See **EXHIBIT "35"** of this pleading.

hired lawyer to file complaint and conceded that he had title to house and car and that he had found new employment.

Woodham v. Sayre Borough Police Dept., 191 Fed.Appx. 111 (2006) - When determining whether to appoint counsel for indigent civil rights plaintiff, complexity of the legal issues must be considered in conjunction with the plaintiff's ability to present his case. 28 U.S.C.A. § 1915(e)(1); 42 U.S.C.A. § 1983.

Flakes v. Frank, 322 F.Supp.2d 981 (2004) - Ordinarily, before a district court can decide whether to appoint counsel to an indigent plaintiff in a civil rights action, it must find that plaintiff made reasonable efforts to find a lawyer on his own and was unsuccessful or that he was prevented from making such efforts.

U.S. v. Curry, 47 U.S. 106 (1848) - Leave of court is necessary before an attorney of record can withdraw from the case.

Castner v. Colorado Springs Cablevision, 979 F.2d 1417, 1421 (10th Cir. 1992), the decision whether to appoint counsel requires accommodation of two competing considerations. **First, the court must consider Congress's "special . . . concern with legal representation with . . . actions."** *Jenkins v. Chemical Bank,* 721 F.2d 876, 879 (2nd Cir. 1983). In enacting the attorney appointment provision of the Civil Rights Act of 1964 and later reaffirming the importance of that provision in the legislative history of the Equal Employment Opportunity Act of 1972, Congress demonstrated its awareness that Title VII claimants might not be able to take advantage of the federal remedy without appointment of counsel.

New York Gaslight Club, Inc. v. Carey, 447 U.S. 54, 63, 100 S.Ct. 2024, 2030, 64 L.Ed.2d 723 (1980) - [C]ourts have an obligation to consider request for appointment with care . . . remain[ing] mindful that appointment of an attorney may be essential for a Plaintiff to fulfill "the role of 'a private attorney general,' vindicating a policy 'of the highest authority.'"

Armstrong v. Snyder, 103 F.R.D. 96, 105 (1984) – Although as the *court has already observed, the Plaintiff has demonstrated a considerable aptitude for and understanding the judicial process, it has no doubt that the complexity of the constitutional and factual issues he has perhaps unwittingly raised in his complaint* ***would be best argued by one schooled in the law*** . . . Accordingly, the court will appoint an attorney to prosecute this action on the plaintiff's behalf. Because it is hopeful that counsel can be secured readily and *in the interest of ensuring* that the *record in this case remains* ***unblemished*** both *procedurally* and *substantially*.

Newsome believed based upon her personal experience, attacks Plaintiff Stor-All and its counsel, its insurance provider and/or its representatives leveled against her, that it knew from experience, Newsome would seek to retain counsel. Therefore, Plaintiff Stor-All in keeping with practice of CONSPIRACIES leveled against Newsome, sought first to get her employment terminated to eliminate the CONFLICT OF INTEREST that may arise as well as for purpose of

obtaining a FINANCIAL ADVANTAGE over Newsome and subjecting her to Financial HARDSHIPS for purposes of obtaining an undue and unlawful/illegal advantage in this lawsuit filed. ***In further support thereof, Newsome states the following:***

G) In the New Orleans, Louisiana matter that Plaintiff Stor-All's counsel (David Meranus) was so EAGERLY and WILLING to address AFTER going down in defeat to Newsome at the February 6, 2009, hearing regarding her Motion to transfer wherein Meranus acknowledged Newsome's engagement in protected activities in New Orleans, it is important to note the following:

i. The record evidence will support Newsome's success on Appeal on the issue of retaining counsel. See **EXHIBIT "32"** – Fifth Circuit Judgment attached hereto and incorporated by reference as if set forth in full herein. However, ONLY **after** losing such round, to Newsome the Eastern District Court of Louisiana's Judge Morey L. Sear appears to have abandoned case in that Newsome was successful in challenging his decision on Appeal. Newsome believes that a reasonable mind based upon the facts, evidence and legal conclusions contained herein as well as in lower court records will support that Judge Sear failed to notify parties of any potential CONFLICT OF INTEREST – i.e. his relationship to Defendants and their counsel in the New Orleans matter (EMPHASIS ADDED). AFTER losing to Newsome on Appeal, the case was REALLOTTED and assigned to Judge G. Thomas Porteous. A judge in whom the record evidence will support is presently engaged in IMPEACHMENT hearings before the United States Senate for CORRUPT practices. See **EXHIBIT "12"** – Articles attached hereto and incorporated by reference as if set forth in full herein.

ii. The record evidence will support that Newsome had two attorneys interested in representing her in this matter – i.e. which efforts were undermined by the criminal/civil violations of Defendants, their counsel and others involved in CONSPIRACY leveled against Newsome. Nevertheless, she was able to retain legal representation from an attorney by the name of Michelle Ebony Scott-Bennett of the Justice For All Law Center LLC. See Docket Sheet at **EXHIBIT "33"** attached hereto and incorporated by reference as if set forth in full herein. Moreover, that a law firm (Owens Law Firm) offered to assist Scott-Bennett in the legal representation of Newsome ***PRO BONO*** – See **EXHIBIT "37"** – Affidavit attached hereto and incorporated by reference as if set forth in full herein. However, Scott-Bennett ignored such offer and, instead, moved SWIFTLY to withdraw as counsel for Newsome WITHOUT Newsome's approval. *Said withdrawal clearly violated the Rules of Professional Conduct*

and/or Rules governing Attorneys practicing before the Bar. Therefore, based upon the PATTERN-OF-PRACTICE, facts, evidence and legal conclusions contained herein, Newsome believes a reasonable mind may conclude that Scott-Bennett engaged in criminal/civil violations for purposes of obstructing justice; moreover, for purposes of fulfilling her role in CONSPIRACY leveled against Newsome to deprive her EQUAL protection of the laws, EQUAL privileges and immunities and DUE PROCESS of laws enjoyed by other citizens. Newsome filed a timely criminal/civil complaint to the United States Department of Justice on or about September 17, 2004. See **EXHIBIT "34"** – *Petitioner's Petition Seeking Intervention/Participation of the United States Department of Justice* (**BRIEF** Only) attached hereto and incorporated by reference as if set forth in full herein. Newsome filing said Petitioner's Petition to preserve her rights and to EXPOSE what she believed to be acts in furtherance of conspiracy leveled against her.

iii. The record evidence in the Mississippi matter will support that Newsome retained two attorneys to represent her in the civil action – i.e Brandon Dorsey and Wanda Abioto. However, based upon information provided Newsome these attorneys were met with threats by opposing counsel. Dorsey WITHOUT Newsome's permission ABRUPTLY moved to withdraw legal representation. While Dorsey returned Retainer paid to Newsome, *said withdrawal clearly violated the Rules of Professional Conduct and/or Rules governing Attorneys practicing before the Bar.* Dorsey making known to Newsome that, "he ***has to live in Mississippi and feed his family***" – not being able to handle the pressure from opposing counsel and others. See **EXHIBIT "38"** – ***Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Findings*** at Page 58. *Opposing counsel providing Dorsey with a list of legal actions involving Newsome during a meeting in Judge Barnett's Chambers*[44] *– i.e. a meeting in which Newsome was EXCLUDED from attending.* Information to support/sustain UNETHICAL and unlawful/illegal practices by opposing counsel and that criminal/civil attacks leveled against Newsome were a DIRECT and PROXIMATE result of her engagement in PROTECTED ACTIVITIES. From information Newsome was able to retain from the INTERNET, Newsome was abandoned by Dorsey so that he could go and represent a CORRUPT Judge (William L. Skinner II ["Judge Skinner"]). Judge Skinner being a Defendant named in Newsome's Civil Lawsuit in Mississippi matter. See **EXHIBIT "39"** attached hereto and

[44] Hinds County Court.

incorporated by reference as if set forth in full herein. ***Actions clearly in violation of the Code of Judicial Conduct as well as Rules of Professional Conduct.*** Newsome gathers from information provided by Dorsey, that a reasonable mind may conclude that in order to "***live in Mississippi and feed his family***" he was *willing to violate the laws governing said matters and "**Code of Ethics**" to engage in CONSPIRACY and subject Newsome to criminal/civil wrongs in furtherance of said conspiracy to deprive her EQUAL protection of the laws, EQUAL privileges and immunities and DUE PROCESS of laws secured under the Constitution*.

iv. The record evidence will support that even in the Mississippi matter Plaintiff Stor-All's insurance provider (Liberty Mutual and its legal counsel) engaged in criminal/civil wrongs by making threats to her attorneys (i.e. Brandon Dorsey and Wanda Abioto) and from the evidence conspired with Newsome's criminal attorney (Richard Rehfeldt) to throw the criminal case – it was a good thing Judge dismissed criminal charges (i.e. one in which Newsome had to also go PUBLIC with otherwise she would have been another statistic of the WILLIE LYNCH practices). Liberty Mutual and its attorneys making such threats to have Newsome's attorney (Brandon Dorsey) concerned about his life; moreover, moreover ***living in Mississippi and ability to feed his family***; thus, reducing him to having to go over to the dark side and begin providing legal counsel for OPPOSING party(s) – i.e. as Judge William Skinner – or be reduced to his livelihood, liberties, and pursuit of happiness stripped from him. (See **EXHIBIT "38"** at Page 58). Furthermore, the "WILLIE LYNCH" mentality appears in correspondence from Liberty Mutual's counsel (Clark Monroe) of the ***need to CONTROL Newsome*** in his **rabid**, **vicious** and **malicious** attacks that are memorialized in correspondence he sent to Newsome's attorney (Wanda Abioto). See **EXHIBIT "40."** Such threats requiring that in order to agree to an UNLAWFUL/ILLEGAL withdrawal, he first must have Abioto withdraw the lawsuit filed on behalf of Newsome.

> **Title 42, U.S.C., Section 3631 - Criminal Interference with Right to Fair Housing**
>
> *This statute makes it unlawful for any individual(s), by the use of force or threatened use of force, to injure, intimidate, or*

interfere with (or attempt to injure, intimidate, or interfere with), any person's housing rights because of that person's race, color, religion, sex, handicap, familial status or national origin. Among those housing rights enumerated in the statute are:

- The sale, purchase, or ***renting of a dwelling***;
- the ***occupation of a dwelling***;
- the financing of a dwelling;
- contracting or negotiating for any of the rights enumerated above.
- applying for or participating in any service, organization, or facility relating to the sale or rental of dwellings.

This statute also makes it unlawful by the ***use of force or threatened use of force, to injure, intimidate***, or **interfere with any person who is assisting an individual** or class of persons ***in the exercise of their housing rights***.

(i.e. **this is information retrieved from the <u>FBI's</u> Website – therefore, supporting that such matters are handled by this division of the United States Department of Justice**) Succumbing to the THREATS, HARASSMENT, INTIMIDATION, etc. from Liberty Mutual's counsel and/or opposing counsel, Abioto ABRUPTLY moved to withdraw as Newsome's counsel without client's permission. For example, see Motion Calendar of Judge Barnett in Mississippi matter at **EXHIBIT "131"** attached hereto and incorporated by reference as if set forth in full herein. Said move to withdraw clearly is in violation of the statutes/laws governing said matters. *<u>Criminal/Civil wrongs which Newsome has reported through the applicable filing of Complaint.</u>*

v. The record evidence in the Mississippi matter will support that Newsome retained Wanda Abioto. Like attorneys retained by Newsome before her, Abioto too came under attack and was subjected to threats, harassment, intimidation, coercion, blackmail, etc. See **EXHIBIT "40"** – February 19, 2007[45] (sic) and February 21, 2008 ***<u>Letters to Abioto from Clark Monroe</u>*** attached hereto and incorporated by reference as if set forth in full herein. Like attorneys before her, Abioto moved SWIFTLY to withdraw legal representation

[45] Year should be 2008.

of Newsome WITHOUT Newsome's authorization. *Said withdrawal clearly violated the Rules of Professional Conduct and/or Rules governing Attorneys practicing before the Bar.* Abioto was in such a hurry that she EMBEZZLED approximately $4,000 provided as a retainer by Newsome and to date has not returned said monies – i.e. instead spent monies paid on PERSONAL interest. Abioto FAILED to place retainer paid by Newsome in an ESCROW account for legal representation. There is record evidence to support that Newsome has filed timely Complaint against Abioto. Said evidence may be found in the May 21, 2009 - ***REPORTING OF RACIAL AND DISCRIMINATION PRACTICES COMPLAINT: Requests For Status; Request For Creation of Committees/Court, Investigations and Findings - Constitutional, Civil Rights Violations and Discrimination; and Demand/Relief Requested*** submitted for filing to the attention of President Obama, United States Attorney General Eric Holder and United States Secretary Hilda Solis. See **EXHIBIT "85"** Excerpt and Proof of Mailing Receipts attached hereto and incorporated by reference as if set forth in full herein.

vi. The record evidence in the Mississippi matter will support that Newsome retained attorney Richard Rehfeldt to represent her in criminal acts. Newsome believes that like other attorneys before him, Rehfeldt was approached by opposing parties and/or their counsel to throw legal representation of Newsome. Therefore, Rehfeldt through his actions engaged in CONSPIRACY leveled against Newsome and ABANDONED Newsome, failing to advise her of court dates, etc. for purposes of providing opposing parties and their counsel with an undue and unlawful/illegal advantage in lawsuit. Like Abioto, Rehfeldt was paid a retainer in which he too EMBEZZLED monies paid and to date has FAILED to return to Newsome. See **EXHIBIT "38"** – ***Emergency Complaint*** attached hereto and incorporated by reference as if set forth in full herein. Newsome believes that based upon the facts, evidence and legal conclusions in the lower court record and in this instant pleading the role Rehfeldt played in conspiracy was to FAIL to advise Newsome of Court date so that she would AUTOMATICALLY be found guilty of the MALICIOUS criminal charges filed against her by Constable Jon Lewis. See **EXHIBIT "41"** – Criminal Charges filed. *Criminal Charges were filed* ***on or about July 11, 2007***, and Constable Lewis' Answer to Newsome's Civil Lawsuit was due on or about July 11, 2007 (i.e. See DOCKET SHEET at **EXHIBIT "42"** No.36 [was served with Complaint on June 21, 2007].

IMPORTANT TO NOTE: Both Judge William Skinner and Constable Lewis were *each* served with the **required** *"Notice of Lawsuit and Request of*

Waiver of Service of Summons." Constable Lewis on or about **April 26, 2007**, received Notice and accompanying Complaint on **May 1, 2007**; however, elected not to execute said Waiver as required. Had Constable Lewis executed Waiver, he *would have had* 60 days to respond – i.e. *until June 25, 2007*. Instead, resorting to DILATORY tactics and failing to comply with Rules of Court,[46] it required that Newsome have to expend more TIME and FINANCIAL resources to have Lewis served with process. Constable Lewis being ***served on June 22, 2007***, and, therefore, requiring his Answer and/or appropriate Rule 12 Motion(s) to be filed ***by July 11, 2007***. See Newsome's "*Motion to Strike Statements and Materials of Defendants', Jon C. Lewis and William L. Skinner, II, Motion to Dismiss, or in the Alternative, Motion to Quash*" at **EXHIBIT "43"** incorporated by reference as if set forth in full herein.

To understand the *MANDATORY* "**Duty to Avoid Unnecessary Costs of Service of Summons,"** Newsome attaches copies of said documents retrieved in *EEOC v. Marjam* and *EEOC v. Maryland Classified* at **EXHIBIT "155"** attached hereto and incorporated by reference as if set forth in full herein.

Nevertheless, Constable Lewis **made a CONCIOUS** and **WILLFUL** decision to bring ***MALICIOUS*** *Criminal Charges* alleging:

a) *Resisting Arrest*; and

[46] NOTICE that was provided on "Waiver of Service of Summons" which both Judge William, Constable Lewis failed to comply with:

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or the place where the action has been brought.

b) Disorderly Conduct - Failure to Comply with Law Enforcement[47]

against Newsome rather than file a timely Answer to the Civil Lawsuit filed by her. See **EXHIBIT "41"** attached hereto and incorporated by reference as if set forth in full herein. Newsome believes that a reasonable person/mind (*based upon the facts and the **TIMING** of filing Criminal Charges against Newsome*) may conclude that Constable Lewis filed Malicious Criminal Charges ***in RETALIATION*** and as a DEFENSE to the civil lawsuit filed. In so doing, Constable Lewis FAILED to file a timely Answer to Newsome's civil lawsuit and, therefore, waived rights to any defenses he wanted to assert. When Constable Lewis decided to file his DELINQUENT Answer and/or pleading, it was met SWIFTLY with Newsome's Motion to Strike. The record evidence will support that Constable Lewis was timely, properly and adequately notified that Civil Lawsuit was filed against him and given the opportunity to waive Service of Process – i.e. which was rejected. Nevertheless, even with such additional time to respond, he failed to file a timely Answer to Newsome's Civil Lawsuit. On or about October 12, 2007 the Malicious Criminal Charges Constable Lewis brought against Newsome *were **DISMISSED***. See **EXHIBIT "44"** – *Abstract of Court Record* attached hereto and incorporated by reference as if set forth in full herein. Moreover, CONSPIRATORS failed in their attempts to get an AUTOMATIC guilty verdict against Newsome (i.e. in withholding information regarding court date regarding said Criminal Charges); moreover, FAILED in attempts to get unlawful/illegal conviction sought for a defense to Newsome's Civil Lawsuit.

vii. The record evidence will support that because of the failure of government officials to act upon the complaint filed by another citizen (Frank Baltimore) against Constable Lewis for crimes committed in or about October 2003 (See **EXHIBIT "116"** attached hereto and incorporated as if set forth in full herein), on February 14, 2006, Newsome was subjected to crimes reported in her June 2006 FBI Complaint filed with the United States Department of Justice and/or FBI. See **EXHIBIT "45."**

[47] A reasonable person/mind may conclude that a citizen (i.e. Newsome) charged with such crimes would not be taken to the Detention Center on the "front seat" while Constable Lewis' assistant rode in the back seat.

viii. The record evidence will support that in efforts to destroying INCRIMINATING evidence, Constable Lewis unlawful/illegally confiscated Newsome's tape recorder that she had recording the events and DESTROYED and/or TAMPERED with said evidence and failed to turn in at the Detention to which she was taken. Acts which clearly violates the laws of Mississippi (***"Tampering with Evidence"***). See **EXHIBIT "121"** attached hereto and incorporated by reference as if set forth in full herein.

> Mississippi Code § 97-9-125. ***TAMPERING With*** **Physical** ***EVIDENCE***:
>
> (1) A person commits the crime of ***tampering with*** *physical* ***evidence*** if, believing that an *official proceeding* is pending or **may be instituted**, and acting **without** *legal right* or *authority*, he:
>
> a. **Intentionally** ***destroys***, mutilates, ***conceals***, ***removes*** *or* ***alters*** *physical evidence* with ***intent to impair*** *its use, verity* or ***availability in the pending*** *or* ***prospective official proceeding***;
> b. Knowingly makes, presents or offers any false physical evidence with intent that it be introduced in the pending or prospective official proceeding; or
> c. ***Intentionally prevents*** *the production of physical evidence by an act of* ***force***, ***intimidation*** *or* ***deception*** *against any person*.
>
> (2) **TAMPERING *with*** physical **EVIDENCE** is a Class 2 felony.[48]

Furthermore, Newsome requested a copy of the Arrest Report and the return of her property. See **EXHIBIT "128"** attached hereto and incorporated by reference as if set forth in full herein. To which Constable Lewis failed to comply with.

ix. The record evidence will support that Constable Lewis has ESTABLISHED a pattern of CORRUPT behavior made known to the FBI as well as other PUBLIC Officials of Hinds County, Mississippi. In fact, shortly after the February 14, 2006, criminal acts leveled

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[48] **Mississippi Code § 97-9-129. Sentencing.**

(1) A person who has been convicted of any Class 1 felony under this article shall be sentenced to imprisonment for a term of not more than five (5) years or fined not more than Five Thousand Dollars ($5,000.00), or both.

(2) A person who has been convicted of any Class 2 felony under this article shall be sentenced to imprisonment for a term of not more than two (2) years or fined not more than Three Thousand Dollars ($3,000.00), or both.

(3) A person who has been convicted of any misdemeanor under this article shall be sentenced to confinement in the county jail for a term of not more than one (1) year or fined not more than One Thousand Dollars ($1,000.00), or both.

against Newsome, Constable Lewis, another citizen came forth and notified the Justice Court his criminal acts – i.e. unlawful/illegal taking of monies, etc. See **EXHIBIT "117"** attached hereto and incorporated by reference as if set forth in full herein:

> In a letter to the county administrator, Justice Court Clerk Patricial Woods accused Constable John Lewis of using questionable tactics. . .
>
> "*I **refuse to be a part** of his collection process,*" said Woods in her letter to County Administrator Anthony Brister. "*I cannot imagine how many letters were mailed or **payments received** **at his home** address. . .*"
>
> "I am welcoming an investigation from the **auditor's** office. I would like it to be looked into very thoroughly," said Lewis.
>
> Constable Lewis says the letter to the defendant about the speeding ticket was a mistake on his part, but he makes no apologies for using tough methods.
>
> In one letter to a defendant, *Lewis advised the man **not to talk to anyone but him**. He told the man **not to call the court**. . .*

The record evidence will support that while Constable Lewis welcomed an investigation by the "auditor's office," Newsome filed the required CRIMINAL COMPLAINT[49] with the United States Department of Justice/FBI against him. See **EXHIBIT "45"** attached hereto. Nevertheless, because of the Department of Justice's BIAS/PREJUDICES towards Newsome and other African-Americans, people of color and citizens seen as Civil Rights Activist, to date, it has KNOWINGLY and WILLINGLY with MALICIOUS intent failed to prosecute and/or act upon the June 26, 2006 Criminal Complaint filed by Newsome. Newsome believes a reasonable mind may conclude that said FAILURE is a direct and proximate result of the CONSPIRACIES the United States Department of Justice and other CONSPIRATORS/CO-CONSPIRATORS have leveled against Newsome.

X. The record evidence will support that Newsome reported the criminal and/or unlawful acts of Constable Lewis to the Hinds County Board of Supervisors. To no avail. See **EXHIBIT "134"** attached hereto and incorporated by reference as if set forth in full herein. Nevertheless, because the Hinds County Board of Supervisors has failed to act, from information Newsome obtained from the INTERNET, it appears that Constable Lewis has gone on to become a CAREER CRIMINAL:

> "I am a African American citizen who resided in Jackson Mississippi and *was **run out by threats** made and Constitutional rights violations performed by Constable Jon Lewis against me* . . . I have experienced the racism of the south that I read about in history books and watched on TV.

[49] *Complaint and Request for Investigation to the United States Department of Justice and Federal Bureau of Investigations Filed by Vogel D. Newsome.*

> *I contacted the board of supervisors and the board's attorney back in 2004, 2005, and 2006*. I have asked you to help me on ***numerous*** occasions to no avail from any board member. . . I am asking you to call for and add my complaint to your already Internal Investigation presently going on against Jon Lewis. *He took my badges, stun gun, diamond earring, and $100 dollars in cash money from me, and never returned them to me to his present date*. . . .
>
> I have sent certified letter to him demanding him to return my property and money. He has refused, not responded, . . .

See **EXHIBIT "116"** attached hereto and incorporated by reference as if set forth in full herein. See Mississippi Code § 97-9-125. *Tampering With* Physical *Evidence* at **EXHIBIT "121."**

xi. The record evidence will support that the Hinds County Board of Supervisors are FULLY aware of the criminal acts of Constable Lewis; however, failed to deter such criminal behavior. See Hinds County Board of Supervisor's "Minutes" at **EXHIBIT "142"** attached hereto and incorporated by reference as if set forth in full herein.

> **IMPORTANT TO NOTE:** The laws are clear, that because government agencies/officials who were notified of Constable Lewis' criminal behavior, he felt at LIBERTY to go on with his CRIMINAL Career in which the record evidence supports that other citizens became victims of such RACIALLY motivated attacks by Constable Lewis and Judge William Skinner – i.e. they are a team.
>
> > *U.S. v. Jimenez Recio*, 123 S.Ct. 819 (2003) - Essence of a conspiracy is an agreement to commit an unlawful act.
> >
> > Agreement to commit an unlawful act, which constitutes the essence of a conspiracy, *is a* ***distinct evil*** that may exist and be punished whether or not the substantive crime ensues. *Id.*
> >
> > Conspiracy ***poses a threat to the public*** over and above the threat of the commission of the relevant substantive crime, both because *the combination in crime* ***makes more likely*** *the commission* ***of other*** *crimes* and because it **decreases the probability** that *the individuals involved* ***will depart from their path of criminality***. *Id.*
>
> As a DIRECT and PROXIMATE result of the United States Department of Justice/FBI, etc. to act upon the complaints of Newsome as well as government

official/employees failure to act upon the complaints of other citizens that were brought against Constable Lewis, *on or about February 14, 2006, Newsome was* ***kidnapped*** *from her residence,* ***shackled****,* ***chained****,* ***harassed****,* ***deprived constitutional and civil rights****, etc. Furthermore, to date Newsome's kidnappers and their CONSPIRATORS/CO-CONSPIRATORS are still at large to commit further crimes against the PUBLIC and/or citizens.*

xii. The record evidence in the Mississippi matter will further support that Magistrate Judge James C. Sumner assigned matter had a CONFLICT OF INTEREST and moved to Recuse himself from case. Recusal coming AFTER Magistrate Sumner attempted to provide opposing parties and their counsel with and UNDUE and unlawful/illegal advantage in lawsuit – i.e. in other words, Magistrate Sumner resorting to the "throwing a rock and hiding his hand" in the committal of his role in CONSPIRACY. Judge Tom S. Lee was assigned this matter, nevertheless, he FAILED to make known his relationship to opposing parties, their counsel/attorneys and/or representatives. Newsome had to find this information out based on a List advertised on Baker Donelson's website. The record evidence will support that Newsome filed the required recusal actions and/or inquired into whether there were any additional CONFLICT OF INTEREST by Judges and/or Magistrates. To no avail. Judge Lee remained silent. Furthermore, the record evidence in this matter will support that the files and proceedings became TAINTED that the Southern District Court of Mississippi **CANNOT** ***"Certify"*** the record as requested by Newsome.

xiii. The record evidence in the Kentucky Matter will support that Newsome was able to retain legal representation from attorney (Brian Bishop); however, like that attorneys before him Bishop elected to engage in CONSPIRACY leveled against Newsome and ABRUPTLY moved to withdraw legal representation WITHOUT Newsome's approval and/or authority. *Said withdrawal clearly violated the Rules of Professional Conduct and/or Rules governing Attorneys practicing before the Bar.* Like attorneys before him, Bishop refused to return retainer to Newsome and EMBEZZLED retainer paid. Based upon information Newsome was provided by one of the attorneys at Wood & Lamping LLC (her former employer), Judge Gregory Bartlett PRIOR to taking the bench worked for the law firm of Defendants' counsel (James West) – i.e. law firm of Martin & West. The record evidence in this action will support upon learning of this information, Newsome confronted said Court and requested additional information which to date has been denied her.

xiv. The record evidence in the Kentucky matter will support that Newsome filed her lawsuit prior to any action that her landlords' attorney ("Gailen Bridges") attempted to bring. In fact, efforts taken by landlords' attorney to get his clients' lawsuit filed prior to Newsome when he was told she was seen heading to the courthouse. However, Bridges failed in such efforts and Newsome succeeded in getting her lawsuit filed PRIOR to any Bridges attempted to file on behalf of his clients. See **EXHIBIT "123**" attached hereto and incorporated by reference as if set forth in full herein.

xv. The record evidence will support that Newsome made a "GOOD FAITH REQUEST" asking that Bridges withdraw the lawsuit filed on behalf of his clients. To no avail. Bridges insisted on FULFILLING his role in CONSPIRACY and going down with the "burning ship" rather than accept Newsome's good-faith offer. See **EXHIBIT "126"** attached hereto and incorporated as if set forth in full herein.

xvi. The record evidence will support in the Kentucky matter great efforts taken by Judges in that matter to AID and ABET in criminal wrongs. Furthermore, efforts taken to COVER-UP the EMBEZZLEMENT of monies paid into the court/entrusted by Newsome into the Court's Escrow account for safekeeping. *Public Officials conspiring in the EMBEZZLEMENT of* ***approximately $16,250 entrusted*** *to the Circuit Court of Kenton County, Kentucky* ***for safekeeping***. When said court attempted to dismiss said action and interfere with the July 14, 2008, United States Congress/Legislative EMERGENCY Complaint filed by Newsome, Newsome preserved her rights and filed the required OPPOSITION pleading and notified said court as well as proper Kentucky Officials of her INTENT TO SUE. See **EXHIBIT "124"** (BRIEF Only) attached hereto and incorporated by reference as if set forth in full herein.

xvii. Newsome submitted her Emergency Complaint upon confirmation from conversation she had with an attorney (King Downing) at conference she attended in June 2008. While at the time Newsome was not aware that Downing had been discriminated against (i.e. a victim of racial profiling), she proceeded from information obtained from her conversation with Downing and filed her July 14, 2008 Emergency Complaint. See **EXHIBIT "136"** attached hereto and incorporated by reference as if set forth in full herein.

xviii. The record evidence will support that Newsome timely, properly and adequately notified United States Representative (Geoff Davis) of the State of Kentucky of this matter. See **EXHIBIT "125"** attached hereto and incorporated by reference as if set forth in full herein.

Clearly, the above facts, evidence and legal conclusions support the PATTERN-OF-PRACTICE, PATTERN-OF-ABUSES, USURPATION OF POWER/AUTHORITY, etc. evidencing the irreparable injury/harm Newsome has sustained and irreparable injury/harm Newsome and other citizens will continue to be subjected to if the United States Supreme Court does not intervene and retain jurisdiction over this matter to correct the RACIAL injustices, Racial biases, DISCRMINATORY and PREJUDICIAL practices of United States President Obama, Judge John Andrew West, Plaintiff Stor-All, its counsel, its insurance providers and other Conspirator/Co-Conspirators involved in the Conspiracy leveled against Newsome as well as other African-Americans and/or citizens because of their race and/or color of skin, etc.

PUBLIC EXPOSURE - MATTER OF PUBLIC/WORLDWIDE INTEREST:

Newsome looks to bring this Appeal before the United States Supreme Court and in so doing, exercises her right under the First Amendment, Fourteenth Amendment and other Constitutional Amendments and laws of the United States to *PUBLICLY EXPOSE the CONSPIRACY and CORRUPTION that has* ***corroded*** *and* ***infested*** *our judicial system and government agency(s)* – i.e. rendering them ***UNFIT*** and ***UNABLE*** to perform duties owed to the citizens of the United States. Newsome believes that the facts, evidence and legal conclusions contained in this instant ***EMTS & MFEOTWOC*** will support criminal/civil wrongs not only leveled against Newsome but those of other citizens which clearly warrants the INTERVENTION of the United

States Supreme Court to retain jurisdiction and step in to correct the injustices herein as well as in the lower courts that are within its jurisdictional power and authority.

Newsome believes that the laws of the United States supports her DUTY to come forth and EXPOSE such PUBLIC CORRUPTION and PRIVATE CONSPIRACIES ***regardless of who the culprits*** (i.e. President Obama and his Administration, Judge John Andrew West, Plaintiff Stor-All, its attorneys and/or representatives [David Meranus, Michael Lively, Molly Vance, Patrick Healy, Raymond Decker, Liberty Mutual, etc.] and others involved in Conspiracy against Newsome) ***are because information is of PUBLIC INTEREST as well as such PRIVATE Conspiracies and PUBLIC Corruption DAMAGES the reputation of the United States and DAMAGES the United States relationships with Foreign Countries/Foreign Leaders. Furthermore, subjects its citizens to needless and senseless attacks by foreign countries as that of 9/11***. *It should matter not* that those involved in such PRIVATE Conspiracies and PUBLIC Corruption include the United States First *alleged* African-American President (Barack Obama) and/or that persons involved in such CONSPIRACIES and CORRUPTION are famous and/or anonymous.

> *Rosenbloom v. Metromedia, Inc.*, 91 S.Ct. 1811(1971) - First Amendment protects all discussion and communication involving ***matters of public*** *or general* ***concern*** *without regard to* ***whether persons involved*** *are* ***famous*** *or* ***anonymous***. (Per Mr. Justice Brennan with the Chief Justice and one Justice joining in the opinion and two Justices concurring in the judgment.) U.S.C.A.Const. Amend. 1.

The *"**BLINDFOLD of Justice**"* *is to remain in place* and the laws **EQUALLY** applied regardless of the positions and/or ***status quo*** one

holds. Moreover, regardless of the color of their skin, faith and/or beliefs – i.e. citizens are entitled to **EQUAL** *protection of the laws*, **EQUAL** *privileges and immunities of the law*; and **DUE PROCESS** *of laws* as afforded to **ALL** citizens.

When such criminal acts violate the rights of citizens and open up the United States and its citizens to such TERRORISTS' attacks as 9/11 because the United States has ***FAILED*** to address such issues and have citizens who have joined SUPREMACIST/TERRORIST groups (i.e. involving private citizens and/or private employers) that have ***INFILTRATED*** the United States White House, United States Legislature/Congress, United States Courts and other Government Agencies (i.e. FBI, etc.) and ***said Supremacist/Terrorist groups*** rely upon their SPECIAL TIES/RELATIONSHIPS to Government Officials and/or PUBLIC Officials to ***mask/shield and carry out HATE CRIMES and attacks*** **against** citizens of the United States as well as **Foreign Countries/Foreign Leaders** *for purposes of* ***demonstrating SUPREMACY*** *over those they feel are* ***INFERIOR***, it not only become necessary but it is ESSENTIAL that such information if made PUBLIC and those who engage in such PRIVATE Conspiracies and PUBLIC CORRUPTION are EXPOSED and brought to justice. Newsome believes that it would ***prove DETRIMENTAL*** *to the United States not to EXPOSE such CONSPIRACIES and PUBLIC CORRUPTION to the Nation and World because such NEGLIGENCE would send a message that such SUPREMACIST/TERRORIST practices by United States citizens who engage in such behavior and/or acts is ACCEPTABLE.* Therefore, Newsome believes that it is ***NOT*** *Only of*

PUBLIC interest, **it is of NATIONAL and WORLDWIDE Security/Interest** that those who engage and encourage such RACIAL bias, RACIAL injustices, DISCRIMINATION and PREJUDICES be EXPOSED to the WORLD – i.e. *especially when the record evidence may support that those who harbor such criminal mind and hatred/evil in their hearts* ***may be the very ones*** *that Leaders of the United States* ***rely upon when deciding whether or not to go to war*** *(i.e. as in the Iran, Iraq and Afghanistan wars).* In further support thereof, Newsome states:

> *Rosenblatt v. Baer*, 86 S.Ct. 669 (1966) - ***Criticism of government*** *is at the very center of the constitutionally protected area of free speech*; ***criticism of those responsible for government operations*** *must be free*, lest criticism of government itself be penalized. *U.S.C.A.Const. Amends. 1, 14.*
>
> *Garrison v. State of La.*, 85 S.Ct. 209 (1964) - The **First** and **Fourteenth** Amendments *embody profound national commitment to principle that debate on public issues should be* ***uninhibited***, ***robust*** *and* ***wide open*** *and that it may well include* ***vehement***, ***caustic*** *and sometimes* ***unpleasantly sharp attacks*** *on government and public officials*. U.S.C.A.Const. Amends. 1, 14.
>
> *Baumgartner v. U.S.*, 64 S.Ct. 1240 (1944) - *One of the* ***prerogatives*** *of American citizenship is the right to* ***criticize public*** *men and measures, which means* ***not only*** *informed and responsible criticism, but the freedom to speak . . .without moderation.*

Newsome believes this information is also pertinent in light of the recent release of the EVIL practices of the United States relating to STD EXPERIMENTS that have been found to be UNETHICAL. The United States providing statements from Secretary of State Hillary Clinton and Secretary of Health and Human Services Kathleen Sebelius apologizing for such INHUMAN practices. The PUBLIC/WORLD may recall how it was then 2008 "United States Presidential Candidate Hillary Clinton" that led the surge in providing "excerpts" of sermons by President Obama's former Pastor Jeremiah Wright for alluding to such unethical experiments for

purposes of destroying the lives of people of color. However, Wright was projected as being crazy and/or a lunatic. A method commonly used by the United States Government when it wants to keep the TRUTH from the PUBLIC/WORLD. Now thanks to researchers like Susan Reverby, such unethical EXPERIMENTS and COVER-UP by the United States Government the truth is finally being EXPOSED – See **EXHIBIT "152"** attached hereto and incorporated by reference as if set forth in full herein – which states in part:

U.S.: 1940s STD EXPERIMENTS "CLEARLY UNETHICAL"

The U.S. government has formally apologized ***for a secret study*** conducted in the 1940s in which *Guatemalan* ***prisoners***, service members and mental hospital patients *were* ***secretly infected*** *with gonorrhea and syphilis without their knowledge or consen*t, calling the program, *"clearly unethical."*

. . . The results of the Sexually Transmitted Disease Inoculation Study *were uncovered by a* Wellesley College researcher, Susan Reverby.

The *story is* ***uncomfortably similar to the "Tuskegee" Syphilis Study*** *in the 1960s*, in which the PHS monitored, *but did not treat* ***hundreds of African American men*** *suffering from syphilis*. . . .

Reverby wrote that the Guatemala syphilis inoculation project was run by PHS physician, Dr. John C. Cutler (***who would later oversee the Tuskegee, Ala., study two decades later***). . .

Cutler seemed to recognize the delicate ethical quandaries their experiments posed, particularly in the wake of the Nuremberg "Doctors' Trials," and ***was concerned about secrecy***. "As you can imagine," Cutler reported to his PHS overseer, "*we are holding our breaths, and we are explaining to the patients and other concerned with but a few key exceptions, that the treatment is a new one utilizing serum followed by penicillin. This double talk keeps me hopping at time*."

Cutler also wrote that he feared "***a few words to the wrong person here, or even at home, might wreck it or parts of it***. . ."

. . . Cutler *went on to participate in another Syphilis Study at Sing Sing* ***Prison*** *in Ossining, N.Y*. (although in that case the subjects were informed about the nature of the inoculations administered to them).

THE AIDS CONSPIRACY HANDBOOK

Barack Obama ***rebuked*** *his former pastor the Rev. Jeremiah Wright* on Tuesday for giving sermons *in which he blamed the government for creating a racist state and "inventing the HIV virus as a means of genocide against people of color*." Wright isn't the first to say that **AIDS** originated in the White House. Others have attributed the epidemic to laboratory accident, malnutrition, or even God's divine will. . .

GOVERNMENT INVOLVEMENT:

. . . In 1986, crackpot East German biologist Jakob Segal published ***"AIDS: USA Home-Made Evil."*** According to the pamphlet, scientist at a Fort

> Detrick, Md., military lab manufactured the disease by synthesizing HTLV-1 (a retrovirus that causes T-cell leukemia with Visna (a sheep virus). The ***scientist administered their lethal concoction to prison inmates***, who then introduced the disease into the general population. . . .
>
> Similarly, the aptly named Boyd E. Graves. . . *has postulated that scientists in the employ of the* ***U.S. Special Virus Program*** *modified Visna to create HIV during the 1970s*. The government, with help from pharmaceutical company Merck, added the virus to an experimental hepatitis B vaccine, *which was given to* ***gay*** *men and* ***blacks in New York*** *and San Francisco*.
>
> And then there's Gary Glum, author of ***Full Disclosure***, who fronts the theory that scientists at the Cold Spring Harbor lab in New York engineered HIV, and that the **World Health Organization** spread the virus under cover of the smallpox eradication program. *Glum believes the* ***virus was created to wipe out, or at least control, the black population****. (According to a study released in 2005 by Rand Corp., more than one-quarter of African-Americans believe the disease was engineered in a government lab, and 16 percent think it was created to control the black population.)*

Now approximately two (2) years later, this information surfaces – nevertheless, Jeremiah Wright was projected as being mad, crazy a terrorist, etc. from EXCERPT-of-VIDEO CLIP METHODS used by those (i.e. Hillary Clinton and Sarah Palin) who want to project African-American males as being HOSTILE, full of ANGER, RAGE, etc. Nevertheless, these are women who wanted to be the next President/Vice President of the United States – i.e yet HARBORING/CONCEALING with such RACIST views and tactics/ideology. The EXCERPT-of-VIDEO CLIP METHOD that was used recently on Shirley Sherrod to project her as a "Racist" by SUPREMACIST/TERRORIST groups which may have been in RETALIATION to comments that were made by the NAACP regarding RACIST acts of a ***"Tea Party"*** organization – i.e. one is SPEARHEADED by a potential 2010 Presidential Candidate (Sarah Palin) which the MEDIA is giving her quite a bit of TELEVISION coverage, TELEVISION PROGRAMS and are paying her MILLIONS of dollars to PROMOTE such racist views UNDERCOVER. As with many citizens (whites, African-Americans and/or people of color), Foreign Leaders/Nations can see beyond the MASK/SHIELD/SMOKE SCREEN that the United States Government is attempting to take African-Americans and/or people of color back into

BONDAGE/SLAVERY. Moreover, the United States is attempting to spread such SUPREMACIST/TERRORIST/RACIST views abroad.

H) While President Barack Obama has REPEATEDLY stated in speeches that he **WILL *NOT*** tolerate DISCRIMINATION under his Administration, the record evidence will support to the CONTRARY. Not only has President Obama allowed DISCRIMINATORY practices leveled against Newsome in the handling of charges/complaints filed by her, he has allowed Government Officials/Employees to RETALIATE and engage in criminal/civil wrongs leveled against her – i.e. unlawful/illegal seizure of monies/ EMBEZZLEMENT of monies through SHAM Legal Process, Abuse of Power, etc. Furthermore, the record evidence will support that the CONSPIRACIES leveled against Newsome are RACIALLY motivated.

I) Newsome believes that the record evidence, facts and legal conclusions contained herein as well as in the lower court records will sustain that PUBLIC OFFICIALS (i.e. Judge West, President Obama and this under his Administration, United States Senators/Representatives, etc.) in exchange for their role in PRIVATE Conspiracy and engagement in PUBLIC Corruption did so with receipt and/or intent of receiving something of value in exchange for their part in Conspiracies leveled against Newsome. Furthermore, record evidence will support and/or sustain an OBSTRUCTION of Justice and/or OBSTRUCTION of Administration of Justice constituting a role in Private Conspiracy and for purposes of depriving Newsome EQUAL protection of the laws, EQUAL privileges and immunities of the laws and DUE PROCESS of laws secured to citizens of the United States.

> *U.S. v. Sun-Diamond Growers of California*, 119 S.Ct. 1402 (1999) - To convict under federal bribery statute, there **must** be a *quid pro quo*, *a specific intent to give or receive something of value in exchange for an official act*, *while* ***illegal gratuity*** *may constitute* ***merely a reward for some future act that public official will take*** *and* ***may already have determined to take***, *or for a* ***past act*** *that he has already taken*. 18 U.S.C.A. § 201(b)(1, 2), (c).
>
> *Garcetti v. Ceballos*, 126 S.Ct. 1951 (U.S.,2006) – Public. . .do not surrender all their First Amendment rights by reason of their employment; rather, the First Amendment protects . . . right, in certain circumstances, *to speak as a citizen* ***addressing matters*** *of public concern*. U.S.C.A. Const.Amend. 1.

J) Newsome believes the recent attacks on WikiLeaks' Leader (Julian Assange) is also a GOOD EXAMPLE of how the United States Government seeks to infringe upon the Constitutional Rights of citizens (i.e. attempt to silence them) when they do not want its SUPREMACIST, TERRORIST and CORRUPTION revealed to its citizens and/or other countries (*the WORLD*). Again, Newsome has to go back to the following case:

> *U.S. v. Jimenez Recio*, 123 S.Ct. 819 (2003) - Essence of a conspiracy is an agreement to commit an unlawful act.
>
> Agreement to commit an unlawful act, which constitutes the essence of a conspiracy, *is a* ***distinct evil*** that may exist and be punished whether or not the substantive crime ensues. *Id.*
>
> Conspiracy ***poses a threat to the public*** over and above the threat of the commission of the relevant substantive crime, both because *the combination in crime* ***makes more likely*** *the commission* ***of other*** *crimes* and because it **decreases the probability** that *the individuals involved* ***will depart from their path of criminality***.

believing that it is due to the United States Government Officials (to which she reported Criminal/Civil wrongs) failure to act, the citizens of the United States on 9/11 came under attack and there are those who are determined to engage in launching future attacks because of the NEGLIGENCE of the United States to ***clean out*** the CORRUPTION and TERRORISTS that it knows is OPERATING and FUNCTIONING in key positions as COUNSEL and/or ADVISORS to the United States President, United States Senate, United States House of Representative, United States Department of Justice, United States Department of Labor, United States Courts, etc. It further appears, based upon the facts, evidence and legal conclusions provided herein:

1. BAKER DONELSON and LIBERTY MUTUAL (i.e. it appears with the assistance of United States Government) and other Conspirators/Co-Conspirators have wreaked havoc on way too many lives for way too long. Thus, *very* ***DETRIMENTAL*** to the Public and/or citizens of the United States as well as citizens of Foreign Countries.
2. Apparently BAKER DONELSON and LIBERTY MUTUAL (because of their deep ROOTS in Government and Politics) think they are too POWERFUL to fail/fall – GOLIATH thought the same thing and just as his pride/arrogance/ego was the means to his end, Newsome believes so will it be for BAKER DONELSON, LIBERTY MUTUAL and their Conspirators/Co-Conspirators. - - PRIDE comes **before** *destruction* and a HAUGHTY spirit **before** a *fall*.[50]
3. It appears that BAKER DONELSON may be using their TIES/RELATIONSHIPS to Government positions/offices/officials to their advantage – i.e. for purposes of CONTROL, INFLUENCE, SUPREMACY, TERRORIST acts - in the controlling and running of the United States Government to mislead the people

[50] A quote from "King James Bible."

that it is Osama Bin Laden and his allies who are the terrorist and the ones to be feared; however, based upon the facts, evidence and legal conclusions contained herein [i.e. and apparently information released by WikiLeaks], it appears that Foreign Countries and/or their citizens are merely responding to the SUPREMACIST and TERRORISTIC acts the United States has not only allowed to be inflicted on its own citizens, but those on Foreign Countries/Foreign Leaders to COVER-UP and MASK who the REAL Terrorists are and how and where they are operating in the United States Government. It appears it is Bin Laden and his allies who merely refuse to roll over to the United States and let such SUPREMACIST ideology and RACIST agendas (i.e. fueled by hate, evil and wickedness) by the likes of BAKER DONELSON and LIBERTY to come into their countries to destroy and take over their lands as it did in the occupancy and building of the United States. It appears that Foreign Countries/Foreign Leaders are willing to sacrifice and die rather than give into the TERRORIST acts of the United States. **Important To Note:** This is a different age and time. Like Newsome, there are others (i.e. WikiLeaks, etc.) who are coming forth and speaking out and taking action to expose such CORRUPTION and CRIMINAL acts/practices of the United States Government and the likes of Baker Donelson.

K) The record evidence will support that as a DIRECT and PROXIMATE result of Newsome having exercised her First Amendment and Fourteenth Amendment Rights under the Constitution and releasing July 13, 2010, email entitled, ***"U.S. PRESIDENT BARACK OBAMA: THE DOWNFALL/ DOOM OF THE OBAMA ADMINISTRATION – Corruption/Conspiracy/ Cover-Up/Criminal Acts Made Public"*** - See **EXHIBIT "25"** attached hereto and incorporated by reference as if set forth in full herein - President Obama, his Administration and those engaging in Private CONSPIRACY against Newsome, moved SWIFTLY and instructed and/or authorized the Commonwealth of Kentucky Department of Revenue to execute on or about July 17, 2010 ***SHAM*** *legal process* entitled, "***Notice of Levy***" - See **EXHIBIT "27"** attached hereto and incorporated by reference as if set forth in full herein - in RETALIATION of Newsome having exercised her right to speak out and EXPOSE Public Corruption and CONSPIRACIES leveled against her.

Thornhill v. State of Alabama, 60 S.Ct. 736 (1940) - The "**freedom of speech and of the press**" *guaranteed by the Constitution embraces at least the* ***liberty*** ***to discuss publicly*** *and* ***truthfully*** *all* ***matters of public concern*** *without previous* ***restraint*** *or* ***fear of subsequent punishment***. U.S.C.A.Const. Amends. 1, 14.

Curtis Pub. Co. v. Butts, 87 S.Ct. 1975 (1967) - *Right to communicate information* ***of public interest*** *is not unconditional*. (Per Mr. Justice Harlan with three Justices concurring and the Chief Justice concurring in result.) U.S.C.A.Const. Amend. 1.

L) Newsome believes that the record evidence will support a Private CONSPIRACY and PUBLIC CORRUPTION by Government Officials/Agencies involving Judge West, Plaintiff Stor-All, its counsel, insurance provider (Liberty Mutual) and other willing Conspirators/Co-Conspirators who reached an agreement to commit unlawful/illegal acts against Newsome. Distinct evils leveled against Newsome in RETALIATION of her speaking out and exercising rights secured under the Constitution. CONSPIRACIES leveled against Newsome which poses a threat to the PUBLIC-AT-LARGE because the record evidence will sustain that due to the NEGLIGENCE and FAILURE to prosecute criminal/civil wrongs leveled against Newsome, Judge West, Plaintiff Stor-All, its attorneys (Meranus, Lively, Vance, Healy, Decker, etc.) and other Conspirators/Co-Conspirators authorized, directed and/or engaged in additional criminal/civil wrongs leveled against Newsome. Further sustaining said NEGLIGENC and FAILURE resulted in:

(a) making such criminals most ***likely to commit other crimes*** and as a DIRECT and PROXIMATE result of such Negligence and Failure to Prosecute crimes reported by Newsome, Plaintiff Stor-All unlawfully/illegally seized Newsome's storage unit and property WITHOUT legal authority/Court Order and then brought a MALICIOUS Forcible Entry and Detainer action against her to COVER-UP said crime and in furtherance of COVERING UP the role it is playing in the ONGOING Conspiracies that are being birthed at each level as it reels in NEW and MORE WILLING Conspirators/Co-Conspirators; and

(b) the unlikeliness that Conspirators/Co-Conspirators as Judge West (i.e. whose Bailiff Damon Ridley was recently INDICTED and found "GUILTY" by a jury for *Attempted Bribery*), Plaintiff Stor-All, its attorneys (Meranus, Lively, Vance, Healy, Decker, etc.), its insurance provider (Liberty Mutual) and others involved in Conspiracies leveled against Newsome ***will depart from their path of criminality***.

The record evidence in this instant ***EMTS & MFEOTWOC*** further supports the PATTERN-OF-PRACTICE underlying the Private Conspiracies initiated against Newsome. It is said conspiracies which are racially motivated and FUELED by DISCRIMINATORY and PREJUDICIAL biases towards Newsome and/or people of color.

> *U.S. v. Jimenez Recio*, 123 S.Ct. 819 (2003) - Essence of a conspiracy is an agreement to commit an unlawful act.
>
> Agreement to commit an unlawful act, which constitutes the essence of a conspiracy, *is a **distinct evil*** that may exist and be punished whether or not the substantive crime ensues. *Id.*
>
> Conspiracy ***poses a threat to the public*** over and above the threat of the commission of the relevant substantive crime, both because *the combination in crime **makes more likely** the commission **of other** crimes* and because it **decreases the probability** that *the individuals involved **will depart from their path of criminality**. Id.*
>
> *Morrison v. People of State of California*, 54 S.Ct. 281 (1934) - "Conspiracy" imports corrupt agreement between not less than two with guilty knowledge on part of each.
>
> *State v. Moses*, 2010 WL 2815803 (2010) - In order to prove conspiracy, the State ***need not prove an express agreement***, as evidence tending to show a mutual, implied understanding will suffice; ***nor*** *is it necessary* ***that the unlawful act be completed***.
>
> *U.S. v. Rehak*, 589 F.3d 965 (2009) - The crime of conspiracy is complete on the agreement to violate the law implemented by one or more overt acts, however innocent such act standing alone may be, and it is not dependent on the success or failure of the planned scheme.

M) Newsome believes that due to the EXCEPTIONAL and EXTREME circumstances in this lawsuit, the United States INTERVENTION and exercise of jurisdiction is required. Newsome believes the Certiorari action to be brought may require this Court to expound on such rulings as those in ***Citizens United v Federal Election Commission***, 558 U.S. 50 (2010) and ***Hugh M. Caperton, et al. vs. A. T. Massey Coal Co. Inc.,*** 129 S.Ct. 2252; moreover, CLARIFY that when Judges/Justices benefit from Financial Campaign Contributions, that said contributions DO ***NOT*** *authorize* Judges/Judges to engage in Private CONSPIRACIES and PUBLIC CORRUPTION to cover-up criminal/civil wrongs leveled against citizens[51] (i.e. as

[51] ***HUGH M. CAPERTON, ET AL. VS. A. T. MASSEY COAL CO. INC.,*** **129 S.CT. 2252:**

In this case the Supreme Court of Appeals of West Virginia reversed a trial court judgment, which had entered a jury verdict of $50 million. Five justices heard the case, and the vote to reverse was 3 to 2. ***The question presented is whether the Due Process Clause of the Fourteenth Amendment was violated when one of the justices in the majority denied a recusal motion***. The basis for the motion was that the justice had received campaign contributions in an extraordinary amount from, and through

the efforts of, the board chairman*2257 and principal officer of the corporation found liable for the damages.

Under our precedents there are objective standards that require recusal when "the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable." *Withrow v. Larkin*, 421 U.S. 35, 47, 95 S.Ct. 1456, 43 L.Ed.2d 712 (1975). *Applying those precedents, we find that, in all the circumstances of this case, due process requires recusal*.

[1] ***Constitutional Law:*** Fair trial in fair tribunal is basic requirement of due process. *U.S.C.A. Const.Amend. 14.*

[2] ***Judges:*** Even when judge does not have any direct, personal, substantial, pecuniary interest in case, of kind requiring his or her disqualification at common law, there are circumstances in which probability of actual bias on part of judge is too high to be constitutionally tolerable.

> **[1][2]** It is axiomatic that "[a] fair trial in a fair tribunal is a basic requirement of due process." *Murchison*, supra, at 136, 75 S.Ct. 623[51]. . . . The early and leading case on the subject is ***Tumey v. Ohio,*** 273 U.S. 510, 47 S.Ct. 437, 71 L.Ed. 749 (1927). There, the Court stated that "matters of kinship, personal bias, state policy, remoteness of interest, would seem generally to be matters merely of legislative discretion." *Id.*, at 523, 47 S.Ct. 437.
>
> The *Tumey* Court concluded that the Due Process Clause incorporated the common-law rule that a judge ***must*** recuse himself when he has "a direct, personal, substantial, pecuniary interest" in a case. *Ibid.* This rule reflects the maxim that "*[n]o man **is allowed** to be a judge in his own cause*; *because his interest **would certainly bias** his judgment, and, not improbably, **corrupt his integrity**.*" *The Federalist No. 10*, p. 59 (J. Cooke ed.1961) (J. Madison); see *Frank, Disqualification of Judges*, 56 Yale L.J. 605, 611-612 (1947) (same). Under this rule, "disqualification for bias or prejudice was not permitted"; those matters were left to statutes and judicial codes. *Lavoie, supra*, at 820, 106 S.Ct. 1580; see also Part IV, infra (discussing judicial codes). . . .
>
> **[3]** As new problems have emerged that were not discussed at common law, however, the Court has identified additional instances which, as an objective matter, require recusal. These are circumstances "in which experience teaches that the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable." *Withrow*, 421 U.S., at 47, 95 S.Ct. 1456. To place the present case in proper context, two instances where the Court has required recusal merit further discussion. . . .
>
> The first involved the emergence of local tribunals where a judge had a financial *2260 interest in the outcome of a case, although the interest was less than what would have been considered personal or direct at common law. . .
>
> The Court in *Lavoie* further clarified the reach of the Due Process Clause regarding a judge's financial interest in a case. ***There, a justice had cast the deciding vote*** on the Alabama Supreme Court ***to uphold a punitive damages award against an insurance company*** for bad-faith refusal to pay a claim. At the time of his vote, ***the justice was the lead plaintiff in a nearly identical lawsuit pending*** in Alabama's lower courts. *His deciding vote, this Court surmised, **"undoubtedly 'raised the stakes' " for the insurance defendant in the *2261 justice's suit***. 475 U.S., at 823-824, 106 S.Ct. 1580. . .
>
> The Due Process Clause required disqualification. The Court recited the general rule that *"no man can be a judge in his own case,"* adding that ***"no man is permitted to try cases where he has an interest in the outcome."*** *Id.*, at 136, 75 S.Ct. 623. It noted that the disqualifying

> criteria "cannot be defined with precision. Circumstances and relationships must be considered." *Ibid.* These *circumstances and the prior relationship* ***required recusal***: "Having been a part of [*the* ***one-man*** *grand jury*] process a judge cannot be, in the very nature of things, wholly disinterested in the conviction or acquittal of those accused." *Id.,* at 137, 75 S.Ct. 623. *That is because "[a]s a practical matter* ***it is difficult if not impossible*** *for a judge to free himself from the influence of what took place in his 'grand-jury'* ***secret*** *session*." *Id.,* at 138, 75 S.Ct. 623. . .
>
> Following *Murchison* the Court held in *Mayberry v. Pennsylvania,* 400 U.S. 455, 466, 91 S.Ct. 499, 27 L.Ed.2d 532 (1971), "that by reason of the Due Process Clause of the Fourteenth Amendment a defendant in . . . proceedings should be given a public trial before a judge other than the one *reviled* by the contemnor." The Court reiterated that this rule rests on the relationship between the judge and the defendant: "[A] judge, *vilified* as was this . . . judge, necessarily becomes embroiled in a running, bitter controversy. ***No one so cruelly slandered is likely to maintain that calm detachment necessary for fair adjudication***." *Id.,* at 465, 91 S.Ct. 499.

[4] ***Judges:*** In deciding whether probability of actual bias on part of judge is too high to be constitutionally tolerable, court's inquiry is objective one, that asks not whether judge is actually, subjectively biased, but whether average judge in judge's position is likely to be neutral, or whether there is unconstitutional potential for bias.

> **[4]** . . . To bring coherence to the process, and to seek respect for the resulting judgment, ***judges often explain the reasons for their conclusions and rulings***. There are instances when the introspection that often attends this process may reveal that what the judge had assumed to be a proper, controlling factor is not the real one at work. ***If the judge discovers that some personal bias*** *or* ***improper consideration*** *seems to be the actuating cause of the decision or to be an influence so difficult to dispel that there is a real possibility of undermining neutrality,* ***the judge may think it necessary to consider withdrawing from the case***.

[5] ***Judges:*** Judge's own inquiry into actual bias is not one that the law can easily superintend or review, though actual bias, if disclosed, no doubt would be grounds for appropriate relief.

[6] ***Constitutional Law:*** In lieu of exclusive reliance on personal inquiry by judge, or on appellate review of judge's determination respecting actual bias, the Due Process Clause is implemented, in area of judicial recusal, by objective standards which do not require proof of actual bias; in defining these standards, court asks whether, under a realistic appraisal of psychological tendencies and human weakness, the interest in question poses such a risk of actual bias or prejudgment that practice must be forbidden if guarantee of due process is to be adequately implemented. *U.S.C.A. Const.Amend. 14.*

> **[5][6]** . . . In lieu of exclusive reliance on that personal inquiry, or on appellate review of the judge's determination respecting actual bias, ***the Due Process Clause*** *has been implemented by objective standards that* ***do not*** *require proof of actual bias*. See *Tumey,* 273 U.S., at 532, 47 S.Ct. 437; *Mayberry,* 400 U.S., at 465-466, 91 S.Ct. 499; *Lavoie,* 475 U. S., at 825, 106 S.Ct. 1580. In defining these standards the Court has asked whether, "*under a realistic appraisal of psychological tendencies and human weakness,*" the interest "*poses such a risk of* ***actual bias*** *or* ***prejudgment*** *that the practice* ***must*** ***be forbidden*** *if the guarantee of due process is to be adequately implemented*." *Withrow,* 421 U.S., at 47, 95 S.Ct. 1456.

[8] ***Judges:*** There is serious risk of actual bias, based on objective and reasonable perceptions, when person with personal stake in particular case had significant and disproportionate influence in placing judge on case by raising funds or by directing judge's election campaign when case was pending or imminent.

> **[8]**. . . We turn to the influence at issue in this case. Not every campaign contribution by a litigant or attorney creates a probability of bias that requires a judge's recusal, *but this is an **exceptional** case*. Cf. *Mayberry*, supra, at 465, 91 S.Ct. 499 ("It is, of course, not every attack on a judge that disqualifies him from sitting"); *Lavoie*, supra, at 825-826, 106 S.Ct. 1580 (some pecuniary interests are " 'too remote and insubstantial' "). *We conclude that there is a serious risk of actual bias-based on objective and reasonable perceptions-**when a person with a personal stake in a particular case** had a significant and disproportionate influence in placing *2264 the judge on the case by raising funds or directing the judge's election campaign when the case was pending or imminent*. The inquiry centers on the contribution's relative size in comparison to the total amount of money contributed to the campaign, the total amount spent in the election, and the apparent effect such contribution had on the outcome of the election.

[10] ***Judges:*** State Supreme Court of Appeals judge that president and chief executive officer (CEO) of corporation appearing before him helped to elect, by contributing some $3 million to his election campaign following trial court's entry of $50 million judgment against corporation, at time when it was likely that corporation would be seeking re-view in West Virginia's Supreme Court of Appeals, should have recused himself as matter of due process, where this $3 million contribution eclipsed total amount spent by all of judge's other supporters and exceeded, by 300%, amount spent by judge's campaign committee; significant and disproportionate influence of corporate CEO in electing judge, coupled with temporal relationship between election and pending case, offered possible temptation to average judge to lead him not to hold the balance nice, clear and true. *U.S.C.A. Const.Amend. 14.*

> **[10]** Applying this principle, ***we conclude that Blankenship's campaign efforts had a significant and disproportionate influence** in placing Justice Benjamin on the case. **Blankenship contributed some $3 million** to unseat the incumbent and replace him with Benjamin*. His contributions eclipsed the total amount spent by all other Benjamin supporters and exceeded by 300% the amount spent by Benjamin's campaign committee. App. 288a. Caperton claims Blankenship spent $1 million more than the total amount spent by the campaign committees of both candidates combined. . .

[11] ***Constitutional Law:*** Whether litigant's campaign contributions were a necessary and sufficient cause of judge's victory in judicial election is not proper inquiry in deciding whether such contributions require judge's recusal from case involving litigant as matter of due process; due process requires an objective inquiry into whether contributor's influence on election under all the circumstances would offer possible temptation to average judge to lead him not to hold the balance nice, clear and true. *U.S.C.A. Const.Amend. 14.*

> **[11]** *. . . This is particularly true where, as here, there is no procedure for judicial factfinding and the **sole trier of fact** is the **one** accused of bias. **Due process requires** an **objective inquiry** into whether the contributor's influence on the election under all the circumstances "**would offer a possible temptation to the average ... judge to ... lead him not to hold the balance nice, clear and true**." Tumey*, supra, at 532, 47 S.Ct. 437. . . *Blankenship's campaign contributions*-in comparison to the total amount contributed to the campaign, as well as the total amount spent in the election-***had a significant and disproportionate influence on the electoral outcome***. *And the risk that Blankenship's influence **engendered** actual bias is sufficiently substantial that it "**must** be forbidden if the **guarantee of due process** is to be adequately implemented*." *Withrow*, supra, at 47, 95 S.Ct. 1456. . .
>
> So it became at once apparent that, absent recusal, *Justice Benjamin **would review a judgment that cost his biggest donor's company $50 million***. Although there is no allegation of a quid pro quo agreement, the fact remains that *Blankenship's **extraordinary** contributions were made at a time when he had a vested stake in the outcome*. **Just as no man is allowed to be a judge in his own**

cause, similar fears of bias can arise when-without the consent of the other parties-a man chooses the judge in his own cause. *And applying this principle to the judicial election process, there was here* ***a serious***, ***objective risk of actual bias*** *that required Justice Benjamin's recusal.*

[12] ***Judges:*** Inquiry into actual bias is just one step that judge must take in deciding whether to recuse himself; objective standards may also require recusal whether or not actual bias exists or can be proven.

[13] ***Constitutional Law:*** Due process may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh scales of justice equally between contending parties. U.S.C.A. Const.Amend. 14.

[12][13] Justice Benjamin did undertake an extensive search for actual bias. But, as we have indicated, *that is just one step in the judicial process*; ***objective standards*** *may also require recusal whether or not actual bias exists or can be proved*. **Due process** "*may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties.*" *Murchison*, 349 U.S., at 136, 75 S.Ct. 623. The failure to consider objective standards requiring recusal is not consistent with the imperatives of due process. *We find that Blankenship's* ***significant*** *and* ***disproportionate influence-coupled with the temporal relationship*** *between the election and the pending case-*" ' "***offer a possible temptation to the average ... judge to ... lead him not to hold the balance nice, clear and true***." ' " *Lavoie*, 475 U.S., at 825, 106 S.Ct. 1580 (quoting *Monroeville*, 409 U.S., at 60, 93 S.Ct. 80,[51] in turn quoting *Tumey*, 273 U.S., at 532, 47 S.Ct. 437). **On these extreme facts *the probability of actual bias* rises to an *unconstitutional level***. . . .

Our decision today addresses an extraordinary situation ***where the Constitution requires recusal***. . . ***The facts now before us are extreme by any measure***. The parties point to no other instance involving judicial campaign contributions that presents a potential for bias comparable to the circumstances in this case.

It is true that extreme cases often test the bounds of established legal principles, and sometimes no administrable standard may be available to address the perceived wrong. But it is also true that *extreme cases are more likely to cross constitutional limits*, ***requiring this Court's intervention and formulation of objective standards***. *This is particularly true* ***when due process is violated***. See, e.g., *County of Sacramento v. Lewis*, 523 U.S. 833, 846-847, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998) (**reiterating** the *due-process prohibition* on "**executive abuse of power *... which shocks the conscience***"); id., at 858, 118 S.Ct. 1708 (KENNEDY, J., concurring) (explaining that "objective considerations, including history and precedent, are the controlling principle" of this due process standard).

This Court's **recusal** cases are illustrative. In each case the Court dealt with extreme facts that created an unconstitutional probability of bias that " 'cannot be defined with precision.' " *Lavoie*, 475 U.S., at 822, 106 S.Ct. 1580 (quoting *Murchison*, 349 U.S., at 136, 75 S.Ct. 623). Yet the *2266 *Court articulated an objective standard* ***to protect*** *the parties'* ***basic right to a fair trial in a fair tribunal***. The Court was careful to distinguish the extreme facts of the cases before it from those interests that would not rise to a constitutional level. See, e.g., *Lavoie*, supra, at 825-826, 106 S.Ct. 1580; *Mayberry*, 400 U.S., at 465-466, 91 S.Ct. 499; *Murchison*, supra, at 137, 75 S.Ct. 623; see also Part II, supra. In this case we do nothing more than what the Court has done before. . .

The . . . **Code of Judicial Conduct** also requires *a judge to "****disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned***." Canon 3E(1); see also 28 U.S.C. § 455(a) ("***Any justice, judge, or magistrate judge of the . . . shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned***"). Under Canon 3E(1), " *'[t]he question of disqualification focuses on whether an* ***objective*** *assessment of the judge's conduct produces a reasonable question about impartiality, not on the*

*judge's **subjective** perception of the ability to act fairly.' " State ex rel. Brown v. Dietrick*, 191 W.Va. 169, 174, n. 9, 444 S.E.2d 47, 52, n. 9 (1994); see also *Liteky v. United States*, 510 U.S. 540, 558, 114 S.Ct. 1147, 127 L.Ed.2d 474 (1994) (KENNEDY, J., concurring in judgment) ("[U]nder [28 U.S.C.] § 455(a), *a judge should be disqualified only if it appears that he or she **harbors an aversion**, **hostility** or **disposition** of a kind that a fair-minded person could not set aside when judging the dispute*"). Indeed, **some States require recusal based on campaign contributions similar to those in this case**. See, e.g., Ala.Code §§ 12-24-1, 12-24-2 (2006); Miss.Code of Judicial Conduct, Canon 3E(2) (2008).

*These codes of conduct **serve to maintain the integrity** of the judiciary and the rule of law*. The Conference of the Chief Justices has *underscored* that the codes are *"[t]he **principal safeguard against judicial campaign abuses" that threaten to imperil** "**public confidence in the fairness and integrity** of the nation's elected judges*." Brief for Conference of Chief Justices as *Amicus Curiae* 4, 11. This is a **vital** state interest:

> "Courts, in our system, elaborate principles of law in the course of resolving disputes. The power and the prerogative of a court to perform this function rest, in the end, upon the respect accorded to its judgments. *The **citizen's respect** for judgments depends in turn *2267 upon the issuing court's absolute probity*. **Judicial integrity** is, in consequence, *a state interest of the **highest order***." *Republican Party of Minn. v. White*, 536 U.S. 765, 793, 122 S.Ct. 2528, 153 L.Ed.2d 694 (2002) (KENNEDY, J., concurring). . .

Chief Justice ROBERTS, with whom Justice SCALIA, Justice THOMAS, and Justice ALITO join, dissenting.

I, of course, *share the majority's sincere concerns about the need to maintain a fair, independent, and impartial judiciary-and one that appears to be such. . . .*

***Until today**, we have recognized exactly two situations in which the Federal Due Process Clause **requires disqualification** of a judge*: ***when the judge has a financial interest** in the outcome of the case, and **when the judge is trying** a defendant for certain criminal contempts*. **Vaguer notions of bias** or the **appearance of bias** were never a basis for disqualification, either at common law or under our constitutional precedents. Those issues were instead addressed by legislation or court rules.

Today, however, *the Court **enlists the Due Process Clause** to **overturn** a judge's failure to recuse because of a "probability of bias*." Unlike the established grounds for disqualification, a "probability of bias" cannot be defined in any limited way. The Court's new "rule" provides no guidance to judges and litigants about when recusal will be constitutionally required. . . *The end result will do far more to erode public confidence in judicial impartiality than an isolated failure to recuse in a particular case. . .*

There is a "**presumption of honesty** and **integrity** in those serving as adjudicators." *Withrow v. Larkin*, 421 U.S. 35, 47, 95 S.Ct. 1456, 43 L.Ed.2d 712 (1975). ***All judges take an oath to uphold the Constitution and apply the law impartially, and we trust that they will live up to this promise***. See *Republican Party of Minn. v. White*, 536 U.S. 765, 796, 122 S.Ct. 2528, 153 L.Ed.2d 694 (2002) (KENNEDY, J., concurring) ("*We **should not**, even by inadvertence, 'impute to judges a lack of firmness, wisdom, or honor' "* (quoting *2268 *Bridges v. California*, 314 U.S. 252, 273, 62 S.Ct. 190, 86 L.Ed. 192 (1941))). . .

It *is **well** established* that a judge **may not** *preside over a case in which he has a "direct, personal, substantial pecuniary interest*." *Tumey v. Ohio*, 273 U.S. 510, 523, 47 S.Ct. 437, 71 L.Ed. 749 (1927). This principle is relatively straightforward, and largely tracks the longstanding common-law rule regarding judicial recusal. See *Frank, Disqualification of Judges*, 56 Yale L.J. 605, 609 (1947) ("*The **common law of disqualification** ... was clear and simple: a judge was disqualified for direct pecuniary interest and for nothing else*"). . .

It may *also **violate** due process when a judge presides over a . . . case that resulted from the defendant's hostility towards the judge*. In *Mayberry v. Pennsylvania*, 400 U.S. 455, 91 S.Ct. 499, 27 L.Ed.2d 532 (1971), the defendant directed a steady stream of expletives and *ad hominem* attacks at the judge throughout the trial. When that defendant was subsequently charged with . . . contempt, *we concluded that he* "**should be given a public trial *before a judge other than the one reviled by the contemnor***." Id., at 466, 91 S.Ct. 499; see also *Taylor v. Hayes*, 418 U.S. 488, 501, 94 S.Ct. 2697, 41 L.Ed.2d 897 (1974) (a judge who had "become embroiled in a running controversy" with the defendant could not subsequently preside over that defendant's . . . trial). . .

But there are other fundamental questions as well. With little help from the majority, courts will now have to determine:

> 1. How much money is too much money? What level of contribution or expenditure gives rise to a "probability of bias"? . . .
>
> 4. Does it matter whether the litigant has contributed to other candidates or made large expenditures in connection with other elections?
>
> 5. Does the amount at issue in the case matter? What if this case were an employment dispute with only $10,000 at stake? What if the plaintiffs only sought non-monetary relief such as an injunction or declaratory judgment? . . .
>
> 7. How long does the probability of bias last? Does the probability of bias diminish over time as the election recedes? Does it matter whether the judge plans to run for reelection?
>
> 8. What if the "disproportionately" large expenditure is made by an industry association, trade union, physicians' group, or the plaintiffs' bar? Must the judge recuse in all cases that affect the association's interests? Must the judge recuse in all cases in which a party or lawyer is a member of that group? Does it matter how much the litigant contributed to the association?. . .
>
> *2270 11. What if the supporter is not a party to the pending or imminent case, but his interests will be affected by the decision? Does the Court's analysis apply if the supporter "chooses the judge" not in his case, but in someone else's?
>
> 12. What if the case implicates a regulatory issue that is of great importance to the party making the expenditures, even though he has no direct financial interest in the outcome (e.g., a facial challenge to an agency rule-making or a suit seeking to limit an agency's jurisdiction)?
>
> 13. Must the judge's vote be outcome determinative in order for his non-recusal to constitute a due process violation?
>
> 14. Does the due process analysis consider the underlying merits of the suit? Does it matter whether the decision is clearly right (or wrong) as a matter of state law?. . .
>
> 19. If there is independent review of a judge's recusal decision, e.g., by a panel of other judges, does this completely foreclose a due process claim?. . .
>
> 21. Does close personal friendship between a judge and a party or lawyer now give rise to a probability of bias?
>
> 22. Does it matter whether the campaign expenditures come from a party or the party's attorney? If from a lawyer, must the judge recuse in every case involving that attorney?. . .
>
> 24. Under the majority's "objective" test, do we analyze the due process issue through the lens of a reasonable person, a reasonable lawyer, or a reasonable judge?. . .

Newsome) because they have elected to exercise rights secured under the Constitution and/or laws of the United States.

N) The record evidence will support that Newsome timely, properly and adequately requested that Judges/Justices involved in this instant lawsuit and/or other legal actions in which she is involved advise of any potential CONFLICT OF INTEREST. Nevertheless, ALL who have been requested to provide such information have declined to provide Newsome with information

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> 33. What procedures must be followed to challenge a state judge's failure to recuse? May *Caperton* claims only be raised on direct review? Or may such claims also be brought in federal district court under 42 U.S.C. § 1983, which allows a person deprived of a federal right by a state official to sue for damages? If § 1983 claims are available, who are the proper defendants? The judge? The whole court? The clerk of court?
>
> 34. What about state-court cases that are already closed? Can the losing parties in those cases now seek collateral relief in federal district court under § 1983? What statutes of limitation should be applied to such suits?
>
> 35. What is the proper remedy? After a successful *Caperton* motion, must the parties start from scratch before the lower courts? Is any part of the lower court judgment retained?
>
> 36. Does a litigant waive his due process claim if he waits until after decision to raise it? Or would the claim only be ripe after decision, when the judge's actions or vote suggest a probability of bias?
>
> 37. Are the parties entitled to discovery with respect to the judge's recusal decision?
>
> *2272 38. If a judge erroneously fails to recuse, do we apply harmless-error review?
>
> 39. Does the judge get to respond to the allegation that he is probably biased, or is his reputation solely in the hands of the parties to the case?
>
> 40. What if the parties settle a *Caperton* claim as part of a broader settlement of the case? Does that leave the judge with no way to salvage his reputation? . . .

To its credit, the Court seems to recognize that the inherently boundless nature of its new rule poses a problem. But the majority's only answer is that the present case is an "extreme" one, so there is no need to worry about other cases. Ante, at 2265. The Court repeats this point over and over. See ante, at 2263 ("this is an exceptional case"); *ante,* at 2265 ("On these extreme facts"); *ibid.* ("Our decision today addresses an extraordinary situation"); *ante,* at 2265 ("The facts now before us are extreme by any measure"); *ante,* at 2267 (Court's rule will "be confined to rare instances"). . .

Justice SCALIA, dissenting.

The principal purpose of this Court's exercise of its certiorari jurisdiction is to clarify the law. See this Court's Rule 10. . .

The decision will have the opposite effect. *What above **all** else is eroding public confidence in the Nation's judicial system is the perception that litigation is just a game, **that the party with the most resourceful lawyer can play it to win**, that our seemingly interminable legal proceedings are wonderfully self-perpetuating but **incapable** of delivering **real-world** justice. . .*

to which she is entitled. It is said failure by Judges/Justices that have resulted in their ENGAGEMENT in criminal/civil wrongs leveled against Newsome and has resulted in Newsome having to file the applicable Complaints against Judges/Justices with the appropriate Government Agency(s). For instance:

i. In the Mississippi matter, Newsome filed the required Complaint with the ***Mississippi Commission Of Judicial Performance*** against Judge William L. Skinner II – i.e. judge involved in the February 14, 2006 kidnapping and other criminal/civil wrongs leveled against Newsome which resulted in the filing of Newsome's June 26, 2006 *"Complaint and Request for Investigation to the United States Department of Justice and Federal Bureau of Investigations Filed by Vogel D. Newsome"* – See **EXHIBIT "45"** (**BRIEF** Only) attached hereto and incorporated by reference as if set forth in full herein. **IMPORTANT TO NOTE:** Based on information Newsome came across during her research, she contacted the United States Department of Justice as well as United States President Obama to advise of concerns that the FBI may have been involved in a Conspiracy to cover-up the murder of Judge Skinner father (Officer William Skinner – of the Jackson, Mississippi Police Department) and framing the murder of Judge Skinner's father on members of the New Republic of Africa. Newsome believes such information is RELEVANT and PERTINENT as such criminal/civil wrongs carried out by one of the leading organizations in the United States supports Ku Klux Klan Act violations and the use of DEADLY force against citizens and then framing them for crimes they may not have committed. Information which is RELEVANT and PERTINENT because if Judge Skinner is aware of such criminal acts carried out by the FBI, a reasonable mind may conclude that the United States Department of Justice's (FBI's) failure to act and prosecute Judge Skinner may be a DIRECT and PROXIMATE result of his knowledge of CONSPIRACY leveled against an Black Organization (New Republic of Africa) and the framing of said groups members for purposes of dismantling, instilling fear and deterring the creation and organization of future Activist groups in the African-American communities.

> **IMPORTANT TO NOTE:** Judge Skinner was served with the **required** *"Notice of Lawsuit and Request of Waiver of Service of Summons"* on **April 26, 2007**, received Notice and accompanying Complaint on **May 1, 2007**; however, elected not to execute said Waiver as required. Had Judge Skinner executed Waiver, he *would have had* 60 days to respond – i.e. *until June 25, 2007*. Instead, resorting to DILATORY tactics and failing to comply with

> Rules of Court, it required that Newsome have him served with process. Judge Skinner being ***served on June 21, 2007***, and, therefore, requiring his Answer and/or appropriate Rule 12 Motion(s) to be filed ***by July 11, 2007***. See Newsome's *"Motion to Strike Statements and Materials of Defendants', Jon C. Lewis and William L. Skinner, II, Motion to Dismiss, or in the Alternative, Motion to Quash*" at **EXHIBIT "43"** incorporated by reference as if set forth in full herein.

Furthermore, the Certiorari action Newsome seeks to bring will provide additional information as to Judge Skinner's present engagement in RACIAL injustices and efforts taken by him to retain control over the ***Henley Young Juvenile Detention Center*** (*a/k/a Hinds County Youth Detention Center*) [52] - which under his leadership and direction has come under scrutiny for similar crimes that the United States Department of Justices have prosecuted others for. Newsome reporting concerns of Judge Skinner's criminal/civil wrongs as early as June 24, 2009, regarding the Detention Center to President Obama and United States Attorney General Eric Holder. See **EXHIBIT "115"** – Excerpt and Proof of Mailing attached hereto and incorporated by reference. Nevertheless, has allowed Judge Skinner to remain free to ***continue the commission of other crimes*** and it is *unlikely* that ***he will depart from such path of criminality***. *U.S. v. Jimenez Recio,* 123 S.Ct. 819 (2003). Newsome believes that a reasonable mind may conclude that PUBLIC Officials failure to act on her Complaint filed with the ***Mississippi Commission Of Judicial Performance*** as well as the United States Department of Justice's failure to act on Newsome's 2006, *"Complaint and Request for Investigation to the United States Department of Justice and Federal Bureau of Investigations Filed by Vogel D. Newsome"* may be a direct and proximate result of why other citizens have fallen victim to

[52] This information is PERTINENT and RELEVANT because it will support that while Newsome timely, properly and adequately prepared and filed the appropriate COMPLAINT(s) regarding Judge Skinner, Government Agencies/Officials to which Complaint(s) were filed, FAILED to perform duties owed the PUBLIC and, therefore, as a DIRECT and PROXIMATE result, Judge Skinner has ***been ENCOURAGED*** and gone on (it appears) to engage in criminal acts in which others have been prosecuted for by the United States Department of Justice – See **EXHIBITS "110"** and **"39"** attached hereto and incorporated by reference as if set forth in full herein:

> *U.S. v. Jimenez Recio,* 123 S.Ct. 819 (2003) - Essence of a conspiracy is an agreement to commit an unlawful act.
>
> Agreement to commit an unlawful act, which constitutes the essence of a conspiracy, *is a **distinct evil*** that may exist and be punished whether or not the substantive crime ensues. *Id.*
>
> Conspiracy ***poses a threat to the public*** over and above the threat of the commission of the relevant substantive crime, both because *the combination in crime **makes more likely** the commission **of other** crimes* and because it **decreases the probability** that *the individuals involved **will depart from their path of criminality***.

criminal acts of Judge Skinner. Moreover, that the Department Of Justice has allowed Judge Skinner to REPEATEDLY engage in criminal practices because of its LONGSTANDING hatred towards African-Americans and its LONGSTANDING hatred towards those African-Americans (i.e. as Malcolm X, Martin Luther King Jr., Medgar Evers, etc.) who seek to improve the way of life for their people (i.e. as evidenced by the recent attacks on Shirley Sherrod and the REPEAT attacks on Newsome). Moreover, LONGSTANDING attacks sanctioned by the United States Department of Justice to SILENCE citizens and to place them in fear for speaking out and exposing CORRUPTION in its agency (i.e. as Newsome) and the role it plays in CONSPIRACIES to deprive citizens of life, liberties and pursuit of happiness. Moreover, EQUAL protection of the laws; EQUAL privileges and immunities under the laws; and DUE PROCESS of laws secured under the Constitution.

IMPORTANT TO NOTE: It is the Judge Skinners and Judge Porteous' that fit the FBI profile and are needed to carry out hidden/masked animus against African-Americans and/or people of color that the FBI sees as STRONG Civil Rights Activists in pursuit of Justice for their people and/or for ALL. For example, the record evidence will support that the United States Department of Justice was timely, properly and adequately notified of Judge Porteous CORRUPT and criminal behavior by Newsome as early as September 17, 2004, through ***"Petitioner's Petition Seeking Intervention/Participation of the United States Department of Justice***." See **EXHIBIT "34"** attached hereto and incorporated by reference as if set forth in full herein. Furthermore, said negligence by said Government Agency may have been a DIRECT and PROXIMATE result of Judge Skinner feeling at liberty to engage in CONSPIRACIES leveled against Newsome and because of said failure, has resulted in other citizens at the Hinds County Youth Detention Center being injured/harmed – i.e. being reminded of such CRUELTY and punishment of those held at ***Guantánamo Bay***. Criminal abuses being leveled against prisoners there that were motivated by RACIAL biases, DISCRMINATION and PREJUDICES, etc. and ***torturing*** *and* ***oppressive*** *practices* as that MANDATED under the ***"The Willie Lynch Letter: The Making Of A Slave!"*** to get prisoners to succumb were used.[53]

[53] **"**The United States has filed a lawsuit alleging that conditions at the Erie County Holding Center, a pre-trial detention center in Buffalo, N.Y., and the Erie County Correctional Facility, a correctional facility in Alden, N.Y., routinely and systematically deprive inmates of constitutional rights. . .

. . . That letter documented evidence of numerous constitutional violations, including staff-on-inmate violence. . . inadequate medical and mental health care; and serious deficiencies in environmental health and safety." See **EXHIBITS "110"** and **"152"** respectively attached hereto and incorporated by reference as if set forth in full herein.

ii. Shirley Sherrod states, the ***"White House forced her out"*** from the United States Department of Agriculture ("USDA") over fabricated racial controversy. The White House prior to acting and subjecting Sherrod to such HARSH and MALICIOUS acts failed to investigate or allow her the opportunity to defend and/or explain what happened. Was just quick to act! President Obama most likely leaving the handling of Sherrod to the SUPREMACIST/RACIST who provides him with counseling/advice and are behind the criminal/civil wrongs leveled against Newsome. Newsome believes it was such SUPREMACIST/RACIST who may have RETALIATED against Sherrod because of the July 13, 2010 Email of Newsome.[54]

The President of the NAACP[55] (Benjamin Todd Jealous) "supported the resignation, saying the organization has zero-tolerance policy. Jealous stating, "According to her remarks, she mistreated a white farmer in need of assistance because of his race. . . We are appalled by her actions, just as we are with abuses of power against farmers of color and female famers," before he allowed Sherrod to provide and explanation. Comments from the President of the NAACP which organization has REPEATEDLY proven to be worthless and receives GOVERNMENT FUNDING and has had a great BREAK DOWN since the days of great Civil Rights Leaders as Martin Luther King, Jr. Moreover, is an organization that has a number of whites in key positions (i.e. Members of Board) and was QUICK to condone the acts of the USDA

While Agriculture Secretary Tom Vilsack, appears to be the person the White House has thrown out as the *sacrificial lamb*, and want it to appear

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[54] Like Newsome, it appears Sherrod *"has spent most of her life fighting injustice."* See **EXHIBIT "4."** Sherrod's father *"was shot to death by a white farmer in what ostensibly was a dispute over a few cows;"* however Sherrod *"believes her father's killing was more about a Southern black man speaking up to a white man than about who owned which animals. The all-white grand jury didn't bring charges against the shooter."* Information Newsome believes is of PUBLIC/WORLD interest because like Sherrod, her Great Grandfather was SHOT/MURDERED and land taken by a white man who was ANGRY and committed crimes/civil wrongs to take what was not his – i.e. as told in Newsome's Aunt's book *"NAOMI'S STORY: You Don't Have To Be Broken"* at **EXHIBIT "154"** excerpt attached hereto and incorporated by reference as if set forth in full herein. Information that is pertinent/relevant and of PUBLIC/WORLDWIDE interest because such SUPREMACIST/TERRORIST acts continue to date and the record evidence contained herein will support that Newsome has **REPEATEDLY** been a victim of injustices and racial bias/prejudices and discrimination in the handling of employment, landlord and tenant matters as well as legal/court actions. *Newsome believes just as Sabrina Smith (African-American tenant) who was murdered by her white landlord (George Dibble) – **EXHIBIT "129,"** that had Newsome fallen for the TRAP Plaintiff Stor-All, its counsel, Judge West, Judge Allen and others set for her on or about September 9/10, 2009, that she may have been SHOT/MURDERED and a cover-up executed for Newsome's death.* Nevertheless, Newsome moved forward and on or about September 24, 2009, filed the required FBI Criminal Complaint . See **EXHIBIT "30"** attached hereto. The record evidence will support that while Newsome has REPEATEDLY sought legal recourse through the appropriate JUDICIAL and Administrative processes, they were ALL met with unlawful/illegal injustices by CORRUPT Officials/Employees who are determined to COVER-UP criminal/civil wrongs of such SUPREMACIST/TERRORIST groups/cells.

[55] National Association for the Advancement of Colored People.

that Vilsack's taking responsibility is of his own doing, Newsome doubts this. Vilsack was also a recipient of Newsome's July 13, 2010 Email – See **EXHIBIT "25."**

Newsome believes this information is of PUBLIC/WORLDWIDE interest in that it further supports the SUPREMACIST/RACIST views of those who counsel/advise the President of the United States as well as the efforts of such groups to attack/DESTROY African-Americans and/or people of color who are seen as CIVIL RIGHTS **ACTIVISTS – i.e as Sherrod**, Newsome, Malcolm X, Martin Luther King Jr., Medgar Evers – and strive to see EQUALITY for all regardless of the color of their skin.

According to Sherrod, the USDA deputy undersecretary Cheryl Cook called her and said "the White House wanted her to resign." Calling her TWICE and asking her to "pull over on the side of the road and submit . . .resignation. . . on Blackberry," so that is what Sherrod did. EMPHASIS added – Because it is important for the PUBLIC/WORLD to see just how ***aggressive/hostile*** such SUPREMACIST/RACIST groups can be that are ***behind-the-scene*** ***RUNNING*** THE WHITE HOUSE! Clearly, it was obvious from the clip released on Sherrod, that such SUPREMACIST/TERRORIST groups/cells had member(s) attending meeting and was looking for the SLIGHTESS thing on Sherrod because they did not want her in that position and did NOT like what she stood for – justice and equality for ALL.

iii. In the Mississippi matter the Certiorari action that Newsome seeks to bring will also yield evidence of the United States Senators and/or United States House of Representatives being timely, properly and adequately notified of CONSPIRACY and/or PUBLIC Corruption leveled against Newsome.

iv. In the Kentucky matter the record evidence will support that Newsome filed the required Criminal Complaint entitled, ***Complaint and Request for Investigation Filed by Denise Newsome with the Federal Bureau of Investigation – Louisville, Kentucky*** on or about October 13, 2008. See **EXHIBIT "46"** (**BRIEF** Only) attached hereto and incorporated by reference as if set forth in full herein. Not only that, Newsome went a step further and reported said crimes to Governor of the Commonwealth of Kentucky (Steve Beshear) – See **EXHIBIT "47"** (**LETTER** Only) attached hereto and incorporated by reference as if set forth in full herein.

v. In the Kentucky matter the Certiorari action that Newsome seeks to bring will also yield evidence of the United States Senators and/or United States House of Representatives being timely, properly and adequately notified of CONSPIRACY and/or PUBLIC Corruption leveled against Newsome.

vi. Newsome believes the record evidence supports that Certiorari will be granted. In this instant ***EMTS & MFEOTWOC*** in furtherance of the NUMEROUS Conspiracies that have been leveled against Newsome, ALL have been done with WILLFUL and MALICIOUS intent to deprive her rights guaranteed by the Fourteenth Amendment which have been consummated by the OVERT acts of Conspirators/Co-Conspirators. The record evidence will support the unlawful/illegal KIDNAPPING of Newsome (i.e. while some may want to use the term "false arrest," when there is no legal justification for said action, then a reasonable person may conclude it is a KIDNAPPING) and the unlawful/illegal detention of her until her parents paid the RANSOM (i.e. criminal act in which the County attempted to masked/shield as a bond) for the return of their daughter.[56]

Said Conspiracy and KIDNAPPING may have been carried out under the instructions, direction and leadership of Judge Skinner. Constable

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[56] ***PICKING v. PENNSYLVANIA R. CO.*, 5 F.R.D. 76 (1946):** This is a suit by Ida M. Picking and Guy W. Picking in which they claim damages totaling $1,120,050, which damages they contend were sustained by them *as the result of a conspiracy entered into by and between the defendants to deprive the plaintiffs of rights guaranteed to them by the Fourteenth Amendment consummated by the overt acts of the individual defendants and the corporate defendant, and a conspiracy entered into by and between the defendants to subject the plaintiffs to false arrest and false imprisonment consummated by the overt acts of the individual defendants and the corporate defendant.*

[n.1] That two persons pursue by their acts the same object often by the same means, *one performing one part of the act and the other another part, so as to complete it with a view to the attaining of the object they are pursuing, is sufficient to constitute a "conspiracy" regardless of whether each conspirator knew of the details of the conspiracy or of the exact part to be performed by the other conspirators, or whether the details were completely worked out in advance.*

[n.2] Allegation that overt acts in pursuance of conspiracy were done by certain of the conspirators, without alleging that every one of the conspirators committed an overt act, is sufficient, *provided it is alleged that the conspirators not committing the acts either assisted therein or had knowledge thereof.*

[n.3] Complaint in civil conspiracy case is sufficiently specific if it alleges that defendants conspired to do an unlawful act, facts as to acts performed by each defendant in **furtherance of conspiracy**, *which acts were **not** privileged or **compelled** by law*, facts as to overt acts in pursuance of conspiracy done by certain of alleged conspirators, and facts from which *court can see the damage which would naturally result from the acts stated, and the evidence relied upon to prove such facts need not be stated.*

[n.4] . . . *company being sued for damages for allegedly participating in conspiracy to deprive plaintiffs of rights guaranteed by Fourteenth Amendment and subject them to **false** arrest and imprisonment*, was entitled to more specific statement as to the manner in which company *adopted by materially or physically participating in or instigated the alleged unlawful acts and as to the capacity or position of its agents taking such action.*

[n.5] **Governor, being sued for damages** *for alleged participation in conspiracy to deprive plaintiffs of rights guaranteed by Fourteenth Amendment and subject them to false arrest, and imprisonment was entitled to more specific statement concerning acts constituting the active part in conspiracy allegedly taken by Governor beyond the allegedly improper issuance of Governor's warrant and the acts through which he allegedly adopted such unlawful acts.*

[n.6] In action for *damages for conspiracy to deprive plaintiffs of rights guaranteed by Fourteenth Amendment and subject them to false arrest and imprisonment*, defendants were entitled to have certified copy of extradition warrant issued for one of the plaintiffs and return thereon attached to amended complaint. U.S.C.A.Const. Amend. 14.

Lewis handled the KIDNAPPING. In this matter Plaintiff Stor-All's insurance provider (Liberty Mutual) has been identified from research to be a client of opposing counsel's (Clark Monroe) law firm (DunbarMonroe). See **EXHIBIT "48"** attached hereto and incorporated by reference as if set forth in full herein. Furthermore, the CRIMINAL STALKING of Liberty Mutual and its counsel is evidenced by a statement made through pleading in Mississippi action stating, ***"stalking by litigation"*** – i.e. efforts to shift such criminal acts to Newsome with NO proof to sustain such a statement. Nevertheless, providing additional information (i.e. sources relied upon) needed by Newsome to sustain how LIBERTY MUTUAL and its attorneys/counsel were using to find/locate her – i.e. through "***stalking by litigation***."[57] In the Conspiracies leveled against Newsome each Conspirator and/or Co-Conspirator carries out a certain function/act in the conspiracy while the other completes their part with the object of the conspiracy in sight. It matters not whether each of the Conspirators/Co-Conspirators know (a) the exact details of the conspiracy, (b) the exact part to be carried out by others involved in conspiracy, or (c) whether the exact details were worked out in advance. Conspiracy was carried out for purposes of unlawfully/illegally seizing Newsome's residence and property (i.e. in violation of the Fourth Amendment and Fourteenth Amendment to United States Constitution) and for further criminal/civil wrongs known to Conspirators/Co-Conspirators.

Conspirators/Co-Conspirators attempted to subject Newsome to similar crimes in Kentucky; however, Newsome did not bite. ***Judge Ann Ruttle knew she LACKED jurisdiction to execute Warrant as well as opposing counsel's knowledge of jurisdiction lacking to act.*** The record evidence will support the unlawful/illegal seizure of Newsome's residence and property. Acts carried out against Newsome being in violation of the Fourth Amendment and Fourteenth Amendment of the United States Constitution. In the Kentucky matter Newsome having a legal/lawful INJUNCTION and RESTRAINING Order issued by the Court prohibiting the criminal/civil wrongs leveled against her. See **EXHIBIT "49"** attached hereto and incorporated by reference. Not only that on the back of the "***Warrant of Possession***" Public Official noted the contents of POSTED NOTICE of Newsome's door which read:

> ***IMPORTANT NOTICE:*** *The Circuit Court has ORDERED Injunction and Restraining Order against owners, GMM Properties from taking any type of eviction (Removal or Obtaining Premises) action against this tenant*

[57] See also No. __ of this instant pleading.

See **EXHIBIT "50"** attached hereto and incorporated by reference as if set forth in full herein. Nevertheless, like the CAREER CRIMINAL they are, these Conspirators/Co-Conspirators KNOWINGLY, WILLINGLY and DELIBERATELY proceeded to violate Newsome's Constitutional Rights.

> **IMPORTANT TO NOTE:** In efforts of covering up the CRIMINAL wrongs, Deputy ***falsified*** the "EXECUTION" of the "***Warrant of Possession***" in this action. It also appears that Clerk of Court **TAMPERED** with date *Warrant of Possession* was **Entered** – i.e. to conceal this information. Furthermore, FAILING to serve Newsome with *Warrant of Possession* **prior** to its criminal/civil violations on October 8, 2008.

The record evidence will support that Newsome on or about October 13, 2008, not only filed a Criminal Complaint with the FBI – see **EXHIBIT "46"** - *Complaint and Request for Investigation Filed by Denise Newsome with the Federal Bureau of Investigation – Louisville, Kentucky* (**BRIEF** Only) attached hereto and incorporated by reference as if set forth in full herein – but on or about November 8, 2008, notified Governor of the Commonwealth of Kentucky (Steve Beshear) of criminal/civil wrongs rendered her. See **EXHIBIT "47"** (LETTER Only) attached hereto and incorporated by reference as if set forth in full herein.

The record evidence will support a NEXUS with the Kentucky Conspiracy and other Conspiracies leveled against Newsome.

vii. In the Kentucky matter, the record evidence will further support that based upon the Injunction and Restraining Order executed by the court in said matter, Newsome was NOT delinquent in her obligations and the court in said action received October 2008, rental payment as well as opposing counsel receipt of verification of payment made. See **EXHIBIT "119"** attached hereto and incorporated by reference as if set forth in full herein.

viii. The record evidence will support efforts taken by the Ohio Supreme Court to keep out of the record her filing entitled, *"Relator's Motion To File Motion For Reconsideration Out Of Time and Notice of Ohio Supreme Court's Obstruction of Justice - Impeding Relator's Timely Receipt of 12/02/09 Entry."* Upon review of the Ohio Supreme Court's record, it will not support Newsome's submittal; however, as evidenced by Newsome's STAMPED "Received" copy, the Ohio Supreme Court was timely, properly and adequately notified by

Newsome of unlawful/illegal acts. See **EXHIBIT "133"** attached hereto and incorporated by reference as if set forth in full herein. President Obama and United States Attorney General Eric Holder were provided with copies of said pleading as well. See **EXHIBIT "143"** attached hereto and incorporated by reference as if set forth in full herein. Nevertheless, Justices and/or court officials elected to engage in similar crimes in which Judge Bobby DeLaughter was INDICTED on. See **EXHIBIT "11"** attached hereto and incorporated by reference as if set forth in full herein.

ix. In the Ohio matter the record evidence will support that Newsome filed the required Criminal Complaints on or about September 24, 2009 entitled, ***Criminal Complaint and Request for Investigation Filed by Vogel Denise Newsome With The Federal Bureau of Investigation – Cincinnati, Ohio*** and on or about December 28, 2009 entitled, ***Criminal Complaint and Request for Investigation with the Federal Bureau of Investigation and Request for United States Presidential Executive Order(s)***. See **EXHIBITS "30"** and **"16"** respectively attached hereto and incorporated by reference as if set forth in full herein.

> **IMPORTANT TO NOTE:** Newsome believes that a reasonable mind may conclude that United States President Barack Obama's, United States Attorney General Eric Holder's and United States Department of Labor Secretary Hilda Solis' failure to act on May 21, 2009 Complaint filed entitled, ***Reporting of Racial and Discrimination Practices Complaint: Requests for Status; Request for Creation of Committees/Court, Investigations and Findings – Constitutional, Civil Rights Violations and Discrimination; and Demand/Relief Requested*** may be a DIRECT and PROXIMATE result to further CONSPIRACIES and Public Officials engagement in fulfilling said role in conspiracies resulting in the crimes/civil wrongs carried out against Newsome on/or about September 9/10, 2009, as well as those by the Ohio Supreme Court Justices reported in the Criminal Complaints Newsome filed with the United States Department of Justice on or about September 24, 2009, and December 28, 2009.

x. The record evidence will support that there is sufficient information in PUBLIC RECORDS to sustain that there is no excuse for failure of those in a position to deter and punish those who have committed such crimes against Newsome. In fact, it is of PUBLIC record that States (Louisiana, Mississippi, Kentucky and Ohio) involved, are in the TOP

FIVE (5) as the "Most Corrupt States." See **EXHIBIT "120"** attached hereto and incorporated by reference as if set forth in full herein. There are reasons why Louisiana, Mississippi, Kentucky and Ohio are in the TOP FIVE for the most corrupt states – i.e. as a DIRECT and PROXIMATE result of such public corruption, Newsome as well as other citizens have become victims of CORRUPT Politicians and Government Officials/Employees.

xi. *The record evidence will support that African-Americans are far too often made VICTIMS of racial bias and injustices by LANDLORDS, their attorneys and others who place themselves above the law*. For instance, a Landlord ("white") in or about December 2008 shot and killed an African-American tenant over rent. See **EXHIBIT "129"** attached hereto and incorporated by reference as if set forth in full herein. Based upon such facts, Newsome believes that based upon the February 14, 2006, criminal actions taken against her by white landlord in Mississippi, the October 8, 2008, criminal actions taken against her by white landlord in Kentucky, and September 9/10, 2009 criminal acts taken white landlords in Ohio, *that she had just and reasonable belief to conclude that had she showed up on the property of Plaintiff Stor-All on or about September 9/10, 2009, Plaintiff Stor-All, its counsel and PUBLIC Officials* ***may have SHOT and KILLED her and then would move to COVER-UP the crime****. Furthermore, Newsome knew it was a set up and that by law, she was not to appear and there was no legal authority which granted jurisdiction to the lower court (i.e. Hamilton County Municipal Court) to grant any such actions.*

V. UNFIT FOR OFFICE

Newsome believes that based upon the EXCEPTIONAL and EXTREME circumstances involved in this lawsuit - - along with the facts, evidence and legal conclusion to support the role that Judge West and other Conspirators/Co-Conspirators played in the Private CONSPIRACIES leveled against Newsome as well as attempts to COVER-UP said crimes by Judge West and the likes of President Obama and his Administration to engage in said

conspiracies for purposes of protecting their PERSONAL/FINANCIAL interests in said conspiracies and the PERSONAL/FINANCIAL interests of Top/Key supporters and/or advisors - - *further supports that engagement in PUBLIC CORRUPTION and Private CONSPIRACIES goes to the fitness whether or not Public Officers/Government Officials are fit to perform duties in an unbias, fair, impartial and just manner as expected by citizens.* If not, as Teddy Roosevelt stated, "***Unless a man is honest we have no right to keep him in public life, it matters not how brilliant his capacity***, it hardly matters how great his power of doing good service on certain lines may be... ***No man who is corrupt, no man who condones corruption in others, can possibly do his duty by the community.***" Therefore, Judge West, President Obama as well as other Judges/Justices and/or Public/Government Officials ***who engage in CONSPIRACIES and the COVER-UP of*** Public ***CORRUPTION have NO place in PUBLIC Life; let alone, in PUBLIC Office***. Furthermore, those who are members of the Bar (i.e. attorneys licensed to practice before the Courts) that engage in CONSPIRACIES and Public CORRUPTION should **NOT** be allowed to continue to practice in that their criminal conduct clearly ***ERODES*** *the Public's confidence in the judicial process* as well as *Government Agencies and proceedings before Government tribunals.* **In further support, Newsome states:**

29) She believes that the record evidence, facts and legal conclusions sustained herein will support that Judge West's and/or Judges'/Justices' engagement in criminal conduct goes to relevancy as to whether he is fit for office to perform duties expected in a fair, impartial and just manner.

> *Ocala Star-Banner Co. v. Damron*, 91 S.Ct. 628 (1971) - Charge of criminal conduct against public official or candidate for public office, no matter how remote in time or place, is <u>always</u> **relevant** to his fitness for office. . .
>
> *Gandia v. Pettingill*, 32 S.Ct. 127 (1912) - **<u>Anything</u>** *bearing upon the acts of a public officer connected with his office is a legitimate subject of statement and comment*, at least in the absence of express malice.

30) She believes that the Affidavit of Disqualification filed against Judge West in this lawsuit will support the facts, evidence and legal conclusions provided, supports Judge West's inability to remain impartial in deciding matters before the lower court. Furthermore, that a reasonable person being informed of **<u>all</u>** the surrounding facts and circumstances would expect Judge West to recuse and/or disqualify himself in proceeding any further in the case.

> *Cheney v. U.S. Dist. Court for Dist. of Columbia*, 124 S.Ct. 1391 (2004) - The recusal inquiry for a judge based upon perceived lack of impartiality must be made from the perspective of a reasonable observer who is informed of all the surrounding facts and circumstances . (Per Justice Scalia, as single Justice).
>
> *Sao Paulo State of Federative Republic of Brazil v. American Tobacco Co., Inc.*, 122 S.Ct. 1290 (2002) - Statute requires judicial recusal if a reasonable person, knowing all the circumstances, would expect that the judge would have actual knowledge of his interest or bias in the case.
>
> *Aetna Life Ins. Co. v. Lavoie*, 106 S.Ct. 1580 (1986) - Only in most extreme cases of bias or prejudice is disqualification of judge constitutionally required.

31) While Judge West may be immune from any ***<u>civil</u>*** action Newsome may bring for monetary relief he is NOT immune from CRIMINAL prosecution. Therefore, Judge West is a ***VIABLE*** *party* in the *Criminal Complaint and Request for Investigation Filed by Vogel Denise Newsome With The Federal Bureau of Investigation – Cincinnati, Ohio* ***September 24, 2009***. Furthermore, Plaintiff Stor-All, its representatives, its counsel (Meranus, Lively, Vance, Healy, Decker, etc.), its insurance provider (Liberty Mutual) are **<u>NOT</u>** immune and have opened themselves up for *LIABILITY* for the injury/harm sustained by Newsome. Furthermore, because Judge Nadine L. Allen NEVER retained jurisdiction, she to is now *LIABLE* for injuries sustained by Newsome and **<u>NOT</u>** immune from criminal or civil prosecution. (See ***DENNIS V. SPARKS*, 449 U.S. 24, 101 S.CT. 183[58]).**

[58] The United States Supreme Court, Justice White, held that: (1) fact that the action was properly dismissed as to the immune state court judge did not require dismissal of the action against the remaining private parties accused of conspiring with the judge, and (2) allegations that an official act of the state court judge was the product of a corrupt conspiracy involving bribery of the judge were sufficient to assert action under color of state law on the part of the private parties. . . .

Held: The action against the private parties accused of conspiring with the judge is not subject to dismissal. *Private persons, jointly engaged with state officials in a challenged action, are acting "under color" of law for purposes of § 1983 actions. And the judge's immunity from damages liability for an official act that was allegedly the product of a corrupt conspiracy involving bribery of the judge* ***does not*** *change the character of his action or that of his co-conspirators.* Historically at common law, *judicial**185 immunity* ***does not*** *insulate from damages liability* ***those private persons*** *who* ***corruptly conspire*** *with a judge.* **Nor has the doctrine of judicial immunity** been considered historically *as* ***excusing*** *a judge from responding as a witness* **when his coconspirators are sued**, even though a charge of conspiracy and judicial corruption will be aired and decided. *Gravel v. United States,* 408 U.S. 606, 92 S.Ct. 2614, 33 L.Ed.2d 583 distinguished. The potential harm **to the public** from denying immunity to co-conspirators if the factfinder mistakenly upholds a charge of a corrupt conspiracy is out-weighed by the benefits of providing a remedy *25 against *those private persons* ***who participate in subverting the judicial process*** *and in so doing* ***inflict injury on other persons***. Pp. 186-188. . .

Title 42 U.S.C. § 1983 provides:

> "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person with-in the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

[1] **CIVIL RIGHTS/CONSPIRACY:** Fact that the state court judge who issued the challenged injunction had been dismissed from the civil rights action on grounds of immunity did not preclude maintenance of the action against the private parties who were accused to have conspired with the judge to obtain the injunction in violation of the plaintiff's civil rights. 42 U.S.C.A. § 1983.

> [1] Based on the doctrine expressed in *Bradley v. Fisher,* 13 Wall. 335, 20 L.Ed. 646 (1872), this Court has consistently adhered to the rule that "judges defending against § 1983 actions enjoy absolute immunity from dam-ages liability for acts performed in their judicial capacities. *Pierson v. Ray,* 386 U.S. 547 [87 S.Ct. 1213, 18 L.Ed.2d 288] (1967); *Stump v. Sparkman,* 435 U.S. 349 [98 S.Ct. 1099, 55 L.Ed.2d 331] (1978)." *Supreme Court of Virginia v. Consumers Union,* 446 U.S. 719, 734-735, 100 S.Ct. 1967, 1976, 64 L.Ed.2d 641 (1980). The courts below concluded that the judicial immunity doctrine required dismissal of the § 1983 action against the judge who issued the challenged injunction, and as the case comes to us, the judge has been properly dis-missed from the suit on the immunity grounds. It does not follow, however, that the action against the private parties accused of conspiring with the judge must also be dismissed.

[2] **CIVIL RIGHTS:** "To act under color of state law" for purposes of civil rights statute does not require that the defendant be an officer of the state; it is enough that he is a willful participant in joint action with the state or its agents; private persons, jointly engaged with state officials in the challenged action, are acting under color of law for purposes of the civil rights statute. 42 U.S.C.A. § 1983.

[3] **CIVIL RIGHTS/CONSPIRACY:** Allegation that an official act of a state court judge was the product of a corrupt conspiracy involving bribery of the judge was sufficient to assert that the private parties who conspired with the judge were acting under color of state law for purposes of the civil rights statute. 42 U.S.C.A. § 1983.

[4] **JUDGES:** State judge may be found criminally liable for violation of civil rights even though the judge may be immune from damages under the civil statute. 18 U.S.C.A. § 242; 42 U.S.C.A. § 1983.

> **[2][3][4]** *As the Court of Appeals correctly understood our cases to hold, to act "under color of" state law for § 1983 purposes* ***does not*** *require that the defendant be an officer of the State.* ***It is enough*** *that he is a* ***willful*** *participant* ***in joint action with the State or its agents***. Private persons, jointly engaged *28 with state officials in the challenged action, are acting see "under color" of law for purposes of § 1983 actions. *Adickes v. S. H. Kress & Co.,* 398 U.S. 144, 152, 90 S.Ct. 1598, 1605, 26

L.Ed.2d 142 (1970); *United States v. Price*, 383 U.S. 787, 794, 86 S.Ct. 1152, 1156, 16 L.Ed.2d 267 (1966).[FN4] Of course, merely resorting to the courts and being on the winning side of a lawsuit does not make a party a co-conspirator or a joint actor with the judge. But here the allegations were ***that an official act*** of the defendant judge ***was the product of a corrupt conspiracy involving bribery of the judge***. *Under these allegations, the private parties* ***conspiring*** *with the judge* ***were acting under color of state law****; and it is of no consequence in this respect that the judge himself is immune from damages liability*. Immunity **does not** *change the character of* **187 *the judge's action or that of his co-conspirators.*[FN5] Indeed, his *29 immunity is dependent on the challenged conduct being an official judicial act within his statutory jurisdiction, broadly construed. *Stump v. Sparkman*, 435 U.S. 349, 356, 98 S.Ct. 1099, 1104, 55 L.Ed.2d 331 (1978); *Bradley v. Fisher*, supra, at 352, 357. Private parties who corruptly conspire with a judge in connection with such conduct are thus acting under color of state law within the meaning of § 1983 as it has been construed in our prior cases. *The complaint in this case was not defective for failure to allege that the private defendants were acting under color of state law, and the Court of Appeals was correct in rejecting its prior case authority to the contrary.*

> **FN4.** In this respect, our holding in *Adickes v. S. H. Kress & Co.* was as follows:
>
> > "*The* ***involvement of a state official in*** *such a* ***conspiracy*** *plainly provides the state action essential to show a* ***direct violation*** *of* ***petitioner's Fourteenth Amendment equal protection rights****, whether or not the actions of the police were officially authorized, or unlawful*; *Monroe v. Pape,* 365 U.S. 167 [81 S.Ct. 473, 5 L.Ed.2d 492] (1961); see *United States v. Classic,* 313 U.S. 299, 326 [61 S.Ct. 1031, 1043, 85 L.Ed. 1368] (1941); *Screws v. United States,* 325 U.S. 91, 107-111 [65 S.Ct. 1031, 1038-1040, 89 L.Ed.2d 1495] (1945); *Williams v. United States,* 341 U.S. 97, 99-100 [71 S.Ct. 576, 578, 95 L.Ed. 774] (1951). Moreover, a private party involved in such a conspiracy, even though not an official of the State, can be liable under § 1983. 'Private persons, jointly engaged with state officials in the prohibited action, are acting "under color" of law for purposes of the statute. To act "under color" of law does not require that the accused be an officer of the State. It is enough that he is a willful participant in joint activity with the State or its agents,' *United States v. Price*, 383 U.S. 787, 794 [86 S.Ct. 1152, 1156, 16 L.Ed.2d 267] (1966)." 398 U.S., at 152, 90 S.Ct., at 1605 (Footnote omitted.)
>
> **FN5.** Title 18 U.S.C. § 242, the criminal analog of § 1983, also contains a color-of-state-law requirement and we have interpreted the color-of-state-law requirement in these sections coextensively. *Adickes v. S. H. Kress & Co.*, supra, at 152, n.7, 90 S.Ct., at 1605 n.7. **A *state judge* can be found criminally liable under § 242 although that judge may be immune from damages under § 1983.** See *Imbler v. Pachtman*, 424 U.S. 409, 429, 96 S.Ct. 984, 994, 47 L.Ed.2d 128 (1976); *O'Shea v. Littleton*, 414 U.S. 488, 503, 94 S.Ct. 669, 679, 38 L.Ed.2d 674 (1974). *In either case, the judge has acted under color of state law.. . .*

Thus, in *Owen v. City of Independence, supra,* a ***municipality's claim*** *that it could assert the immunity of its officers and agents in a § 1983 damages action* ***was rejected*** *since there was* ***no basis*** *for such a right at common law*. Here, petitioner has pointed to nothing indicating that, historically, judicial

32) She believes that a reasonable mind may conclude that based upon the INDICTMENT and Jury finding that Judge West's Bailiff (Damon Ridley) was "GUILTY" of Attempted Bribery; and based upon the facts of the surrounding circumstances and Judge West's engagement in Private CONSPIRACY and attempts to COVER-UP Public CORRUPTION, that he too may have benefitted from bribes and is attempting to throw this lawsuit for purposes of benefitting from bribes as well as providing Plaintiff Stor-All, its counsel, its attorneys and other Conspirators/Co-Conspirators with an undue and unlawful/illegal advantage in this lawsuit.[59]

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immunity insulated from damages liability those private persons who corruptly conspire with the judge.[FN6]

> **FN6.** Insofar as the immunity issue is concerned, it is interesting to note that *petitioner observes that he **would not** be immune in the . . .courts, even if the judge is*. . .

Of course, testifying takes time and energy that otherwise might be devoted to judicial duties; and, if cases such as this *31 survive initial challenge and go to trial, the judge's integrity and that of the judicial process may be at stake in such cases. *But judicial immunity **was not** designed to insulate the judiciary from **all** aspects of **public accountability***. Judges are immune from § 1983 damages actions, ***but they are subject to criminal prosecutions*** as are other citizens. *O'Shea v. Littleton,* 414 U.S. 488, 503, 94 S.Ct. 669, 679, 38 L.Ed.2d 674 (1974). *Neither are we aware of any rule generally exempting a judge from the normal obligation to respond as a witness when he has information material to a criminal or civil proceeding.*[FN7] Cf. *United States v. Nixon, 418 U.S.* 683, 705-707, 94 S.Ct. 3090, 3106-07, 41 L.Ed.2d 1039 (1974).

[59] CUT & PASTED 09/18/10 from: http://exposecorruptcourts.blogspot.com/2009/01/new-year-new-court-corruption-exposed.html

Bribery probe snares bailiff
Defendants allegedly could buy secret friend in courtroom
The Cincinnati EnquirerBy Kimball Perry -January 2, 2009 - kperry@enquirer.com

Hoping to crack a federal drug case, investigators were listening in on telephone calls when they stumbled across a conversation that is sending shock waves through Hamilton County's judicial system. On that wiretap, federal officials heard what they believe was an attempt by convicted drug dealer Charles Johnson to buy his freedom by arranging a meeting with a court bailiff he hoped would fix his sentence. That alleged incident is the centerpiece of a criminal investigation into Damon Ridley, who was the bailiff for Hamilton County Common Pleas Judge John "Skip" West until Ridley was confronted with the allegations and resigned. Johnson's case has investigators poring over thousands of court documents involving criminal cases before West over the last five years. They are looking at why some cases presided over by West never had their sentences carried out and why other cases before him had no activity for years.

The issue is whether Ridley, 37, . . . accepted money or favors in exchange for fixing sentences handed down by West or delaying them so long that thousands of dollars in fines and court fees were never paid. Bailiffs run the day-to-day operations of courtrooms and schedule when cases are heard. . . Johnson pleaded guilty March 25 before West to reduced charges that still could have sent him to prison for 5½ years. Instead, West sentenced Johnson to probation and to serve up to six months in the River City Correctional Center, a drug-rehabilitation center run by Hamilton County judges. Investigators asked Ridley on Oct. 29 about the allegation. He resigned the next day. ***"I can tell you (Ridley) has told us numerous stories,"*** Deters said.

. . . "I haven't done anything wrong," Ridley said, **denying he ever took money or favors** for altering sentences. Ridley confirms he was questioned by investigators who asked him if he took money to alter West's sentences . . . **Ridley resigned after being questioned**, he said, **to lessen any impact on the judge**. "I have a lot of respect for Judge West and I wasn't going to bring anything (negative) to him," Ridley said. . . . . If the allegations are proved, Ridley's actions ***could be disastrous*** to the Hamilton County court system as the public - and criminals - may infer the judicial system was

U. S. v. Brewster, 92 S.Ct. 2531 (1972) - *In **bribery** prosecution*, the Government **need not** show *that defendant fulfilled the illegal bargain*, and *it does not matter if he defaults, since **acceptance** of the bribe is the **violation of the statute***, not *performance of the illegal promise*. 18 U.S.C.A. §§ 2, 201(b), (c) (1), (g).

Scheidler v. National Organization for Women, Inc., 123 S.Ct. 1057 (2003) - Crime of "coercion" is separate from extortion and involves the use of force or threat of force to restrict another's freedom of action.

33) She believes that the INDICTMENT and GUILTY verdict by the Jury regarding Damon Ridley (Judge West's former Bailiff) and the longtime and close relationship of Ridley and Judge West shed's additional light on Judge West's fitness for office.

IMPORTANT TO NOTE: *In approximately a **ONE**-Year period there have been at least three actions brought against Judges* [i.e. this instant lawsuit's Judge West – Bailiff incident and Newsome's filing of Criminal Complaint, in a Mississippi matter Judge DeLaugther, and in a Louisiana matter – Judge G. Thomas Porteous is engaged in IMPEACHMENT hearings and is a Judge in which Newsome has filed Complaint against] *and/or their aids involved in legal actions/lawsuits in which Newsome is a party.* This is information that is PERTINENT and RELEVENT in that

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undermined by one person's greed. "***When you've got someone putting their thumb on the scales of justice***, it's a very serious offense," University of Cincinnati law professor Christo Lassiter said. "***You lose faith in government and there is a very serious threat to the judicial branch.***

"The whole idea is to **have a neutral** arbiter. Why do that **if there is a judge whose decisions are being bought by a bailiff**? We may as well not have a judicial system." Deters is **unsure of what role**, if any, **the judge has in the delay of cases**, but he doesn't believe West is involved in wrongdoing. "**Wherever this leads, we will go**," Deters said, "**but it would shock me to my core if the judge was involved. The judge is cooperating with us**." . . .

. . . West insisted he knew nothing about why those cases were dormant and noted there were no legal documents - especially none signed by him - that allowed the cases to be continued or set for another court date. Lawyers representing those three defendants admit they have been questioned by investigators about why the cases were dormant for years. Two of those lawyers - Kevin BoBo and Gloria Smith - said the investigators asked them if they had ever given Ridley money or loaned him money to continue the case. Each denied giving or lending Ridley money and denied any wrongdoing. **But Ridley did borrow money from some lawyers**, Deters said. "**Some defense attorneys called us and said they loaned him money**," Deters said.

. . . Prosecutors became so frustrated **with the slow pace of justice** *in West's courtroom* that one, Katherine Pridemore, **filed a legal motion requiring her to be contacted on a specific case that had been continued** - *without her knowledge or agreement - dozens of times*. . . . The investigation has taken an emotional toll on West. **West was *close* personally to Ridley, treating him like family**. West and his family vacationed with Ridley and socialized with him. In West's courthouse chambers, there is a studio portrait of West, Ridley and another of West's court workers. Ridley worked for the Hamilton County Clerk of Courts office from April 16, 1997, until Nov. 15, 2002, when he began working as West's bailiff. Ridley's annual salary when he resigned after being confronted by investigators was $43,957. Deters predicted the investigators' audit of West's files would be complete within "two to three weeks."

goes to the fitness of Judge West for the Public Office he holds.

> *Ocala Star-Banner Co. v. Damron,* 91 S.Ct. 628 (1971) - ***Charge of criminal conduct** against **public official*** or candidate for public office, *no matter how remote in time or place, is **always** relevant to his fitness for office. . .*
>
> *Gandia v. Pettingill,* 32 S.Ct. 127 (1912) - ***Anything** bearing upon the acts of a public officer connected with his office **is a legitimate subject** of statement and comment*, at least in the absence of express malice.

VI. FINDING OF FACT/CONCLUSION OF LAW[60]

[60] *U.S. v. Pugh,* 99 U.S. 265 (1878) - Where the rights of the parties depend on the ultimate circumstantial facts alone, and there is doubt as to the legal effect of them, *the court **must** frame its findings so that the question as to such effect shall be presented by the record.*

Union Consolidated Silver Mining Co. v. Taylor, 100 U.S. 37 (1879) - Special findings of facts by the court **in action tried by the court** are required **only** *to ascertain only the ultimate facts* and not matters of evidence.

Barringer v. Forsyth County Wake Forest University Baptist Medical Center, 677 S.E.2d 465 (2009) - *Findings of fact and conclusions of law **are necessary*** on decisions of any motion or order ex mero motu only *when **requested** by a party*, and **failure to make findings upon request constitutes error**.

Cooper v. Cochran, 288 S.W.3d 522 (2009) - *A party **asserting an affirmative defense** in a trial before the court **must** request findings in support of the defense **to avoid waiver**.*

Bunten v. Bunten, 710 N.E.2d 757 (Ohio.App.3.Dist, 1998) - *Judgment entry may be general; where findings of fact and conclusions of law **were not** specifically requested by party*, regularity of proceedings at trial level will be presumed. Rules Civ.Proc., Rule 52.

Evans v. Dayton Newspapers, Inc., 566 N.E.2d 704 (Ohio.App.2.Dist.,1989) - *Trial court's **obligation** to state findings of fact and conclusions of law **is triggered by party's request**.* Rules Civ.Proc., Rule 52.

Rust v. Reeher, 198 N.E.2d 783 (Ohio.App.7.Dist.,1963) - *In **absence** of timely request* for findings of fact and conclusions of law, plaintiffs *were in no position* to complain that conclusions were not detailed.

General Motors Co. v. Swan Carburetor Co., 44 F.2d 24 (C.A.6.Ohio,1930) - *Party **desiring** findings on any specific questions of fact **should present such questions** to trial court.*

Scovanner v. Toelke, 163 N.E. 493 (Ohio,1928) - *Application of proper rules **will be presumed** on review, where case was heard without jury and **no request** was made for separate findings of fact and law.*

Davies v. Angelo, 96 P. 909 (1908) - *It is the **duty of** the court to find on **all** material issues, **regardless** of any request of the parties.*

Houston v. Crider, 2010 WL 2831094 (2010) - *In **the absence** of a request for such*, a trial court does not err in failing to make findings of fact or conclusions of law.

Newsome believes that the record evidence in the lower courts will support efforts taken by Judges/Justices in the Ohio Supreme Court as well as Hamilton County Court of Common Pleas efforts to render Newsome a miscarriage of justices as well as deprive her EQUAL protection of the laws, EQUAL privileges and immunities of the law and DUE PROCESS of laws secured under the Constitution and/or laws of the United States. Furthermore, Newsome believes that the record evidence of other Government Agencies [i.e. United States Office of the President, United States Department of Justice, United States Department of Labor, United States Senate, United States House of Representatives, etc.] may be engaging in the Private CONSPIRACIES leveled against Newsome and attempting to cover-up PUBLIC CORRUPTION leveled against Newsome and other citizens of the United States.

Newsome believes that based upon the EXTREME and EXCEPTIONAL circumstances that exist in this instant lawsuit and the fact that the lawsuit in the lower court out of which this action is birthed, was brought in FURTHERANCE of Conspiracies leveled against her and may hinge on each of its own INDIVIDUAL overt acts and criminal/civil wrongs leveled against Newsome; therefore, supporting the United States Supreme Court's INTERVENTION and exercise of Original jurisdiction and/or jurisdiction over this matter and the issues raised herein and to be addressed in Certiorari action.

In the lawsuit out of which this Appeal arises the record evidence will support the following OUTSTANDING Motions and approximately how long they have been pending before the Hamilton County Court of Common Pleas:

7/12/2010	DEFENDANTS MOTION FOR LEAVE TO FILE OUT OF TIME MOTION FOR FINDINGS OF FACT REGARDING JUNE 7 2010 ORDER LIFTING STAY ENTERED APRIL 08 2009 AND ORDER DENYING DEFENDANTS MOTION FOR DEFAULT JUDGMENT
5/11/2009	DEFENDANT'S REBUTTAL/OPPOSITION TO PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S APRIL 24, 2009 REQUEST/MOTION FOR FINDINGS OF FACT AND TO VACATE APRIL

	17, 2009 ORDER; MOTION FOR RULE 11 SANCTIONS
5/11/2009	DEFENDANT'S REBUTTAL/OPPOSITION TO PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MAY 5, 2009, REQUEST/MOTION FOR FINDINGS OF FACT AND TO VACATE APRIL 29, ORDER GRANTING BIFURCATION AND REMAND, MOTION FOR RULE 11 SANCTIONS
5/5/2009	DEFENDANT'S REQUEST/MOTION FOR FINDINGS OF FACT AND CONCLUSION OF LAW; MOTION TO VACATE APRIL 29, 2009 ENTRY GRANTING BIFURCATION AND REMAND
4/24/2009	DEFENDANTS REQUEST FOR MOTION FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW MOTION TO VACATE APRIL 17 2009 ORDER GRANTING PLAINTIFFS MOTION FOR PARTIAL STAY
3/12/2009	DEFENDANTS REQUEST/MOTION FOR FINDINGS OF FACT AND CONCLUSION OF LAW MOTION TO VACATE MARCH 2 2009 ENTRY GRANTING MOTION OF STORE-ALL ALFRED LLC FOR LEAVE TO FILEMEMORANDUM IN OPPOSITION TO MOTION FOR RULE 11 SANCTIONS AND SUPPORTING MEMORANDUM BRIEF
3/11/2009	AMENDED DEFENANT'S REQUESST/MOTION FIR FINDINGS OF FACT AND CONCLUSION OF LAW; MOTION TO VACATE MARCH 2, 2009 ENTRY GRANTING MOTION OF STOR-ALL ALFRED, LLC FOR ENLARGEMENT OF TIME; AND SUPPORTING MEMORANDUM BRIEF
3/10/2009	DEFENDANT'S REQUEST/MOTION FOR FINDINGS OF FACT AND CONCLUSION OF LAW; MOTION TO VACATE MARCH 2, 2009 ENTRY GRANTING MOTION OF STOR-ALL ALFRED, LLC FOR ENLARGEMENT OF TIME; AND SUPPORTING MEMORANDUM BRIEF
3/10/2009	DEFENDANT'S REQUEST/MOTION FOR FINDINGS OF FACT AND CONCLUSION OF LAW; MOTION TO VACATE MARCH 2,2009 ENTRY GRANTING MOTION OF STOR-ALL ALFRED, LLC FOR LEAVE TO FILE MEMORANDUM IN OPPOSITION TO MOTION FOR RULE 11 SANCTIONS; AND SUPPORTING MEMORANDUM BRIEF

See **EXHIBIT "51"** – Docket Sheet of the Hamilton County Court of Common Pleas. The recent hearing set for Tuesday, September 28, 2010, before Judge West was for purposes of dismissing this lawsuit, rendering Newsome a miscarriage of justice and depriving Newsome EQUAL protection of the laws, EQUAL privileges and immunities under the laws and DUE PROCESS of laws secured under the Constitution and other governing laws. Now it appears that Judge West on or about **Friday, October 22, 2010,** is insisting on rendering a DECISION and depriving Newsome of rights secured under the Constitution. See **EXHIBIT "51."**

The record evidence will further support the Ohio Supreme Court's REFUSAL to provide Newsome with "Findings of Fact and Conclusion of Laws" and/or address the "Issues Raised" in *Affidavit of Disqualification* that is before it is ARBITRARY and CAPRICIOUS. Said concerns of the Ohio Supreme Court's failure to address issues raised has been addressed in Newsome's August 11, 2010 pleading entitled, ***Notification of Intent to File EMERGENCY Writ of Certiorari with the United States Supreme Court; Motion to Stay Proceedings – Request for Entry of Final Judgment/Issuance of Mandate as Well as STAY of PROCEEDINGS Should Court Insist on Allowing August 2, 2010 Judgment Entry to Stand***. See **EXHIBIT "8"** (**BRIEF** Only) attached hereto and incorporated by reference as if set forth in full herein. Newsome believes that a reasonable person may also conclude that said failure by the Ohio Supreme Court is in furtherance of the Conspiracy leveled against her and is in RETALIATION of Newsome having filed a Criminal Complaint with the United States Department of Justice *against* Justice and/or Court Officials who engaged in the criminal acts reported by Newsome. See **EXHIBIT "16"** - ***Criminal Complaint and Request for Investigation with the Federal Bureau of Investigation and Request for United States Presidential Executive Order(s)*** attached hereto and incorporated by reference as if set forth in full herein. Further supporting the Ohio Supreme Court's role in furtherance of the Conspiracy leveled against Newsome and efforts of depriving Newsome EQUAL protection of the laws, EQUAL privileges and immunities under the laws and DUE PROCESS of laws secured under the Constitution and other governing laws. Moreover, efforts taken by the Ohio Supreme Court to protect the PERSONAL/FINANCIAL interest of its Justices that have a personal stake and personal interest in the outcome of this lawsuit. **In further support herein, the following is stated:**

> *Freeport Sulphur Co. v. S/S Hermosa*, 526 F.2d 300 (1976) - [n.15] Findings ***not*** supported by substantial evidence *are taken to be* ***clearly erroneous***. *Western*

Cottonoil Co. v. Hodges, 5 Cir. 1954, 218 F.2d 158, reh. den. and modified per curiam, 5 Cir. 1955, 218 F.2d 163.

Larry Lyons vs. Wayne Link, 2005 7039; 2005 Ohio App. LEXIS 6339 - See **EXHIBIT "52"** attached hereto and incorporated by reference as if set forth in full herein.

Overview: The landlord filed a forcible entry and detainer action against the tenant in a municipal court. The tenant counterclaimed, alleging fraud and abuse of process, and seeking damages in excess of the municipal court's monetary jurisdictional limit. . .

Opinion: [*P12] In his First Assignment of Error, appellant contends the trial court abused its discretion ***by failing to issue findings of fact and conclusions of laws*** regarding its denial of the protective order.

[*P13] We note ***appellant failed to file a request for findings of fact and conclusions of law with the trial court pursuant to Civ.R. 52***. Accordingly, we hold appellant has waived any error in this regard.. . .

34) The Ohio Supreme Court and Hamilton County Court of Common Pleas actions CONFLICT with prior decisions of the United States Supreme Court as well as other State and Federal Courts on this issue. The record evidence of the lower courts clearly support that Newsome has timely, properly and adequately requested Finding of Fact and Conclusion of Law to no avail. The lower courts in this lawsuit insist on rendering Newsome a miscarriage of justice in RETALIATION of her bringing Criminal Complaints against Judge/Justices and those involved in the Conspiracies leveled against Newsome. The record evidence will support that Newsome has REPEATEDLY made known to the lower courts her ENTITLEMENT to a Jury Trial on **ALL** *triable* issues. Nevertheless, the lower courts was attempting to have this lawsuit dismissed on Tuesday, September 28, 2010, (i.e. however, was met with Newsome's ***Notification of Non-Attendance***) and depriving Newsome rights secured under the Seventh Amendment and Fourteenth Amendment of the United States Constitution. Therefore, warranting the United States Supreme Court's intervention and exercise of jurisdiction in this matter.

Mason Lumber Co. v. Buchtel, 101 U.S. 633 (1879) - The defendant was required to see that findings . . . were had on **all** matters material to the defense, whereas plaintiff ***was required*** *to see that the findings* ***were sufficient*** *to* ***support*** *judgment in his favor*.

The findings . . . should have the **precision** of a special verdict *and* ***specify*** *with* ***distinctness*** *the facts found*, and **not** *leave them to be inferred*. *Id.*

Craig v. State of Missouri, 29 U.S. 410 (1830) - *Where the* ***office of the jury*** ***is performed by the court***, the obvious substitute for an instruction to the jury or a special verdict *is a* ***statement*** *by the court* ***of the points in controversy on which its judgment is founded***, and *the* ***motives*** *stated by the court on the record* ***for its judgment*** *and forming part of the judgment itself must be considered as* ***exhibiting the points*** *to which both* ***arguments were directed***, *and the judgment as* ***showing the decision*** *of the court* ***on those points***.

35) Newsome believes that the record evidence will support that the rulings of the lower courts may be deemed ARBITRARY and CAPRICIOUS. Moreover, there is NO evidence, facts or legal conclusions to sustain lower court rulings.[61] Thus, supporting ABUSE-OF-DISCRECTION, USURPATION OF POWER as well as other JUDICIAL ABUSES that are **contrary** to *sound* doctrine/law. Judges/Justices in lower courts performing their duties in the same manner that Judge G. Thomas Porteous who is presently *engaged in **IMPEACHMENT** hearings* before the United States Senate performed his duties in legal matter in which Newsome is a party. Judges/Justices in lower courts are determined to fulfill their role in Conspiracies leveled against Newsome. *Conspiracies that*

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[61] *Bose Corp. v. Consumers Union of U.S., Inc.*, 104 S.Ct. 1949 (1984) - Rule establishing a clearly-erroneous standard of review of findings of fact does not forbid an independent examination of the entire record. Fed.Rules Civ.Proc.Rule 52(a), 28 U.S.C.A.

Concrete Pipe and Products of California, Inc. v. Construction Laborers Pension Trust for Southern California, 113 S.Ct. 2264 (1993) - [n.9] A finding is "clearly erroneous," when although there is evidence to support it, reviewing body on the entire evidence is left with the firm and definite conviction that a mistake has been committed.

[n.12] The terms "clearly erroneous" and "unreasonable" are customarily used to describe, not a degree of certainty that some fact has been proven in the first instance, but a degree of certainty that a fact finder in the first instance made a mistake in concluding that a fact has been proven under the applicable standard of proof, and thus are "standards of review" normally applied by reviewing courts to determinations of fact made at trial by courts that have made those determinations in an adjudicatory capacity.

[n.13] Review under the "clearly erroneous" standard is significantly deferential, requiring a "clear and firm conviction that a mistake has been committed." Also see, *U.S. v. Oregon State Medical Soc.*, 72 S.Ct. 690 (1952).

Woods Const. Co. v. Pool Const. Co., 314 F.2d 405 (1963) - [n.1] Purpose of rule **requiring** *that trial judge make findings of fact and conclusions of law in **all** civil actions tried on facts without jury . . .* is to aid appellate court on appeal *by **affording clear** understanding of **basis** of trial court's decision, as well as to aid trier of facts in his process of adjudication*. Fed.Rules Civ.Proc. rule 52(a), 28 U.S.C.A.

[n.2] Rule requiring findings of fact in civil actions tried on facts without jury or with advisory jury is mandatory and must be reasonably complied with.

[n.4] Findings of fact must be made by trial judge as to each and every issue raised by parties and remaining before him at conclusion of trial, and conclusion of ultimate fact without any subsidiary or basic findings of fact on which such conclusion is based is insufficient compliance with rule requiring findings.

> [1][2][4]. . .The purpose of this rule is to aid the appellate court on appeal, by affording a clear understanding of the basis of the trial court's decision, as well as to aid the trier of the facts in his process of adjudication. *State of Utah v. United States*, 10 Cir., 304 F.2d 23, cert. denied 371 U.S. 826, 83 S.Ct. 47, 9 L.Ed.2d 65; *United States v. Horsfall*, 10 Cir., 270 F.2d 107. The *rule **requiring** findings of fact **is mandatory** and **must** be* reasonably complied with. *Commissioner v. Duberstein*, 363 U.S. 278, 292, 293, 80 S.Ct. 1190, 4 L.Ed.2d 1218; *Kweskin v. Finkelstein*, 7 Cir., 223 F.2d 677; *Maher v. Hendrickson*, 7 Cir., 188 F.2d 700; *Aetna Insurance Company v. Stanford*, 5 Cir., 273 F.2d 150, 153; *Kruger v. Purcell*, 3 Cir., 300 F.2d 830. . . . A conclusion of ultimate fact ***without** any subsidiary or basic findings of fact upon which such conclusion is based **is insufficient** compliance* with Rule 52(a). *Dearborn Nat. Casualty Co. v. Consumers Petroleum Co.*, 7 Cir., 164 F.2d 332.

*are **RACIALLY motivated** and initiated for purposes of depriving Newsome **EQUAL** protection of the laws, **EQUAL** privileges and immunities under the laws and **DUE PROCESS** of laws.*

> *U.S. v. Lotempio,* 58 F.2d 358 (1931) - [n.4] "Arbitrary exercise of authority," as applied to United States commissioner, means decision counter to law applicable.
>
> [n.5] Where probable cause exists for search, commissioner's contrary decision is reviewable as arbitrary exercise of authority.
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> > [5] 'Arbitrarily' as defined in 4 C. J. at page 475, means 'without fair, solid, and substantial cause and * * * without any reasonable cause.' Fair, solid, substantial, and reasonable cause mean such as is based upon the law. When it is made clear, as it is in his case, that probable cause as defined by the courts has been shown, the commissioner acts arbitrarily in refusing to follow the law.
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> *In re West Laramie,* 457 P.2d 498 (1969) - [2][3] The term 'arbitrary' has been variously defined, but in general is defined as willful and unreasoning action, without consideration and regard for the facts and circumstances presented, and without adequate determining principle. *Wagoner v. City of Arlington,* 345 S.W.2d 759, 763, ref. n.r.e.; *Miller v. City of Tacoma,* 61 Wash.2d 374, 378 P.2d 464, 474; *Black's Law Dictionary,* p. 134 (14th Ed.). In the Washington case last cited the court also pointed out that a *finding of fact **unsupported by** evidence is **arbitrary** and **will not** support an order based thereon, . . .*
>
> *Wagoner v. City of Arlington,* 345 S.W.2d 759 - [n.5] Terms "arbitrary" and "capricious", as applied . . . *mean **willful** and **unreasoning** action, action **without** consideration and **in disregard** of facts and circumstances* existent at time condemnation was decided upon, or within foreseeable future. Vernon's Ann.Civ.St. arts. 1107, 1269h, § 1, subd. A.
>
> *Huey v. Davis,* 556 S.W.2d 860 - *865 Ordinarily the term *arbitrary is **synonymous** with bad faith or failure to exercise **honest** judgment.* An arbitrary act would be one performed without adequate determination of principle, and one not founded in the nature of things.

VII. DUE PROCESS OF FOURTEENTH AMENDMENT TO U.S. CONSTITUTION

Newsome believes that Certiorari will be granted in that EXTREME and EXCEPTIONAL circumstances exist in this lawsuit out of which this Appeal arises. Because lower court Judges/Justices were unfit for the offices they held, Newsome has been targeted in

Conspiracies leveled against her and deprived DUE PROCESS of laws – i.e. rights secured/guaranteed under the Constitution. Based upon the facts, evidence and legal conclusions that underline the September 24, 2009 and December 28, 2009 FBI Criminal Complaints that have been filed, Newsome believes Judges/Justices engagement and role in CONSPIRACIES and attempts to cover-up PUBLIC CORRUPTION is of National/Worldwide interest. The record evidence will further support ACTUAL bias by Judge West, Judge Nadine Allen and Justices of the Ohio Supreme Court against Newsome. Moreover, that a reasonable person knowing **all** the circumstances circumstances out of which this lawsuit was birthed as well as actions by Plaintiff Stor-All, its counsel and Judges/Justices in this lower court actions, may conclude that based on the ***PATTERN-OF-PRACTICE*** used by Plaintiff Stor-All, its insurance provider counsel (i.e. David Meranus, Michael Lively, Molly Vance, Patrick Healy, Raymond Decker, etc.) and/or law firms (i.e. Baker Donelson, Schwartz Manes Ruby & Slovin, *Markesbery & Richardson Co,* etc.) used by its insurance provider that such SHAM and FRIVOLOUS arguments to paint Newsome as a "serial litigator" is REPEATEDLY used and provided to Judges/Justices ***behind the scene*** and/or in ***secret meetings*** and/or ***ex parte* correspondence** – i.e. UNETHICAL and unlawful/illegal tactics evidenced by Plaintiff Stor-All's insurance provider's (Liberty Mutual) ***well-established*** *pattern of behavior* in other legal matters involving Newsome. Thus, supporting that ACTUAL bias by Judge West, Judge Nadine Allen as well as the Ohio Supreme Court Justices and their Conspirators/Co-Conspirators which *is **TOO** high to be Constitutionally **tolerable** because of the **pecuniary** interest* that Judges/Justices as well as their Conspirators/Co-Conspirators have ***in the outcome*** as well as Judges/Justices *being the **target** of personal Criminal*

Complaints that Newsome has filed against them. Furthermore, the lower court records will support Newsome's good-faith attacks on Judge West and making known concerns of his bias and prejudices towards her. Moreover, concerns that he may be playing in Conspiracy leveled against her. Then, *ACTING TRUE TO FORM*, Judge West proceeds to engage in the carrying out of CRIMINAL/CIVIL wrongs in Conspiracy and *now is attempting to use his judicial office to COVER-UP said criminal/civil wrongs – i.e. engaging in the* ***furtherance*** *of PUBLIC CORRUPTION. Furthermore, as a matter of law, because of the pecuniary interest and personal bias, etc. Judge West has towards Newsome; he* ***cannot*** *be a judge to determine his "disqualification" matter.*

> *Bracy v. Gramley*, 117 S.Ct. 1793 (1997) - ***Due Process Clause*** of Fourteenth Amendment ***establishes*** *constitutional floor*, not uniform standard, ***regarding qualifications of judges***, and thus, most questions concerning judge's qualifications to hear case are not constitutional ones, but rather, are answered by common law, statute, or professional standards of bench and bar. U.S.C.A. Const.Amend. 14; 28 U.S.C.A. §§ 144, 455; ABA Code of Jud.Conduct, Canon 3, subd. C(1)(a) (1980).
>
> *Withrow v. Larkin,* 95 S.Ct. 1456 (1975) - Among cases in which experience teaches that probability of ***actual bias*** *on part of judge or decisionmaker* ***is too high*** *to be* ***constitutionally tolerable*** *are those in which adjudicator* ***has pecuniary interest in outcome*** *and in* ***which he has been target of personal abuse or criticism from party before him***.
>
> *Taylor v. Hayes*, 94 S.Ct. 2697 (Ky.1974) - *Where trial judge became embroiled in running controversy with counsel . . .* as trial progressed, *there was mounting display of unfavorable personal attitude by trial judge . . . his ability and his motives, it appeared that marked personal feelings were present and that incidents of unseemly conduct had left "personal stings"; thus, another judge should have been substituted for trial judge for purpose of finally disposing of contempt charges against counsel.*
>
> *In re Murchison*, 75 S.Ct. 623 (1955) - No man can be a judge in his own case, and no man is permitted to try cases where he has an interest in the outcome.

36) Newsome further believes that Certiorari will be granted in that the record evidence will support that the criminal/civil wrongs carried out against Newsome on or about September 9/10, 2009, was done with Judge West's WILLING participation and knowledge. Judge West being PUBLIC Official responsible for establishing final policy with regards to subject matter in question and encouraging the criminal/civil wrongs carried out against Newsome. Furthermore, Judge Allen stuck her nose into affairs in which she lacked jurisdiction. Therefore, any rulings by her are NULL/VOID. Nevertheless, the record evidence will sustain the efforts by the lower courts to get Newsome to forego protected rights (in which she refused). The record evidence will further support that Judge West ABUSED his powers *and is attempting to use judicial powers against Newsome as an instrument of oppression, servitude and placing her in bondage*. Furthermore, the record evidence will support that Judge West is attempting to ABUSE the power of his office and deprive Newsome of life, liberty and has already engaged in criminal activities in the UNLAWFUL/ILLEGAL seizure of Newsome's property (i.e. in violation of the Fourth Amendment to the United States Constitution). Judge West was attempting to carry out additional criminal/civil wrongs against Newsome on September 28, 2010, in the UNLAWFUL/ILLEGAL dismissal of lawsuit and deprive her rights to a JURY trial (i.e. in violation of the Seventh Amendment to the United States Constitution); however, such efforts were met with Newsome's ***Notification of Non-Attendance*** and advising lower court that she would be bringing this matter before the United States Supreme Court. Nevertheless, it appears that Judge West is determined to render his DECISION on or about **Friday, October 22, 2010,** *over* Newsome's **OBJECTIONS**. Judge West's actions are WILLFUL, MALICIOUS and WANTON for purposes of depriving Newsome of DUE PROCESS of the laws.[62]

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[62] *Collins v. City of Harker Heights, Tex.*, 503 U.S. 115, 112 S.Ct. 1061 (1992) - [n.2] First Amendment, equal protection and due process clauses of Fourteenth Amendment, and other provisions of Federal Constitution afford protection to employees who serve government ***as well as to those who are served by them***, and § 1983 provides cause of action for all citizens injured by abridgement of those protections. U.S.C.A. Const.Amends. 1, 14; 42 U.S.C.A. § 1983.

[n.4] Proper analysis requires separation of two different issues when claim under § 1983 is asserted against municipality: (1) whether plaintiff's harm was caused by constitutional violation, and (2) if so, whether city was responsible for that violation.

> [4] . . . In a series of later cases, the Court has considered whether an alleged injury caused by municipal employees acting under color of state law provided a proper basis for imposing liability on a city. In each of those cases the Court assumed that a constitutional violation had been adequately alleged or proved and focused its attention on the separate issue of municipal liability. . . On the other hand, in *Pembaur v.* ***Cincinnati***, 475 U.S. 469, 106 S.Ct. 1292, 89 L.Ed.2d 452 (1986), *the Court held that a* ***county was responsible*** *for unconstitutional actions taken pursuant to decisions made by the county prosecutor and the county sheriff because they were the "officials responsible for establishing final policy with respect to the subject matter in question," id.*, at 483-484, 106 S.Ct., at 1300.

37) Newsome believes that the record evidence, fact and legal conclusions contained herein will support that the acts of Judge West and his Conspirators/Co-Conspirators are *so egregious, so outrageous, that it is fair to say one would find to shock the contemporary conscience*; that Judge West's actions and those of his Conspirators/Co-Conspirators conspire to get rulings/judgments entered and, when met with opposition by Newsome, seek to *"shove such ruling(s) down Newsome's throat"* without justification and legal support for its findings.

> *County of Sacramento v. Lewis*, 118 S.Ct. 1708 (1998) - In due process challenge to executive action, threshold question is whether behavior of governmental officer is so egregious, so outrageous, that it may fairly be said to shock the contemporary conscience; that judgment may be informed by history of liberty protection, but it necessarily reflects understanding of traditional executive behavior, of contemporary practice, and of standards of blame generally applied to them. U.S.C.A. Const.Amend. 14.
>
> *Wilkinson v. Austin*, 125 S.Ct. 2384 (2005) - The Fourteenth Amendment's Due Process Clause protects persons against deprivations of life, liberty, or property, and those who seek to invoke its procedural protection must establish that one of those interests is at stake.

[n.8] Due process clause of Fourteenth Amendment *was intended to **prevent** government from abusing its power, or employing it as instrument of oppression*. U.S.C.A. Const.Amend. 14.

> [8] . . . "[T]he Due Process Clause of the Fourteenth Amendment was intended to prevent government 'from abusing [its] power, or employing it as an instrument of oppression.' " *DeShaney v. Winnebago County Dept. of Social Services*, 489 U.S., at 196, 109 S.Ct., at 1003 (quoting *Davidson v. Cannon*, 474 U.S. 344, 348, 106 S.Ct. 668, 670, 88 L.Ed.2d 677 (1986)). As we recognized in *DeShaney*:

"The Clause is phrased as a limitation on the State's power to act, not as a guarantee of certain minimal levels of safety and security. It forbids the State itself to deprive individuals of life, liberty, or property without 'due process of law,' but its language cannot fairly be extended to impose an affirmative obligation on the State to ensure that those interests do not come to harm through other means. Nor does history support such *127 an expansive reading of the constitutional text." 489 U.S., at 195, 109 S.Ct., at 1003.FN10

> FN10. "Historically, this guarantee of due process has been applied to deliberate decisions of government officials to deprive a person of life, liberty, or property. E.g., *Davidson v. New Orleans*, 96 U.S. 97 [24 L.Ed. 616] (1878) . . . *Hudson v. Palmer*, 468 U.S. 517 [104 S.Ct. 3194, 82 L.Ed.2d 393] (1984) (***intentional*** **destruction of inmate's property**). No decision of this Court before *Parratt v. Taylor*, 451 U.S. 527, 101 S.Ct. 1908, 68 L.Ed.2d 420 (1981),] supported the view that negligent conduct by a state official, even though causing injury, constitutes a deprivation under the Due Process Clause. This history reflects the traditional and common-sense notion that the Due Process Clause, like its forebear in the *Magna Carta*, see *Corwin, The Doctrine of Due Process of Law Before the Civil War*, 24 Harv.L.Rev. 366, 368 (1911), was 'intended to ***secure*** *the individual* from the ***arbitrary exercise*** of the powers of government,' *Hurtado v. California*, 110 U.S. 516, 527 [4 S.Ct. 111, 117, 28 L.Ed. 232] (1884)." *Daniels v. Williams*, 474 U.S. 327, 331, 106 S.Ct. 662, 665, 88 L.Ed.2d 662 (1986).

VIII. EQUAL PROTECTION OF FOURTEENTH AMENDMENT TO U.S. CONSTITUTION[63]

Newsome believes that Certiorari will be granted in that the facts, evidence and legal conclusions will support the DISCRIMINATORY and PREJUDICIAL handling of this lawsuit and how treatment in handling of same is UNLIKE those in similar cases. Moreover, that Judge West and/or lower courts have REPEATEDLY denied Newsome EQUAL protection of the laws – i.e. have subjected Newsome to unlike treatment of those similarly situated. The record evidence will support that Newsome has REPEATEDLY been denied EQUAL protection of the laws in government actions and "*uniform treatment of persons standing in the same relation*" **is LACKING** in the handling of matters involving her. The record evidence will support that Newsome has been ***denied*** *the same protection of the laws that are* ***enjoyed by other citizens*** *and/or other classes* ***in similar cases*** *and* ***under like*** *circumstances*.

> *Vacco v. Quill*, 117 S.Ct. 2293 (1997) - Equal protection clause creates no substantive rights, but rather, it embodies general rule that states must treat like cases alike but may treat unlike cases accordingly. U.S.C.A. Const.Amend. 14.
>
> *State of Missouri v. Lewis*, 101 U.S. 22 (1879) - "Equal protection of the laws," within Constitutional guaranty, means that no person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or other classes in the same place and under like circumstances. U.S.C.A.Const. Amend. 14.

38) Newsome believes that the record evidence, facts and legal conclusions will support Judge West is engaged in civil conspiracy with Conspirators/Co-

[63] *U.S. v. Virginia*, 116 S.Ct. 2264 (1996) - Proper remedy for an unconstitutional exclusion from opportunity or advantage based on discrimination aims to eliminate, so far as possible, discriminatory effects of the past and to bar like discrimination in the future.

Reynolds v. Sims, 84 S.Ct. 1362 (1964) - The concept of equal protection has been traditionally viewed as requiring the uniform treatment of persons standing in the same relation to the governmental action questioned or challenged.

City of Cleburne, Tex. v. Cleburne Living Center, 105 S.Ct. 3249 (1985) - Equal protection clause's command that no state shall deny to any person within its jurisdiction the equal protection of the laws [U.S.C.A. Const.Amend. 14] is essentially a direction that all persons similarly situated should be treated alike.

Conspirators with intent to deprive Newsome of EQUAL protection of laws and EQUAL privileges and immunities and said deprivations are based on Racial bias towards Newsome and in RETALIATION for her participation in protected activities and filing of Criminal Complaint in which he is a party. Furthermore, the record evidence will support an invidiously discriminatory animus behind Judge West and his Conspirators/Co-Conspirators actions leveled against Newsome and the object of said conspiracy is to deprive her of EQUAL enjoyment of rights secured/guaranteed by law to all.[64]

IX. U.S. OFFICE OF PRESIDENT/EXECUTIVE OFFICE; UNITED STATES DEPARTMENT OF JUSTICE/ DEPARTMENT OF LABOR ROLE IN CONSPIRACY

Newsome believes that based upon the facts, evidence and legal conclusions provided herein, it will sustain that EXCEPTIONAL and EXTREME circumstances exist in this lawsuit. Furthermore, that the records of ALL and/or each of these Government Agencies will support the following filings:

September 17, 2004	*Petitioner's Petition Seeking Intervention/Participation of the United States Department of Justice*
June 26, 2006	*Complaint and Request for Investigation to the United States Department of Justice and Federal Bureau of Investigations Filed by Vogel D. Newsome*
July 14, 2008	*Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Findings*
October 13, 2008	*Complaint and Request for Investigation Filed by Denise Newsome with the Federal Bureau of Investigation – Louisville, Kentucky*
September 24, 2009	*Criminal Complaint and Request for Investigation Filed by Vogel*

[64] *United Broth. of Carpenters and Joiners of America, Local 610, AFL-CIO v. Scott*, 103 S.Ct. 3352 (1983) - Civil rights conspiracy statute language requiring *intent to deprive of equal protection or equal privileges and immunities* means that *there **must** be some racial*, or perhaps otherwise class-based, ***invidiously** discriminatory animus behind conspirators' action*, and *conspiracy **must** aim at **deprivation of equal** enjoyment of rights secured by law **to all***. 42 U.S.C.A. § 1985(3); U.S.C.A. Const.Amends. 13-15.

Predominate purpose of civil rights conspiracy statute ***was to combat** the **prevalent animus** against Negroes and their supporters*, including Republicans, generally, as well as others, such as northerners who came south with sympathetic views towards the Negro, and *to **combat efforts of Ku Klux Klan** and its **allies** to **frustrate intended effects** of Thirteenth, Fourteenth and Fifteenth Amendments. Id.*

Collins v. Hardyman, 71 S.Ct. 937 (1951) - The civil rights statute does not attempt to reach a conspiracy to deprive one of rights, unless it is a deprivation of equality, of equal protection of the laws, or of equal protection and immunities under the law. 8 U.S.C.A. §§ 43, 47; U.S.C.A.Const. Amend. 14.

to sustain just how early Government Agencies were made aware of CONSPIRACIES leveled against Newsome. Furthermore, based upon said information, Newsome believes a reasonable person may conclude, based upon **ALL** the circumstances, that Government Agencies/Officials may be WILLING participants in Conspiracies for purposes of ***covering up*** PUBLIC CORRUPTION and attempts to shield/mask their role (if any) in said Conspiracies leveled against Newsome.

39) Newsome believes that a reasonable person based upon the facts, evidence and legal conclusions contained herein may conclude that Government Agencies/Federal Officials in RETALIATION against Newsome for bringing action against the United States Department of Labor and/or some of its employees have KNOWINGLY and WILLINGLY engaged in Conspiracies for purposes covering up their role in PUBLIC CORRUPTION. It is clear that Government Officials/Federal Officials place themselves above the law and feel for some reason they are invincible. Furthermore, the record evidence will support that Plaintiff Stor-All's insurance provider (Liberty Mutual) legal representative (i.e. Baker Donelson) has made sure that it has DEEP ROOTS in Government Agencies. See **EXHIBITS "22"** and **"80"** attached hereto and incorporated by reference as if set forth in full herein. Also see list provided at Paragraph 28(h)/Page 44 and Paragraph 82/Page 203 of this instant pleading. Because of the role Judge West and Judge Nadine Allen played in the September 9/10, 2009 criminal/civil wrongs carried out against Newsome, they each have opened up the City of Cincinnati, County of Hamilton, etc. up for CIVIL Liability for the injury/harm Newsome has sustained as a DIRECT and PROXIMATE result of the role each played in the CONSPIRACY leveled against Newsome.

> *Baird v. Haith*, 724 F.Supp. 367 (1988) - **Federal officials can be sued** under civil rights conspiracy statute. 42 U.S.C.A. § 1985(3).
>
> *Stone v. Holzberger*, 807 F.Supp. 1325 (S.D.**Ohio**.W.Div.,1992) - ***Municipality is liable*** *for civil rights conspiracy* if it, *through its policymaker, agrees to combine with others to deprive individual of her constitutional rights*.
>
> *Edmonds v. Dillin*, 485 F.Supp. 722 (N.D.**Ohio**,1980) - City cannot be held liable, under statute creating cause of action for conspiracy to

interfere with civil rights, for conspiring with its own employees when they are acting pursuant to official policy or custom, *but if through its mayor or other executive leadership, or through mayor and council, a municipal corporation* ***should combine or agree with one or more*** *police officers,* ***acting individually and independently of the city****, to specifically* ***deprive*** *an individual of his Fourth Amendment rights and in furtherance of that accommodation or agreement one of the police officers acts* ***with specific intent*** *to deprive said individual of such rights, a* ***conspiracy claim under such statute would be stated against the municipal corporation and its police officers***. U.S.C.A.Const. Amend. 4; 42 U.S.C.A. § 1985.

Fisher v. City of Cincinnati, 753 F.Supp. 681 (S.D.**Ohio**,1990) - Two persons sued in their individual capacities may be found liable for conspiracy under federal civil rights statute, even though both are employees of the same municipality. 42 U.S.C.A. § 1983.

In re Welding Fume Products Liability Litigation, 526 F.Supp.2d 775 (N.D.**Ohio**.E.Div.,2007) - Required ***intentional*** *participation of a co-conspirator can plausibly be inferred from* **words**, **actions**, and **interdependence** *of the activities and persons involved*; however, *in the absence of proof of an express or implied agreement between the parties, mere presence at the commission of a wrong, or failure to object to it, is not enough to charge one with responsibility for conspiring to commit the tortious act.*

Walsh v. Erie County Dept. of Job and Family Services, 240 F.Supp.2d 731 (N.D.**Ohio**.W.Div.,2003) - In a civil conspiracy under Ohio law, the acts of coconspirators are attributable to each other.

40) The record evidence will support that this lawsuit was brought with MALICIOUS intent and Plaintiff Stor-All and it attorneys knowledge of Newsome's engagement in protected activities. Furthermore, that Plaintiff Stor-All was already in UNLAWFUL/ILLEGAL possession of Newsome's storage unit and property based upon UNLAWFUL seizure and merely brought MALICIOUS prosecution/lawsuit to COVER-UP/MASK its criminal and civil violations. Supporting Plaintiff Stor-All, its counsel and its representatives conspired with Judge West and other Conspirators/Co-Conspirators to frustrate and violate legitimate judicial process to an EXTREME and AGGRAVATED extent. The record evidence further support that Plaintiff Stor-All, its counsel, its insurance providers and other Conspirators/Co-Conspirators did WILLINGLY, KNOWINGLY and INTENTIONALLY by bad conduct, control the judicial process in the lower court actions by providing PERJURED Affidavits provided by witness(es). Because Judge West and Judge Nadine Allen aided and abetted with knowledge of the role they were to play in Conspiracy, they may each be held EQUALLY liable with the principals. The record evidence of the lower court will support that counsel (Michael Lively) has attempted to distance and/or ***sever*** ties and the role he is playing in ONGOING Conspiracies leveled against Newsome; however, as a matter of law, he and his law firm are EQUALLY liable with the principal as well – there is no escaping for him. In

that they Lively and other counsel for Plaintiff Stor-All and/or for its insurance provider (Liberty Mutual) encourage PATTERN-OF-JUDICIAL Abuse, CRIMINAL STALKING and contacting employers of Newsome for purpose of getting her terminated, a reasonable person may conclude that their time would have been better spent adhering to Newsome's timely NOTIFICATIONS that they were opening themselves up for LIABILITY actions for the role each played in Conspiracies leveled against her.

> *Macko v. Byron,* 576 F.Supp. 875 (N.D.**Ohio**.E.Div.,1983) - *If a person plans or a group of persons conspire to frustrate and violate legitimate judicial process to an extreme and aggravated extent, there may be a civil rights violation if such persons intend to and actually do, by intentional bad conduct, control judicial process by giving false testimony before* . . . court, testimony is sole basis of indictment and/or conviction, and it is subsequently determined that the foregoing happened and wrongfully charged person was ultimately discharged before trial, acquitted after trial, or discharged after reversal on appeal. 42 U.S.C.A. § 1983.
>
> *Hillenbrand v. Building Trades Council,* 14 Ohio Dec. 628 (**Ohio**.Super,1904) - Persons who aid and abet with knowledge and intention in carrying out a conspiracy ***are equally liable*** with the principals.
>
> *Mulholland v. Waiters' Local Union No. 106,* 13 Ohio Dec. 342 (**Ohio**.Com.Pl.,1902) - Anyone who knows of existence and purposes of conspiracy and joins therein, becomes a party from time of his joining.
>
> *Non-Ferrous Metals, Inc. v. Saramar Aluminum Co.,* 25 F.R.D. 102 (N.D.**Ohio**.E.Div.,1960) - Conspirators are jointly and severally liable and all may be joined or an action may be brought against only one.
>
> *Matthews v. New Century Mortg. Corp.,* 185 F.Supp.2d 874 (S.D.**Ohio**,2002) - In a conspiracy, the acts taken in furtherance of the conspiracy by one co-conspirator can be attributed to every co-conspirator, *making each **equally** liable for the other's acts* under Ohio law.
>
> *Northern Kentucky Telephone Co. v. Southern Bell Tel. & Tel. Co.,* 73 F.2d 333 (C.A.6.**Ky**.,1934) - Act of one of several conspirators after formation and during existence of conspiracy is attributable to all.
>
> *Kissenger v. Columbus Macadam Co.,* 11 Ohio Dec. 137 (**Ohio**.Com.Pl.,1900) - If persons conspire to do an unlawful act or to do a lawful act by unlawful means, then one knowing the purpose thereof entering into such conspiracy, is bound by all the things said and done by any of their number in carrying out the purposes of such conspiracy so long as he remains therein.

X. SELECTIVE PROSECUTION

Newsome believes that Certiorari will be granted and that the record evidence will support that Government Agencies have engaged in SELECTIVE PROSECUTION and have deprived Newsome EQUAL protection of the laws, EQUAL privileges and immunities and DUE PROCESS of laws that they have extended to other citizens who were victims of similar criminal/civil wrongs as that leveled against Newsome.

> *Reno v. American-Arab Anti-Discrimination Committee,* 119 S.Ct. 936 (1999) - Standard for proving claim of selective prosecution requires defendant to introduce clear evidence displacing the presumption that a prosecutor has acted lawfully.
>
> *U.S. v. Armstrong*, 116 S.Ct. 1480 (1996) - Defendant may demonstrate that administration of a criminal law is directed so exclusively against a particular class of persons ***with a mind so unequal and oppressive that system of prosecution amounts to a practical denial of equal protection of the law***.
>
> Requirements for a selective-prosecution claim draw on ordinary equal protection standards; defendant ***must demonstrate that federal prosecutorial policy had a discriminatory effect and that it was motivated by a discriminatory purpose***. *Id.*

In further support thereof, Newsome states:

41) The record evidence will support that Newsome has REPEATEDLY been a victim of SELECTIVE PROSECUTION and deprived EQUAL protection of the laws, EQUAL privileges and immunities and DUE PROCESS of laws in the handling of Charges/Complaints filed with Government Agencies (i.e. which includes judicial proceedings):

June 26, 2006	*Complaint and Request for Investigation to the United States Department of Justice and Federal Bureau of Investigations Filed by Vogel D. Newsome*
October 13, 2008	***Complaint and Request for Investigation Filed by Denise Newsome with the Federal Bureau of Investigation – Louisville, Kentucky***
September 24, 2009	*Criminal Complaint and Request for Investigation Filed by Vogel Denise Newsome With The Federal Bureau of Investigation – Cincinnati, Ohio*

FOR INSTANCE: Orenthal James (a/k/a O.J.) Simpson (an African-American male) was INDICTED on the following charges

- Conspiracy to Commit a Crime
- Conspiracy to Commit Kidnapping
- Conspiracy to Commit Robbery
- First Degree Kidnapping With Use Of A Deadly Weapon
- Assault With a Deadly Weapon
- Coercion With Use Of A Deadly Weapon

for attempting to get property back he claimed belong to him. See **EXHIBIT "53"** – *O.J. Simpson Criminal Complaint* – attached hereto and incorporated by reference. Nevertheless, when PUBLIC Officials and/or Government Agencies/Official engage in CONSPIRACIES and commit the same and/or similar crimes against Newsome for purposes of RETALIATION, DISCRIMINATION, OPPRESSION, etc. because of her race and engagement in protected activities for reporting such RACIAL bias and RACIAL injustices, such criminal an unlawful/illegal practices by PUBLIC OFFICIALS and their Conspirators/Co-Conspirators are condoned. Selective Prosecution can be established in the handling of Newsome's FBI Complaints. For instance and a FACT the following CRIMES were reported and/or support the following – in the ***Mississippi Matter*** – See **EXHIBIT "45:"**

- Conspiracy to Commit a Crime
- Conspiracy to Commit Kidnapping
- Conspiracy to Commit Robbery
- First Degree Kidnapping With Use Of A Deadly Weapon
- Assault With a Deadly Weapon
- Coercion

in the ***Kentucky Matter*** – See **EXHIBIT "46."**

- Conspiracy
- Burglary
- Theft
- Larceny
- Invasion
- Unlawful Entry/Forcible Actions
- Obstruction of Justice/Process
- Color of Law

- Conspiracy Against Rights
- Conspiracy to Interfere With Civil Rights
- Power/Failure to Prevent

and then, in the ***Ohio Matter*** – See **EXHIBIT "30."**

- Conspiracy (**18 USC§ 371**);
- Conspiracy Against Rights (**18 USC§ 241**);
- Conspiracy to Defraud (statutes provided)
- Conspiracy to Interfere with Civil Rights (**42 USC§ 1985**);
- Public Corruption (provided information taken from ***FBI's*** *website*);
- Bribery (statutes cited);
- Complicity (statutes cited);
- Aiding and Abetting (statutes cited);
- Coercion (statutes cited);
- Deprivation of Rights Under **COLOR OF LAW** (**18 USC§ 242**);
- Conspiracy to Commit Offense to Defraud United States (**18 USC§ 371**);
- Conspiracy to Impede (**18 USC§ 372**);
- Frauds and Swindles (**18 USC§ 1341** and **1346**);[65]
- Obstruction of Court Orders (**18 USC§ 1509**);
- Tampering with a Witness (**18 USC§ 1512**);
- Retaliating Against A Witness (**18 USC§ 1513**);
- Destruction, Alteration, or Falsification of Records (**18 USC§ 1519**);
- Obstruction of Mail (**18 USC§ 1701**);
- Obstruction of Correspondence (**18 USC§ 1702**);
- **Delay of Mail** (**18 USC§ 1703**);
- Theft or Receipt of Stolen Mail (**18 USC§ 1708**);
- Avoidance of Postage by Using Lower Class (**18 USC§ 1723**);
- Postage Collected Unlawfully (**18 USC§ 1726**);
- Power/Failure to Prevent (**42 USC§ 1986**);

[65] *Lord v. Goddard*, 54 U.S. 198 (1851) - "Fraud" means an intention to deceive.

- Obstruction of Justice

> **IMPORTANT TO NOTE:** Upon review of O.J. Simpson Complaint charges were made without any supporting documentation; however, Newsome's FBI Complaints provide facts, evidence and/or legal conclusions to support Criminal charges reported. O.J. Simpson received ***approximately 33 years*** for the crimes he was found guilty of; however, to date, Newsome is neither aware of any INDICTMENTS, ARREST or PROSECUTION of those who engaged in Conspiracies leveled against. Conspiracies organized by SUPREMACIST and TERRORIST groups that harbor Racial bias, Racial Prejudices towards Newsome and members of her class. Furthermore, have engaged in Conspiracies and have RETALIATED against Newsome because of her race and knowledge of engagement in protected activities for reporting criminal/civil violations.

Supporting that the United States has deprived Newsome EQUAL protection of the laws, EQUAL privileges and immunities and DUE PROCESS of laws afford to white citizens and/or citizens similarly situated.

42) The record evidence will further support SELECTIVE PROSECUTION in the handling of Newsome's December 28, 2009 FBI Criminal Complaint. For instance upon review of the DeLaughter INDICMENT[66] filed by the United

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[66] DELAUGHTER INDICTMENT - - "6. . . . defendant, did knowingly and willfully conspire with each other and with others. . . to corruptly give, offer and agree to give, and in the case of Circuit Judge BOBBY B. DELAUGHTER to accept and to agree to accept for himself and others, anything of value with the intent that Circuit Judge BOBBY B. DELAUGHTER, as an agent of a state and local government, would be corruptly influenced and rewarded in connection with his handling of . . . case, then the business of such government and judicial agency involving a thing of value of $5,000 or more, when such government and judicial agency received a one-year period benefits in excess of $10,000 under a federal program, in violation of Section 666 of Title 18 of the United States Code.

7. It was part of conspiracy that Ed Peters would be used secretly and corruptly to influence his very close friend BOBBY B. DELAUGHTER and that BOBBY B. DELAUGHTER's ***aspirations to become*** *a federal judge would also be exploited in order to* ***secretly and corruptly obtain rulings from the court*** *that while not plainly unlawful, would ultimately minimize. . . financial liability and preclude his exposure to excessive damages.*

8. *It was further* ***part of the conspiracy*** that Ed Peters, an attorney, *would* ***not*** *officially enter an appearance as counsel of record* in the case. . . , **so that his involvement** . . . ***would be unknown*** to the . . . legal team." . . .

"d. . . . Judge BOBBY B. DELAUGHTER ***accepted a secret, ex parte communication*** from Scruggs legal team, ***essentially reversing his earlier ruling*** and *accepting, almost verbatim, a . . .* ***order favorable*** *to Scruggs.*

e. . . . Judge BOBBY B. DELAUGHTER ***secretly provided*** Scruggs legal team *with an ex parte* ***advance*** *copy of a court order* in the . . . case *by* ***electronically*** *mailing* the same. . .

f. . . . Ed Peters *had a* ***number*** *of* ***improper ex parte meetings*** *with* Judge Delaughter ***designed*** *and* ***intended*** *to* ***secretly influence*** *the judge to shade his rulings in favor* of Scruggs.

g. . . . Judge BOBBY B. DELAUGHTER ***secretly and corruptly communicated*** with the Scruggs legal team through Ed Peters, *affording them a* ***unique and valuable*** *opportunity to* ***foresee*** *and attempt to* ***influence*** *his rulings.*

h. . . . in order to exploit Judge Delaughter's aspirations to become a federal judge, . . . SCRUGGS caused his brother-in-law, *then a* ***United States Senator from Mississippi,*** to offer Judge Delaughter consideration for appointment to a federal judgeship *then open in the* ***Southern District*** *of Mississippi*.

i. . . . Joseph C. Langston ***wired approximately $950,000*** from his law office in Booneville, Mississippi, in the Northern District of Mississippi, to Ed Peters *for his* ***role*** *in* ***corruptly influencing*** *Circuit Judge BOBBY B. DELAUGHTER.*

All in violation of Title 18, United States Code, Section 371. . ."

"11. . . . BOBBY B. DELAUGHTER, defendant, ***aided and abetted*** *by each other, devised and executed and intended to devise and execute a* ***scheme and artifice to defraud the plaintiff*** *in the Hinds County Circuit Court case*. . . thereby ***depriving the plaintiff and citizens*** *of the State of Mississippi* ***of their intangible right to the honest services*** *of Circuit Judge* BOBBY B. DELAUGHTER, *who as circuit court judge* ***had a duty*** *to* ***perform impartially***, *without* ***affording*** *either side an* ***unfair*** *advantage or* ***secret*** *access to the court.*"

"12. ***The purpose of the scheme was to ensure*** *that Scruggs* ***enjoyed*** *an unlawful advantage, in* ***secret*** *and* ***unknown to*** *the plaintiffs*. . . .devised a scheme and artifice to secretly and corruptly influence Hinds County Circuit Judge BOBBY B. DELAUGHTER by exploiting two vulnerabilities: first, his close association with former district attorney Ed Peters and second, his known ambition to become a federal judge. . . paid Ed Peters $50,000 and . . . later paid Peters an additional $950,000, all for the purpose of using Ed Peters to influence BOBBY B. DELAUGHTER. . . SCRUGGS prevailed upon his brother-in-law, then a United States Senator from Mississippi, to offer Judge Delaughter consideration for a federal district judgeship then open in the Southern District of Mississippi. . . . In return, Judge Delaughter afforded Scrugs legal team secret access to the court by way of Ed Peters, forwarding them advance copies of his rulings and proposed orders on issues before the court and on one occasion accepting from Scruggs legal team a . . . order favorable to Scruggs, which the court then adopted, almost verbatim."

"**USE OF THE MAIL**. . . 13. . . for the purpose of executing and attempting to execute the aforesaid scheme and artifice to defraud in the Northern District Court of Mississippi and elsewhere, . . . SCRUGGS, aided and abetted by other non-defendants named but not charged herein, and Circuit Judge BOBBY B. DELAUGHTER, defendant, ***knowingly caused to be deposited in a post office or authorized depository for mail*** matter in the Northern District Court of Mississippi ***to be delivered by the Postal Service according to directions thereon***, . . . *Entry of Appearance* for filing in the Hinds County Circuit Court case. . .

All in violation of 18 U.S.C. §§ 2, 1341, and 1346."

"15. . . .for purposes of executing and attempting to execute the aforesaid scheme and artifice to defraud in the Northern District Court of Mississippi and elsewhere, . . . SCRUGGS, ***aided and abetted*** *by other non-defendants named but not charged herein, and Circuit Judge BOBBY B. DELAUGHTER, defendant,* ***knowingly*** *caused* ***to be deposited in a post office*** *or other authorized depository for mail matter* ***to be delivered by the Postal Service*** *in the* Northern District of Mississippi ***according to the directions thereon***, Circuit Judge BOBBY B. DELAUGHTER's '*Memorandum Opinion and Order Adopting in Part and Rejecting in Part Special Master's Report and Recommendation of January 9, 2006*' in the Hinds County Circuit Court case. . .

All in violation of 18 U.S.C. §§ 2, 1341 and 1346."

"17. . . . for the purpose of executing and attempting to execute the aforesaid scheme and artifice to defraud in the Northern District of Mississippi and elsewhere, defendant. . .SCRUGGS, ***aided and abetted*** *by other non-defendants named but not charged herein, and Circuit Judge BOBBY B. DELAUGHTER, defendant,* ***knowingly*** *caused* ***to be deposited in a post office*** *or other authorized depository for mail matter* ***to be delivered by the Postal Service*** *in* the Northern District of Mississippi ***according to the directions thereon***, Circuit Judge BOBBY B. DELAUGHTER's "*Order Quantifying Moneys Due Plaintiffs from Defendants*" in the Hinds County Circuit Court case. . .

All in violation of 18 U.S.C. §§ 2, 1341 and 1346."

"18. . . .in the Northern District Court of Mississippi and elsewhere, BOBBY B. DELAUGHTER, defendant, *did* ***corruptly attempt to obstruct, influence and impede an official proceeding****, that is, while being interviewed by FBI agents in connection with an official federal corruption investigation and grand jury proceeding, he stated that he '****never spoke to*** *Ed Peters regarding. . ." substantive issues related to the case. . . at a time when said case was pending in his court,* ***when in truth and fact he had*** *corruptly discussed with Ed Peters substantive issues in the . . .*

States Government, DeLaughter was indicted for the following – See **EXHIBIT "16":**

- 18 USC § 371. ***Conspiracy to Commit Offense or to Defraud United States***
- 18 USC § 666. ***Theft or bribery concerning programs receiving Federal funds***
- 18 USC § 1341. ***Frauds and Swindles***
- 18 USC § 1346. . . .***Scheme or Artifice to Defraud***
- 18 USC § 1512. ***Tampering with a witness, victim, or an informant***

however, when Newsome reported similar and/or identical crimes committed against her by Ohio Supreme Court Justices for the following Charges/Counts:

- Conspiracy (**18 USC§ 371**);
- Conspiracy Against Rights (**18 USC§ 241**);
- Conspiracy to Defraud (statutes provided)
- Conspiracy to Interfere with Civil Rights (**42 USC§ 1985**);
- Public Corruption (provided information taken from ***FBI's*** *website*);
- Bribery (statutes cited);
- Complicity (statutes cited);
- Aiding and Abetting (statutes cited);
- Coercion (statutes cited);
- Deprivation of Rights Under **COLOR OF LAW** (**18 USC§ 242**);
- Conspiracy to Commit Offense to Defraud United States (**18 USC§ 371**);
- Conspiracy to Impede (**18 USC§ 372**);
- Frauds and Swindles (**18 USC§ 1341** and **1346**);[67]
- Obstruction of Court Orders (**18 USC§ 1509**);
- Tampering with a Witness (**18 USC§ 1512**);
- Retaliating Against A Witness (**18 USC§ 1513**);

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case on numerous occasions and knew Peters was secretly acting on behalf of Scruggs' lawyers ***in an attempt to gain favorable rulings for Scruggs, at a time when Peters was not counsel*** *of record,* ***all*** in violation of Title 18, United States Code, Section 1512(c)(2).

[67] *Lord v. Goddard,* 54 U.S. 198 (1851) - "Fraud" means an intention to deceive.

- Destruction, Alteration, or Falsification of Records (**18 USC§ 1519**);
- Obstruction of Mail (**18 USC§ 1701**);
- Obstruction of Correspondence (**18 USC§ 1702**);
- **Delay of Mail** (**18 USC§ 1703**);
- Theft or Receipt of Stolen Mail (**18 USC§ 1708**);
- Avoidance of Postage by Using Lower Class (**18 USC§ 1723**);
- Postage Collected Unlawfully (**18 USC§ 1726**);
- Power/Failure to Prevent (**42 USC§ 1986**);
- Obstruction of Justice

the United States deprived Newsome EQUAL protection of the laws, EQUAL privileges and immunities and DUE PROCESS of laws afford to white citizens and/or citizens similarly situated. PUBLIC Officials and/or Government Agencies/Official engaging in CONSPIRACIES and committing the same and/or similar crimes against Newsome for purposes of RETALIATION, DISCRIMINATION, OPPRESSION, etc. because of her race and engagement in protected activities for reporting such RACIAL bias and RACIAL injustices. Nevertheless, such criminal an unlawful/illegal practices by PUBLIC OFFICIALS and their Conspirators/Co-Conspirators are condoned by the United States.

43) Newsome believes that Certiorari ***is of National/Worldwide importance*** in that it will provide evidence as to how the President of the United States (Barack Obama) relies upon counsel/advice from attorneys/law firms who *have* ***NOT*** and ***CANNOT*** *be successful* in legal matters brought against Newsome and/or involving Newsome without resorting to CRIMINAL/CIVIL wrongs for purposes of obtaining and undue/unlawful/illegal advantage in legal matters.

> **IMPORTANT TO NOTE:** Because Newsome believes that said Counsel/Advisors that the President(s) of the United States relied upon to engage in wars against other foreign nations/countries may have been based upon the counsel/advice ***of those who HARBOR Racist Views/Ideas against African-Americans and/or people of color*** – i.e. which may also INFLUENCE their decisions and the advice provided to the President (s) of the United States. ***FOR EXAMPLE:*** *Lying about "weapons of mass destruction" when there were none because*

those who advised/counseled in such matters may have had a SPECIAL/PERSONAL/FINANCIAL interest in the mineral resources (i.e. oil, coal, gold, etc.) of the smaller nations/countries they sought to destroy and go in and UNLAWFULLY/ILLEGALLY seize lands/property through such BULLYING and TERRORISTIC/SUPREMACIST ideology that will be evidenced in Certiorari action out of which this matter evolves.

44) Newsome believes that Certiorari action will support that the very people (Counselors/Advisors) President Obama rely upon to make day-to-day and/or periodic decisions are those who may engage in RACIST and DISCRIMINATORY/PREJUDICIAL practices leveled against African-Americans and/or people of color which, most likely than not, have HIDDEN AGENDAS/MOTIVES that are that carried out by those with SUPREMACIST/TERRORIST ideology/views.

45) The ***"Emergency Motion to Stay"*** is required in that the Ohio Supreme Court as well as the lower Cincinnati, Ohio Courts (Hamilton County Court of Common Pleas and Hamilton County Municipal Court) have entered into a CONSPIRACY to deprive Newsome of rights secured/guaranteed under the United States Constitution, Ohio Constitution, Civil Rights Act and other statutes/laws governing said matters. While Newsome requested that the Ohio Supreme Court provide her with findings on "ISSUES raised," the Ohio Supreme Court denied Newsome said findings. Newsome also requested said court enter "Final Judgment/Issue of Mandate" and said requests are acknowledged in its *"08/18/10 Judgment Entry"* which states:

> *Newsome has now filed a motion for the court* ***to issue a final judgment so she can exercise her right to appeal to the United States Supreme Court****. She also seeks a stay of these proceedings while the matter is appealed. . .*
>
> *As to Newsome's motion for stay, R.C. 2701.03 does not authorize the chief justice to stay affidavit-of-disqualification proceedings while the affiant files an appeal to the United States Supreme Court.*
>
> *For the reasons stated above, Newsome's motions are denied. The case may proceed before Judge West.*

See **EXHIBIT "7"** attached hereto and incorporated by reference as if set forth in full herein; the Ohio Supreme Court *has* ***DENIED*** *and has* ***FAILED*** to provide Newsome with the requested documents – *i.e. such unlawful/illegal action which may be deemed attempts to OBSTRUCT the administration of justice and deprive Newsome*

EQUAL protection of the laws and DUE PROCESS of laws in violation of her Constitutional Rights.

> **IMPORTANT TO NOTE:** The Ohio Supreme Court doing so in efforts of ***unlawfully/illegally FORCING*** and/or ***COERCING*** *Newsome to abandon protected rights. Furthermore, efforts taken by the Ohio Supreme Court in efforts of* ***unlawfully/illegally FORCING*** and/or ***COERCING*** *Newsome to proceed before Judge John Andrew West - against whom Newsome has* ***filed Criminal Charges*** *with the United States Department of Justice/Federal Bureau of Investigation.*

See **EXHIBIT "30"** - *"Criminal Complaint and Request for Investigation Filed by Vogel Denise Newsome With The Federal Bureau of Investigation – Cincinnati, Ohio* ***September 24, 2009****"* (**BRIEF** Only) – EMPHASIS Added – attached hereto and incorporated by reference as if set forth in full herein. *While Newsome has filed the required Criminal Complaint, to date she has not received the Department of Justice's/FBI's Finding of Facts and Conclusion of Law regarding said complaint and neither is she aware of any arrests, indictments and prosecutions involving said Criminal Complaint*. The record evidence will support that the **U.S. Department of Justice's/FBI's *failure to prosecute is a DIRECT and PROXIMATE result of RETALIATION as well as RACIAL bias* towards Newsome for exercising her rights under the Constitution and EXPOSING Conspiracy of the FBI Officials in the COVER-UP of criminal/civil wrongs leveled against Newsome and other African-Americans and/or people of color**.

46) The ***"Emergency Motion to Stay"*** is required in that Newsome believes that the record evidence will support the criminal/civil violations of the Ohio Supreme Court Justices and concerns of *said court's* ***inability*** *to remain IMPARTIAL as well as the* ***appearance of impropriety***, *obstruction of justice,* ***obstruction of the administration of justice***, *failure to report criminal wrongs reported,* ***engagement*** *in CONSPIRACY to* ***cover-up the criminal acts reported*** in Newsome's September 24, 2009 FBI Criminal Complaint, and other reasons known to Justices of the Ohio Supreme Court. Furthermore, the record evidence will support that on or about December 28, 2009, Newsome filed the required CRIMINAL COMPLAINT with the United States Department of Justice (FBI) against the Ohio Supreme Court Justices[68] and others alleging the following Charges/Counts:

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[68] *Potashnick v. Port City Const. Co.,* 609 F.2d 1101 (1980) - [n.4] A judge faced with a potential ground for disqualification *ought to consider how his participation in a given case* ***looks to the average person on the street***; use of the word "might" in statute was intended to indicate that **disqualification** *should follow if* ***reasonable man****, were he to know* ***all*** *the circumstances,* ***would harbor doubts*** *about judge's impartiality*. 28 U.S.C.A. § 455(a).

[n.5] Under statute governing disqualification of judges, judge **is required** *to exercise his discretion* ***in favor of disqualification*** *if he has any question about the* ***propriety*** *of his sitting in a particular case*; so-called "duty to sit" of

i. Conspiracy (**18 USC§ 371**);

ii. Conspiracy Against Rights (**18 USC§ 241**);

iii. Conspiracy to Defraud (statutes provided)

iv. Conspiracy to Interfere with Civil Rights (**42 USC§ 1985**);

v. Public Corruption (provided information taken from ***FBI's*** *website*);

vi. Bribery (statutes cited);

vii. Complicity (statutes cited);

viii. Aiding and Abetting (statutes cited);

ix. Coercion (statutes cited);

x. Deprivation of Rights Under **COLOR OF LAW** (**18 USC§ 242**);

xi. Conspiracy to Commit Offense to Defraud United States (**18 USC§ 371**);

xii. Conspiracy to Impede (**18 USC§ 372**);

xiii. Frauds and Swindles (**18 USC§ 1341** and **1346**);[69]

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former statute has been eliminated, and ***it is preferable*** *for judge to* ***err on the side of caution*** *and* ***disqualify*** *himself in a questionable case*.

[n.10] Where trial judge did not fully disclose on the record his relationship with attorney for one of the parties and trial judge's disclosure of his prior relationship with attorney's law firm did not reveal nature of his relationship to attorney involving business investments, parties could not waive ground for disqualification based upon relationship between judge and attorney. . . .

Our first ground for reversal *results from the trial court judge's* ***failure to disqualify*** *himself from participation in the proceeding before him*. . . . The parties do not allege that the judge exhibited any actual bias or prejudice in the case; they assert only that under the circumstances his impartiality might reasonably be questioned.

. . . The Applicable Statute
At the time this lawsuit was instituted, the . . . statute relating to judicial disqualification provided:

> *1108 Any justice or judge . . . shall disqualify himself in any case in which he has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or his attorney as to render it improper, in his opinion, for him to sit on the trial, appeal, or other proceeding therein.

28 U.S.C. § 455 (1970). While the case was pending, but prior to the commencement of trial, 28 U.S.C. § 455 was amended to bring the statutory grounds for disqualification of judges into conformity with the recently adopted canon of the Code of Judicial Conduct [FN2] relating to disqualification of judges for bias, prejudice, or conflict of interest. See **H.R.Rep.No.93-1453, 93d Cong., 2d Sess.** (1974), Reprinted in 1974 **U.S.Code Cong. & Admin.News**, pp. 6351, 6352-54 (hereinafter cited as 1974 U.S.Code Cong. & Admin.News). . . .

> FN2. Canon 3C of the Code of Judicial Conduct was adopted by the Judicial Conference of the United States in April, 1973.

[69] *Lord v. Goddard,* 54 U.S. 198 (1851) - "Fraud" means an intention to deceive.

xiv. Obstruction of Court Orders (**18 USC§ 1509**);

xv. Tampering with a Witness (**18 USC§ 1512**);

xvi. Retaliating Against A Witness (**18 USC§ 1513**);

xvii. Destruction, Alteration, or Falsification of Records (**18 USC§ 1519**);

xviii. Obstruction of Mail (**18 USC§ 1701**);

xix. Obstruction of Correspondence (**18 USC§ 1702**);

xx. **Delay of Mail** (**18 USC§ 1703**);

xxi. Theft or Receipt of Stolen Mail (**18 USC§ 1708**);

xxii. Avoidance of Postage by Using Lower Class (**18 USC§ 1723**);

xxiii. Postage Collected Unlawfully (**18 USC§ 1726**);

xxiv. Power/Failure to Prevent (**42 USC§ 1986**);

xxv. Obstruction of Justice

See **EXHIBIT "16"** - ***Criminal Complaint and Request for Investigation with the Federal Bureau of Investigation and Request for United States Presidential Executive Order(s)*** (**BRIEF** Only) attached hereto and incorporated by reference as if set forth in full herein.

> *Laird v. Tatum*, 93 S.Ct. 7 (1972) - Supreme Court justice has a duty to sit where not disqualified which is equally as strong *as the duty to **not sit** where disqualified*. (Per Mr. Justice Rehnquist, on motion to recuse.) 28 U.S.C.A. §§ 453, 455.
>
> *Liteky v. U.S.*, 114 S.Ct. 1147 (1994) - Revision made in 1974 to statute prohibiting judge's participation in case which he has an interest or relationship to a party brought into the statute elements of general bias and prejudice recusal that had previously been addressed only in statute dealing with recusal of a . . . judge for bias in general; it entirely duplicated the grounds of recusal set forth in the latter statute but *made them applicable to **all** justices, judges, and magistrates*, not just district judges, and ***placed the obligation to identify the existence** of those grounds* **upon the judge** himself, *rather than **requiring recusal** only in response to a party's affidavit*. 28 U.S.C.A. §§ 144, 455(b)(1).

Newsome attaches a copy of the Criminal Complaint the **United States** *brought against Judge Bobby DeLaughter* alleging:

> 18 USC § 371. ***Conspiracy to Commit Offense or to Defraud United States***
>
> 18 USC § 666. ***Theft or bribery concerning programs receiving Federal funds***
>
> 18 USC § 1341. ***Frauds and Swindles***

18 USC § 1346. . . .***Scheme or Artifice to Defraud***

18 USC § 1512. ***Tampering with a witness, victim, or an informant***

See **EXHIBIT "11"** – ***Indictment*** of Bobby B. DeLaughter attached hereto and incorporated by reference as if set forth in full herein. The crimes set forth in the DeLaughter Indictment are similar to crimes Newsome filed with the FBI against the Ohio Supreme Court Justices and others. At least Newsome provided facts, evidence and legal conclusions to support her FBI Criminal Complaint filed against the Justices of the Ohio Supreme Court and others. See **EXHIBIT "16"** - ***Criminal Complaint and Request for Investigation with the Federal Bureau of Investigation and Request for United States Presidential Executive Order(s)*** (**BRIEF** Only) attached hereto and incorporated by reference as if set forth in full herein.

47) Newsome believes that the record evidence in the lower court action(s) will support the appearance of partiality for Plaintiff Stor-All, its counsel, and its insurance provider (Liberty Mutual). Furthermore, based upon the Criminal Charges set forth in the September 24, 2009 FBI Complaint in which Judge West is a party charged in Conspiracy and other crimes leveled against Newsome, a reasonable person may conclude, "the appearance of partiality" and Judge West's "robe has been tainted" and he may be receiving bribes from opposing party and its counsel in exchange of providing them with an undue and unlawful/illegal advantage in this lawsuit. Thus, "keeping tracks of his former Bailiff (Damon Ridley) who was found "GUILTY" of ***Attempted Bribery***. See **EXHIBIT "6"** attached hereto and incorporated by reference.

> *Limeco, Inc. v. Division of Lime*, 571 F.Supp. 710 (D.C.Miss.,1983) - [n.1] Even if no bias or prejudice of judge may actually exist, *it is enough to disqualify that there be mere appearance of partiality*.
>
> [1] To say that one has no present recollection falls short of meeting the acid test required of a judge whose impartiality may be reasonably drawn into question. *It is well settled by* ***all*** *legal authorities that even if no bias or prejudice of a judge may actually exist, it is enough to disqualify that there be the mere appearance of partiality*. Judicial ethics "**exact more than *virtuous* behavior**; they **command *impeccable* appearance**. Purity of heart is not enough. Judges' *robes* ***must*** *be as* ***spotless*** *as their actual conduct*." *Hall v. Small Business Administration*, 695 F.2d 175, 176 (5th Cir.1983).

48) The record evidence will support that based upon the September 24, 2009, Criminal Complaint filed by Newsome against Judge West and other Conspirators/Co-Conspirators and the December 28, 2009, Criminal Complaint as well as information pertaining to CAMPAIGN Contributors (See **EXHIBIT "54"** attached hereto and incorporated by reference as if set forth in full herein) the Ohio Supreme Court Justices and other Conspirator/Co-Conspirators that SUBSTANTIAL pecuniary interest in legal

proceedings exist; therefore, excluding Judge West and/or Judges/Justices in lower court proceedings who engaged in Conspiracies leveled against Newsome are PRECLUDED from adjudicating legal disputes.

> *Gibson v. Berryhill*, 411 U.S. 564, 93 S.Ct. 1689 (1973) - [7] It is sufficiently clear from our cases that those with substantial pecuniary interest in legal proceedings should not adjudicate these disputes. *Tumey v. Ohio*, 273 U.S. 510, 47 S.Ct. 437, 71 L.Ed. 749 (1927). And *Ward v. Village of Monroeville*, 409 U.S. 57, 93 S.Ct. 80, 34 L.Ed.2d 267 (1972), **indicates that the financial stake need <u>not</u> be as direct or positive** as it appeared to be in *Tumey*. . . .

Newsome's research having yielded that approximately **<u>SIX</u>** *<u>of the Seven Justices</u>* on the Ohio Supreme Court are HEAVILY supported by SUBSTANTIAL campaign contributions by LIBERTY MUTUAL's lawyers and/or law firms which include the following firms:

a) Vorys, Sater, Seymour & Pease
b) Jones Day
c) Porter, Wright, Morris & Arthur
d) Frost Brown Todd

See EXHIBIT "54" attached hereto. A classic example of "***BIG MONEY*** *using the judicial process to inflict and deprive the poor/weak of justice – i.e. that JUSTICE can be purchased for a price."*

49) Just HOW BLATANT IS DISCRIMINATION/SELECTIVE PROSECUTION in the handling of Complaints/Charges submitted to the attention of President Obama/His Administration and/or Government Agencies? ***Newsome requested the <u>TERMINATION/FIRINGS</u> of Department of Labor Officials/Employees that may be found "GUILTY" over criminal/civil wrongs in the COVER-UP and OBSTRUCTION OF JUSTICE.*** See **EXHIBIT "114"** attached hereto. To understand President Barack Obama and his Administration's (United States Department of Labor Secretary Hilda Solis) Officials'/Employees' role in CONSPIRACY and COVER-UP of employment (i.e. FMLA) violations, Newsome provides this Court with a copy of the ***WHISARD Compliance Action Report*** as well as documents provided by Newsome to REBUT Report (i.e. record of Wage & Hour Division contains additional evidence in support of Newsome's claims) – See **EXHIBIT "137"** attached hereto and incorporated by reference as if set forth in full herein – which contain the following information along with Newsome's feedback/comments:

<u>CONCLUSIONS & RECOMMENDATIONS</u>:

EE claims she was denied her right to take FMLA leave. She claims she was terminated for asking for FMLA leave. Contact: Andrea Griffith, Office Manager; stated that at no time did C request or give enough information for her to determine that she needed FMLA leave. Ms.

Griffith stated that C's termination was due to the elimination of her position. No violation was found. Ms. Griffith agreed to continued compliance. No further action.

EMPLOYER CREDIBILITY[70]

The credibility of the employer's explanation is key and must be judged in light of all the evidence obtained during the investigation. If an employer's explanation for the employee's treatment ultimately is not credible, that is powerful evidence that discrimination is the most likely explanation. [Fn. 59 – *See Reeves,*[71] 530 U.S. at 147 ("Proof that the defendant's explanation is unworthy of credence is simply one form of circumstantial evidence that is probative of intentional discrimination, and it may be quite persuasive. Proving the employer's reason false becomes part of (and often considerably assists) the greater enterprise of proving that the real reason was intentional discrimination. In appropriate circumstances, the trier of fact can reasonably infer from the falsity of the explanation that the employer is dissembling to cover up a discriminatory purpose. Such an inference is consistent with the general principle of evidence law that the factfinder is entitled to consider a party's dishonesty about a material fact as affirmative evidence of guilt.")(citations and internal quotation marks omitted).] An employer's credibility will be undermined if its explanation is unsupported by or contrary to the balance of the facts. Similarly, the credibility of the explanation can be called into question if it is unduly vague, [Fn. 60 – Employers have leeway to make subjective decisions, but regardless of whether the reasons are objective or subjective, the employer's "explanation of its legitimate reasons must be clear and reasonably specific" so that "the plaintiff is afforded a 'full and fair opportunity' to demonstrate pretext." *See Texas Dep't of Community Affairs v. Burdine,* 450 U.S. 248, 258 (1981). **The explanation must be clearly set forth through the *presentation of evidence***. *Id.* at 255. A person evaluating a decision based on subjective factors should do so carefully because subjective factors "are more susceptible of abuse and more likely to mask pretext." *See Goosby v. Johnson & Johnson Med., Inc.,* 228 F.3d 313, 320 (3rd Cir. 2000)(citation and quotation marks omitted)] appears to be an after-the-fact explanation, or appears otherwise fabricated (e.g., the explanation shifts, or inconsistent reasons are given). . . .

QUALIFYING CONDITION/SERIOUS HEALTH CONDITION

Ms. Newsome did not indicate that she had a serious health condition. There is no evidence to indicate that Ms. Newsome gave notice to the firm of her need for FMLA qualifying leave.

EMPLOYER NOTIFICATION

Ms. Newsome stated that in December 2008, she spoke with Andrea Griffith (HR manager at Wood & Lamping) regarding a medical procedure she would need to have completed at the end of January 2009.

Ms. Newsome stated that Ms. Griffith informed her of the process of medical leave under FMLA and sick leave.

FEBRUARY 1, 2009 – TRANSCRIBED VOICEMAIL FROM PAUL BERNINGER

Denise this is Paul Berninger from the law firm. The reason I'm calling you is that I am aware of the lay-off situation that has taken place and I had some conversations with Andrea due to your situation and I've asked for the opportunity to give you a call. I know you wrote a letter addressing some things to C.J. Schmidt regarding health insurance and I wanted to talk to you

[70] EEOC Compliance Manual Section 15: Race and Color Discrimination
[71] *Reeves v. Sanderson Plumbing Prods., Inc.,* 530 U.S. 133 (2000).

about that. I believe that the firm should extend your health insurance coverage for a period of time. **I believe that is because I understand that you did say something to Andrea about a need for some kind of medical attention. I don't know what it is and she didn't disclose anything to me in regards to what that was**. But what I want to do is to talk to you about that. Find out what it is that you would want in terms of extension of your medical insurance at our cost for a period of time. **So that you could attend to that medical need**. *I would just let you know that there would be one part that I know that I would have to get from you in order for me to convince the firm to extend medical insurance coverage for some period of time and that would basically be a release. By that, I mean that I would write something up that you would sign* ***that would clearly indicate*** *that you* ***would not*** *(under* ***any*** *circumstances)* ***be able to file any kind of a charge against the firm or file a lawsuit****.*

IMPORTANT TO NOTE: Newsome following up voicemail message left by Paul Berninger and advising of her opposition to discriminatory practices/retaliation and concerns of being deprived protected rights. See **EXHIBIT "86"** - Medical Coverage – Concerns Discrimination Under FMLA and COBRA Violations attached hereto and incorporated by reference as if set forth in full herein.

STATUS OF COMPLIANCE

Ms. Griffith stated that she only talked to Ms. Newsome about a doctor's appointment later in the month of January 2009. Ms. Griffith stated that there was no mention of a SHC.

RECORD OF DEPARTMENT OF LABOR CONTAINS INFORMATION AS THE FOLLOWING – See **EXHIBIT "137"** attached hereto and incorporated by reference as if set forth in full herein:

Newsome:	Andrea, Please see the attached document. I am providing with original.
Griffith:	Denise, We do need to meet this afternoon to discuss your being out of the office so much over the last couple of days. Also, you need to inform me in advance on doctor's appointments. 45 minutes before an appointment is not sufficient time. Please see me when you return.
Newsome:	Andrea: I am going to be leaving to go to the doctor for a 12:15 **Sono** (*the one* ***originally*** *set for Monday that I had to* ***reschedule***)[72] Was wondering do you have time for me this afternoon? Thanks.

FMLA ***protects*** *employee who visits a doctor with symptoms that* ***are eventually diagnosed*** *as constituting a serious health condition,* ***even if, at the time of the initial medical appointments****, the illness* ***has not yet been diagnosed*** *nor its degree of seriousness determined.* Family and Medical Leave Act of 1993, § 102(a)(1)(D), 29 U.S.C.A. § 2612(a)(1)(D); 29 C.F.R. § 825.114(b).

[72] Appointment that was set **PRIOR** to the October 8, 2009, criminal acts in Kentucky matter.

STATUS OF COMPLIANCE – ***Cont'd***

Ms. Newsome also stated that she submitted written notice on January 8, 2009. This notice was in the form of an internal leave slip dated January 8, 2009, requesting ½ day off for "medical" on January 9, 2009.

According to 825.208a of the ***old*** regulations, the employee must explain the reasons for the needed leave so as to allow the employer to determine that the leave qualifies under FMLA. Ms. Newsome's request for ½ day off for "medical" does not give enough information to the employer for determining if it qualifies under FMLA.

Killian v. Yorozu Automotive Tennessee, Inc., 454 F.3d 549 (6th Cir. 2006) - Even if employee fails to provide medical certification in timely fashion, *employer's remedy under FMLA regulations* ***is delayed*** *leave,* ***not*** *termination*. Family and Medical Leave Act of 1993, § 103(e), 29 U.S.C.A. § 2613(e); 29 C.F.R. §§ 825.305(b), 825.311.

STATUS OF COMPLIANCE – ***Cont'd***

Ms. Newsome's request for leave (½ day "medical") was approved by 2 staff attorneys.

On January 9, 2009, Ms. Newsome was informed by Ms. Griffith that her job was eliminated.

Ms. Griffith stated that when Ms. Newsome was terminated, ***she had not yet received*** the written notice for 1/2 day off from Ms. Newsome.

STATUS OF COMPLIANCE – ***Cont'd***

Ms. Griffith stated that Ms. Newsome's termination had nothing to do with FMLA ***as the firm has granted other employees requests for FMLA***.[73] She stated that Ms.

[73] *Bradley v. Mary Rutan Hosp. Assoc.*, 322 F.Supp.2d 926 (S.D.**Ohio**.E.Div.,2004) - An employer violates the Family Medical Leave Act (FMLA) when it violates either the FMLA statute itself or its implementing regulations. Family and Medical Leave Act of 1993, §§ 104, 105, 29 U.S.C.A. §§ 2614, 2415; 29 C.F.R. § 825.220(b).

Hollins v. Ohio Bell Telephone Co., 496 F.Supp.2d 864(S.D.**Ohio**.W.Div.,2007) - When an employee complies with the requirements of the Family and Medical Leave Act (FMLA), the **employee is entitled to certain substantive rights under the Act**, *including the right to take FMLA leave and the right, upon return from the leave, to be restored to the position of employment held when the leave commenced or to an equivalent position*. Family and Medical Leave Act of 1993, §§ 102, 104, 29 U.S.C.A. §§ 2612, 2614.

Schmauch v. Honda of America Manufacturing, Inc., 295 F.Supp.2d 823(S.D.**Ohio**.E.Div.,2003) - Employers have prescriptive obligation under the FMLA, i.e., they must grant employees substantive rights guaranteed by the FMLA, and they have a proscriptive obligation, i.e., they may not penalize employees for exercising such rights. Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C.A. § 2601 et seq.

Newsome's termination was the result of her job being eliminated. She was the least senior legal secretary and weakest performer. As of today, her position has not been filled.

Employer **may not** use *reduction-in-force (RIF),* reorganization, or improved-efficiency rationale as pretext to mask actual discrimination or retaliation for employee's exercise of FMLA rights; the mere incantation of the mantra of "efficiency" is not a talisman insulating an employer from liability for invidious discrimination. Family and Medical Leave Act of 1993, § 105(a), 29 U.S.C.A. § 2615(a); 29 C.F.R. § 825.220.

n.23 - But an employer **may not** use its RIF/reorganization/improved-efficiency rationale as a *pretext* **to mask** *actual discrimination* or *retaliation*; the mere incantation of the mantra of "efficiency" is not a talisman insulating an employer from liability for invidious discrimination. See *McDonnell Douglas*, 411 U.S. at 804, 93 S.Ct. 1817 (employer **may not** use an *ostensibly legitimate reason for an adverse action* ***as a pretext*** *for discrimination that is prohibited by statute*); 29 U.S.C. § 2615(a); 29 C.F.R. § 825.220; cf. *INS v. Chadha*, 462 U.S. 919, 944, 103 S.Ct. 2764, 77 L.Ed.2d 317 (1983): "Convenience and efficiency are not the primary objectives-or the hallmarks-of democratic government." Nor are they the objectives of public policy underlying statutes like the FMLA or the ADA.

Even if employer's articulated reason for its adverse employment action is facially neutral, as in the case of a reduction in force (RIF), *if* ***in reality the employer acted for reason prohibited by the FMLA's retaliation provision****, then its asserted legitimate reason and its ostensibly nondiscriminatory selection criteria as to who is subject to RIF* ***cannot insulate*** *it from liability*. Family and Medical Leave Act of 1993, § 105(a), 29 U.S.C.A. § 2615(a).

N.25 - Because of the availability of *seemingly neutral rationales* under which an employer ***can hide its discriminatory intent***, and because of the difficulty of accurately determining whether an employer's motive is legitimate or is a pretext for discrimination, there is reason to be concerned about the possibility *that an employer* ***could manipulate*** *its decisions to purge employees it wanted to eliminate*. See *Weldon v. Kraft, Inc.*, 896 F.2d 793, 798 (3d Cir.1990) (Subjective evaluations of performance "are more susceptible of abuse and more likely to mask pretext" than objective job qualifications.) (internal quotation marks omitted). **The law does not permit this**. Even if an employer's actions and articulated reasons are facially neutral (e.g., a RIF), *if in reality the employer acted for a prohibited reason* ***(e.g., retaliation for exercising a protected right)***, then its asserted legitimate reason for the RIF and its ostensibly nondiscriminatory selection criteria as to who gets RIFed ***cannot*** **insulate** *it from liability*. As Judge Posner wrote in the context of . . . discrimination, "[a] RIF is not an open sesame to discrimination against a . . .person. Even if the employer has a compelling reason wholly unrelated to the disabilities of any of its employees to reduce the size of its work force, this does not entitle it to use the occasion as a convenient opportunity to get rid of its . . . workers." *Matthews v. Commonwealth Edison Co.,* 128 F.3d 1194, 1195 (7th Cir.1997) (citation omitted). ***Nor can it be an opportunity to get rid of***

Skrjanc v. Great Lakes Power Service Co., 272 F.3d 309(C.A.6.**Ohio**,2001) - **The FMLA protects an employee's right to be treated the same as other similarly situated employees**. Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C.A. § 2601 et seq.

workers who exercise their FMLA right to take medical leave for serious medical conditions. See 29 U.S.C. § 2615(a).

STATUS OF COMPLIANCE – ***Cont'd***

On March 20, 2009, Wood & Lamping, put forth a settlement offer. *The offer stated that Wood & Lamping would pay for the full cost of Newsome's health insurance for 1 year* ***with the understanding that she would agree to drop all claims against the firm***. In a telephone conversation with Ms. Newsome on March 31, 2009, she declined the settlement offer. She also declined the offer in an email on March 31, 2009 to this investigator.

After several attempts to contact Ms. Newsome, contact was made on April 20, 2009 to discuss further settlement issues. ***She again demanded reinstatement and all back pay. She also requested that she be permitted to take medical leave as "originally planned***."

This settlement offer was presented to Ms. Griffith at Wood and Lamping. On April 29, 2009, Ms. Griffith declined the offer put forth by Ms. Newsome.

McConnell v. Applied Performance Technologies, Inc., 98 Fed.Appx. 397 (C.A.6.Ohio,2004) - Former employee **could not** waive claims for violations of Fair Labor Standards Act (FLSA) in settlement agreement with employer. Fair Labor Standards Act of 1938, § 1 et seq., 29 U.S.C.A. § 201 et seq.

EEOC vs. COGNIS CORP., U.S. District Court/Central District of Illinois (Urbana Division), Case No. 2:10-cv-02182-MPM-DGB

. . . "required a number of its employees - ***as a condition of employment*** - *to enter into agreements that purport to waive the employees' right to recover for discrimination occurring in the future*."

. . . "Last Chance Agreement ("LCA") that included an extensive series of releases and waivers that would have insulated Defendant from any effort by Charging Party to file charges with the EEOC or to seek recovery for future discrimination under Title VII. Charging Party asked Defendant to modify the agreement by removing the waivers, explaining that he did not wish to give up his civil rights, but Defendant told him the LCA could not be modified. Because Defendant refused to modify the LCA to remove the rights-waiving provisions, Charging Party revoked the agreement . . .Defendant then discharged Charging Party that same day."

. . ."The effect of the practices complained of above has been to deprive a class of employees, including the Charging Party, of equal employment opportunities and otherwise adversely affect their status as employees in retaliation for opposition to discrimination prohibited by Title VII and/or anticipated participation in activity protected under Title VII."

. . ."The unlawful employment practices complained of above were and are intentional."

. . . "The unlawful employment practices complained of above were and are done with malice and with reckless indifference to the federally protected rights of each member of the class of employees described above, including Charging Party."

BARBARA DOUGHERTY vs. TEVA PHARMACEUTICALS USA, INC., U.S. District Court/Eastern District of Pennsylvania, Case No. 05-02336

ISSUE PRESENTED: The Secretary's regulation at 29 C.F.R. 825.220(d) states, in part, that "[e]mployees ***CANNOT*** ***waive***, nor may employers induce employees to waive, their rights under FMLA." The question presented is whether this legislative rule barring waivers of FMLA rights by employees also prohibits settlements of FMLA claims based on past employer actions.

STATUS OF COMPLIANCE – ***Cont'd***

Based on the above information, there was not sufficient evidence to substantiate Ms. Newsome's claim that her rights were violated under FMLA. No evidence was found to show that Ms. Newsome gave Wood & Lamping notice of her intention to take FMLA leave. There is also no evidence to show that the employer denied Ms. Newsome her rights under FMLA.

FMLA ***protects*** *employee who visits a doctor with symptoms that* ***are eventually diagnosed*** *as constituting a serious health condition,* ***even if, at the time of the initial medical appointments****, the illness* ***has not yet been diagnosed*** *nor its degree of seriousness determined*. Family and Medical Leave Act of 1993, § 102(a)(1)(D), 29 U.S.C.A. § 2612(a)(1)(D); 29 C.F.R. § 825.114(b).

Killian v. Yorozu Automotive Tennessee, Inc., 454 F.3d 549 (6th Cir. 2006) - Even if employee fails to provide medical certification in timely fashion, *employer's remedy under FMLA regulations* ***is delayed*** *leave,* ***not*** *termination*. Family and Medical Leave Act of 1993, § 103(e), 29 U.S.C.A. § 2613(e); 29 C.F.R. §§ 825.305(b), 825.311.

DISPOSITION

. . . The FMLA was discussed in detail with Ms. Griffith. She stated that she has had other employees on FMLA and there have been no problems. She agreed to continued compliance with the FMLA.

Ms. Newsome was not informed of the final results of the investigation. Ms. Newsome was not satisfied with how the investigation was handled and was not willing to participate in any settlement agreements presented to her. She was only interested in reinstatement and full back pay. She was not willing to hear that violations may not be found.

Every telephone conversation made to Ms. Newsome *was met with an angry email* the next day. ***The emails contained threats***

PATTERN-OF-PRACTICES *by WAGE & HOUR DIVISION to* ***cover-up*** *employment violations of Newsome's employer(s):* This information is PERTINENT and RELEVANT in that Newsome is confident that it will support Wage & Hour Division's inability to remain impartial and actions are in RETALIATION of Newsome having brought legal action against the United States Department of Labor/EEOC in the past. Furthermore, the record evidence will support that said statements by Official/Employee (Joan Petric) are FALSE and MALICIOUS and has been provided to COVER-UP illegal animus by the Wage & Hour Division and that of Wood & Lamping. Furthermore, how such statements by Official/Employee is WILLFUL,

MALICIOUS and WANTON and is provided to deprive Newsome EQUAL protection of the laws, EQUAL privileges and immunities of the laws and DUE PROCESS of laws – i.e. deprivation of rights secured under the FMLA, United States Constitution, and other laws of the United States.

> *U.S. v. Jimenez Recio,* 123 S.Ct. 819 (2003) - Essence of a conspiracy is an agreement to commit an unlawful act.
>
> Agreement to commit an unlawful act, which constitutes the essence of a conspiracy, *is a* ***distinct evil*** that may exist and be punished whether or not the substantive crime ensues. *Id.*
>
> Conspiracy ***poses a threat to the public*** over and above the threat of the commission of the relevant substantive crime, both because *the combination in crime* ***makes more likely*** *the commission* ***of other*** *crimes* and because it **decreases the probability** that *the individuals involved* ***will depart from their path of criminality***.

> *Thornhill v. State of Alabama,* 60 S.Ct. 736 (1940) - The "**freedom of speech and of the press**" *guaranteed by the Constitution embraces at least the* ***liberty to discuss publicly*** *and* ***truthfully*** *all* ***matters of public concern*** *without previous* ***restraint*** *or* ***fear of subsequent punishment***. U.S.C.A.Const. Amends. 1, 14.

> *Curtis Pub. Co. v. Butts,* 87 S.Ct. 1975 (1967) - *Right to communicate information* ***of public interest*** *is not unconditional*. (Per Mr. Justice Harlan with three Justices concurring and the Chief Justice concurring in result.) U.S.C.A.Const. Amend. 1.

Said FALSE and MALICIOUS comments by Official/Employee (Joan Petric) were provided because of her REFUSAL and INABILITY to address/rebut ALL issues raised by Newsome that proved and supported Newsome's FMLA charge/complaint. See for instance **EXHIBIT "140"** attached hereto and incorporated by reference as if set forth in full herein. The record evidence will support that through Newsome's December 10, 2009 Complaint, she requested the TERMINATION/FIRINGS of U.S. Secretary of Labor Hilda Solis and applicable officials/employees – See EXCERPT to support proof of mailing at **EXHIBIT "114**":

> *UNITED STATES PRESIDENT BARACK OBAMA - CORRUPTION: PERSECUTION OF A CHRISTIAN and COVER-UP OF HUMAN RIGHTS VIOLATIONS/DISCRIMINATION/PREJUDICIAL PRACTICES AGAINST AFRICAN-AMERICANS;* ***Request for IMMEDIATE Firing/Termination of U.S. Secretary of Labor Hilda L. Solis and Applicable Department of Labor Officials/Employees; Request for Status of July 14, 2008 Complaint; Request for Findings in FMLA Complaint of January 16, 2009, and EEOC Complaint of July 7, 2009****; IF APPLICABLE EXECUTION OF APPROPRIATE EXECUTIVE ORDER(S) and REQUEST DELIVERANCE OF FILES FOR REVIEW & COPYING IN THE CINCINNATI, OHIO WAGE & HOUR OFFICE AND EEOC OFFICE ON DECEMBER 22, 2009 - HEALTH CARE REFORM: See How The Obama Administration Has Interfered/Blocked Newsome's Health Care Options and Denied Her Medical Attention Sought Under The FMLA - - What to Expect Under A Government-Runned Health Care Program*

Information to support the ILL MOTIVES of the United States Department of Labor because of Newsome's requests as well as releasing information to the PUBLIC/MEDIA. Just as the Department of Labor has taken MALICIOUS actions to post information that it knew and/or should have known was FALSE, MISLEADING and provided for unlawful/illegal purposes, Newsome has the right to EXPOSE and reveal the CRIMINAL/CIVIL violations of the United States Department of Labor PUBLICLY – i.e. releasing to PUBLIC/WORLD at large.

Milkovich v. Lorain Journal Co., 110 S.Ct. 2695 (1990) - Where statement of "opinion" ***on matter of public concern*** *reasonably implies* ***false*** *and* ***defamatory*** *facts involving private figure,* plaintiff must *show that* ***false*** *implications were made with some level of fault* to support recovery. U.S.C.A. Const.Amend. 1.

Rosenbloom v. Metromedia, Inc., 91 S.Ct. 1811(1971) - First Amendment protects all discussion and communication involving ***matters of public*** *or general* ***concern*** *without regard to* ***whether persons involved*** *are* ***famous*** *or* ***anonymous***. (Per Mr. Justice Brennan with the Chief Justice and one Justice joining in the opinion and two Justices concurring in the judgment.) U.S.C.A.Const. Amend. 1.

Rosenblatt v. Baer, 86 S.Ct. 669 (1966) - ***Criticism of government*** *is at the very center of the constitutionally protected area of free speech*; ***criticism of those responsible for government operations*** *must be free,* lest criticism of government itself be penalized. *U.S.C.A.Const. Amends. 1, 14.*

Garrison v. State of La., 85 S.Ct. 209 (1964) - The **First** and **Fourteenth** Amendments *embody profound national commitment to principle that debate on public issues should be* ***uninhibited***, ***robust*** *and* ***wide open*** *and that it may well include* ***vehement***, ***caustic*** *and sometimes* ***unpleasantly sharp attacks*** *on government and public officials*. U.S.C.A.Const. Amends. 1, 14.

Baumgartner v. U.S., 64 S.Ct. 1240 (1944) - *One of the* ***prerogatives*** *of American citizenship is the right to* ***criticize public*** *men and measures, which means* ***not only*** *informed and responsible criticism, but the freedom to speak . . .without moderation.*

Conducting a **Thorough** Investigation[74]

Because discrimination often is **subtle**, and there *rarely* is a "**smoking gun**," [Fn. 45 - *See Aman v. Cort Furniture Rental Corp.,* 85 F.3d 1074, 1081-82 (3rd Cir. 1996)("It has become easier to coat various forms of discrimination with the appearance of propriety, or to ascribe some other less odious intention to what is in reality discriminatory behavior. In other words, while discriminatory conduct persists, violators have learned not to leave the proverbial 'smoking gun' behind."); *cf. McDonnell Douglas Corp. v. Green,* 411 U.S. 792, 801 (1973)("it is abundantly clear that Title VII tolerates no racial discrimination, subtle or otherwise").] determining whether race played a role in the decisionmaking requires examination of all of the surrounding facts and circumstances. The presence or absence of any one piece of evidence often will not be determinative. Sources of information can include witness statements, including consideration of their credibility; documents; direct observation; and statistical evidence such as EEO-1 data, among others. See EEOC Compl. Man., Vol. I, Sec. 26, Selection and Analysis of Evidence." A non-exhaustive list of important areas of inquiry and analysis is set out below.

Newsome further believes that a reasonable person/mind knowing all the facts and circumstances surrounding charges/complaints with the Department of Labor as well as her OPPOSITION to President Obama and his Administration's role in CONSPIRACIES to cover-up employment violations is of PUBLIC/WORLDWIDE interest – i.e. especially when President Obama and his Administration has gone PUBLIC in requesting that Foreign

[74] EEOC Compliance Manual Section 15: Race and Color Discrimination

Countries/Foreign Leaders clean up the corruption in their governments. Furthermore, the record evidence will support that Newsome has REPEATEDLY voiced her OPPOSITION to the DISCRIMINATORY handling of charges/complaints filed by her. See for example **EXHIBIT "141"** supporting the mailing and receipt of the following:

> **March 18, 2010** - "*Executive Department's Engagement In Criminal Acts*" and "*Obama Administration's Obstructing Justice*"
>
> **April 16, 2010** - "*Executive Department's Engagement in Criminal Acts*" and "*Obama Administration's Obstruction Justice*"
>
> **May 19, 2010** - "*Response To May 13, 2010 Letter*," "*Executive Department's Engagement in Criminal Acts*" and "*Obama Administration's Obstructing Justice*"
>
> **June 8, 2010** - "*Requests for Response & Affidavits By June 23, 2010*" (***faxed*** *to Obama*)
>
> **July 9, 2009** - "*Status Request of Complaints Filed By July 23, 2009*"
>
> **July 24, 2009** - "*PATTERN OF DISCRIMINATION: COVER-UP OF DISCRIMINATION/CONSTITUTIONAL/CIVIL RIGHTS VIOLATIONS - Requests for Investigation; Request for Termination/Firings (Of Secretary Hilda L. Solis; District Director Karen R. Chaikin and* ***Investigator Joan M. Petric****) If Violations are Found in the Handling of Wage and Hour Division Charge No. 1537034; Request for Documentation Regarding Administrative Appeal Process; and DEMAND/RELIEF REQUESTED*"
>
> **August 9, 2010** - "*FINAL DETERMINATION and REQUEST THAT HARASSMENT/ATTACKS ON NEWSOME CEASE*"
>
> **December 10, 2009** - "*UNITED STATES PRESIDENT BARACK OBAMA - CORRUPTION: PERSECUTION OF A CHRISTIAN and COVER-UP OF HUMAN RIGHTS VIOLATIONS/DISCRIMINATION/PREJUDICIAL PRACTICES AGAINST AFRICAN-AMERICANS; Request for IMMEDIATE Firing/Termination of U.S. Secretary of Labor Hilda L. Solis and Applicable Department of Labor Officials/Employees; Request for Status of July 14, 2008 Complaint; Request for Findings in FMLA Complaint of January 16, 2009, and EEOC Complaint of July 7, 2009; IF APPLICABLE EXECUTION OF APPROPRIATE EXECUTIVE ORDER(S) and REQUEST DELIVERANCE OF FILES FOR REVIEW & COPYING IN THE CINCINNATI, OHIO WAGE & HOUR OFFICE AND EEOC OFFICE ON DECEMBER 22, 2009 - HEALTH CARE REFORM: See How The Obama Administration Has Interfered/Blocked Newsome's Health Care Options and Denied Her Medical Attention Sought Under The FMLA - - What to Expect Under A Government-Runned Health Care Program*"

XI. "SERIAL LITIGATOR" ISSUE

Newsome believes that based upon the EXCEPTIONAL and EXTREME circumstances that exist Certiorari will be granted. Moreover, the MALICIOUS labeling and/or implication of such labeling against Newsome is the UNDERLYING purpose for its bringing FRIVOLOUS and MALICIOUS lawsuit against Newsome. Furthermore, a NEXUS can be established through a PATTERN-OF-PRACTICE that Plaintiff Stor-All's insurance provider (Liberty Mutual) and its attorneys ABUSE of such labeling and reliance upon such labeling in contacting Newsome's employers and using such MALICIOUS attacks in ALL legal matters that it insureds are involved in to which Newsome is a party. The record evidence will support Plaintiff Stor-All and its representatives use of such MALICIOUS labeling is done for purposes of depriving Newsome EQUAL protection of the laws, EQUAL privileges and immunities of the laws and DUE PROCESS of laws. Furthermore, the lower courts have done nothing to deter such UNETHICAL and unlawful/illegal practices of Plaintiff Stor-All's counsel and/or its insurance provider's engagement in criminal practices and neither require that they produce evidence to sustain such VICIOUS attacks on Newsome.

> *In re McDonald*, 489 U.S. 180, 109 S.Ct. 993 (1989)[75] Jessie McDonald may well have abused his right to file petitions in this Court without payment of the docketing fee; the Court's order documents that fact. I do not agree, however, that he poses such a threat to the orderly administration of justice that we should embark on the unprecedented and dangerous course the Court charts today. . . . I am most concerned, however, that if, as I fear, we continue on the course we chart today, we will end by closing our doors to a litigant with a meritorious claim. ***It is rare, but it does happen on occasion*** **that we grant review and even** ***decide in favor of a litigant*** **who previously had presented** ***multiple unsuccessful*188 petitions on the same issue.*** See, e.g., *Chessman v. Teets*, 354 U.S. 156, 77 S.Ct. 1127, 1 L.Ed.2d 1253 (1957); see id., at 173-177, 77 S.Ct. at 1136-1138 (Douglas, J., dissenting).[76]
>
> "Petitioner is no stranger to us. Since 1971, he has made **73** *separate* filings with the Court, not including this petition, which is his eighth so far this Term. These include **4** appeals, **33** petitions for certiorari, **99** petitions for extraordinary writs, **7** applications for stay and other injunctive relief, and **10** petitions for rehearing." Id. pp. 994-995.

[75] See **EXHIBIT "55"** attached hereto and incorporated by reference as if set forth in full herein.
[76] See **EXHIBIT "56"** attached hereto and incorporated by reference as if set forth in full herein.

> "But paupers filing *pro se* petitions are not *subject to the financial considerations* - filing fees and attorney's fees - that deter other litigants from filing frivolous petitions." Id. p. 996.
>
> The Supreme Court (even after all of McDonald's filings) did not close the door to McDonald. A litigant who is identified as filing **73** *separate* filings *in a **one-year** period*; however, ruled, "*Petitioner remains free under the present order to file in forma pauperis requests for relief other than an extraordinary writ, if he qualifies under the Court's Rule 46 and does not similarly abuse that privilege.*" Id. p. 996.

Based on the evidence in lower courts' (Hamilton County Court of Common Pleas, Hamilton County Municipal Court and the Ohio Supreme Court) record and other courts' record, Newsome believes it is necessary to address the "SERIAL LITIGATOR" **bogus/frivolous** defense that underlines the filing of this instant lawsuit and the ***PREMEDITATION*** by Plaintiff Stor-All in using such a defense at the time of bringing this MALICIOUS lawsuit against Newsome. *Newsome is **a paying litigant** in the lower court actions, has paid the required **JURY FEE**, and her **Counterclaim has merits** and can be sustained by the facts, evidence and legal conclusions presented therein.*

Newsome attaches to this pleading a listing of Judges/Justices that Baker Donelson PUBLICLY advertise and/or broadcast on the Internet in support of its SPECIAL TIES/RELATIONSHIPS to members on the judicial bench – See **EXHIBIT "35"** attached hereto and incorporated by reference as if set forth in full herein. Newsome provides this list because she believes it is of PUBLIC/WORLDWIDE interest and pertinent/relevant to sustain the issues raised in this instant filing. Newsome believes a reasonable mind may conclude from said listing that it has been produced and posted to send a ***subliminal** messages to clients and/or potential clients and those who oppose Baker Donelson and its clients, that these judges/justices have been purchased by Baker Donelson and just how **well-rooted** it is with Justices/Judges*. If this is the case, Newsome believes that a reasonable

mind may conclude ***that the integrity of the courts*** in which these Judges/Justices serve ***may have been compromised***. Furthermore, that Baker Donelson, its client (LIBERTY MUTUAL and its insureds) and others involved in the CONSPIRACY leveled against Newsome *have taken decisions of the Fifth Circuit Court of Appeals and other courts* ***to FUEL*** *their criminal/civil violations against Newsome* – i.e. *criminal/civil violations which clearly are RACIALLY motivated, reprehensible, unacceptable, embarrassing, disgraceful, and an obstruction of justice, deprivation of Constitutional Rights and rights secured/guaranteed under the United States - Newsome finds it hard to believe that the Justices of the Fifth Circuit Court and/or of any other court would intend for their decisions to be taken as a* ***"LICENSE TO COMMIT CRIMES/CIVIL WRONGS"*** *against Newsome and/or any other citizen(s) because they engage in protected activities*. In Newsome's case, she is/has engaged in legal actions – i.e. approximately ***four (4)*** **separate** lawsuits in approximately ***twenty-two (22) years*** and *the instant lawsuit was not one filed by Newsome but is one brought by Plaintiff Stor-All*; however, one that clearly (based upon the facts, evidence and legal conclusions) ***warranted a Counterclaim by Newsome***. Furthermore, Newsome has only brought approximately ***three (3) separate*** **NON-MONETARY** ***mandamus*** *actions* in approximately ***twenty-two (22) years*** *for purposes of compelling the EEOC to perform the MANDATORY ministerial duties owed Newsome as well as other citizens* – i.e. which based upon the facts, evidence and legal conclusions contained herein, *will support that the United States Department of Labor and others* ***have RETALIATED*** *and may be engaging in CONSPIRACIES for purposes of*

COVERING UP corrupt and unlawful/illegal employment practices by employers as a DIRECT and PROXIMATE result of Newsome having brought mandamus actions as well as depriving her EQUAL protection of the laws and DUE PROCESS of laws secured/guaranteed under the Constitution and other laws of the United States.

> *Pittston Coal Group v. Sebben*, 109 S.Ct. 414 (1988) - Extraordinary remedy of mandamus will issue only to compel performance of clear nondiscretionary duty. 28 U.S.C.A. § 1361.
>
> *U.S. ex rel. McLennan v. Wilbur*, 51 S.Ct. 502 (1931) - Writ of mandamus will issue only where duty to be performed is ministerial and obligation to act peremptory and plainly defined.
>
> *Supervisors v. U.S.*, 85 U.S. 71 (1873) - The office of a writ of mandamus is not to create duties but to compel the discharge of those already existing.
>
> *Reeside v. Walker*, 52 U.S. 272 (1850) - A mandamus is only to compel performance of some ministerial, as well as legal duty.

In response to Newsome's MANDAMUS (***non**-monetary*) actions, the Fifth Circuit made it clear that she had other remedies available to her – i.e. for instance, ". . . **plaintiff is *instructed* to seek any further relief to which she feels entitled in the Fifth Circuit Court of Appeals, as may be appropriate in due course**" (2002 WL 1303123), and ***"Newsome also is not entitled to the writ because she has another adequate remedy available, i.e. she could file suit in court against her employer. . ."*** (37 Fed.Appx. 87) – See **EXHIBIT "57"** attached hereto and incorporated by reference as if set forth in full herein.

The record evidence will support that while Plaintiff Stor-All, its counsel and its insurance company (LIBERTY MUTUAL) want it to appear that Newsome is a "serial litigator"

there ***is nothing*** in the record of the lower courts and/or any other courts to sustain/support such a ***slanderous*** and ***outrageous*** characterization of Newsome.

> **IMPORTANT TO NOTE:** Newsome in the instant lawsuit **NOT** *proceeding in forma pauperis* and has paid the required JURY FEE. See **EXHIBIT "29"** attached hereto and incorporated by reference. *Newsome has also submitted the required $300.00 filing fee associated with filing Certiorari action with the United States Supreme Court*. See **EXHIBIT "3"** attached hereto and incorporated by reference.

Again, this instant lawsuit *was **INITIATED** by Plaintiff Stor-All* and **NOT** Newsome Furthermore, said labeling of Newsome as a "*serial litigator*" **neither** fits description provided by the United States Supreme Court nor any other court. In fact, the United States Supreme Court provides an example of a *pro se* ***in forma pauperis*** litigant who filed *numerous* complaints; however, said Court ***did not*** *close the door to his filing in the future* as the lower court and other courts are attempting to do with Newsome in keeping with their ROLE in the CONSPIRACY leveled against Newsome and initiated/orchestrated by LIBERTY MUTUAL, its counsel (Baker Donelson) and others:

> *Carter v. Telectron, Inc.*, 452 F.Supp. 944 (1977) - [n.1] *Number of actions filed is **not**, by itself, a determinative factor which would **legally** support use of district court's power to regulate a . . . litigant on ground of abuse of privilege of proceeding **in forma pauperis***; instead, court **must** analyze the nature of plaintiff's litigation in light of the scope of such privilege and additionally pinpoint specific abuses to which appropriate responsive remedies can be tied. 28 U.S.C.A. § 1915.
>
> > [1] In assessing whether plaintiff has abused the privilege *of proceeding **in forma pauperis***, it is indeed a highly probative fact that plaintiff has filed *pro se* a minimum of **178 actions**, almost all of which *have been filed in forma pauperis*. However, the number of actions filed is not, by itself, a determinative factor which would legally support the use of this Court's power to regulate plaintiff as a litigant. See, e. g., *Ruderer v. United States*, 462 F.2d 897, 899 (8th Cir. 1972),

> appeal dismissed, 409 U.S. 1031, 93 S.Ct. 540, 34 L.Ed.2d 482 (1973). Instead, one must analyze the nature of plaintiff's litigation *in light of the scope of the Section 1915 privilege and additionally pinpoint specific abuses to which appropriate responsive remedies can be tied*.

In this instant lawsuit Plaintiff Stor-All and its counsel attempts to assert and/or has implicated Newsome as a "serial litigator" for filing approximately *four (4) lawsuits over an approximate 22-year period* and now she has been drawn into having to defend against this MALICIOUS Forcible Entry/Detainer Action in which Plaintiff Stor-All *was **already** in UNLAWFUL/ILLEGAL possession of her storage unit and property* **WITHOUT** *legal authority/court Order*. Furthermore, while subject Newsome to such unfounded labeling, Plaintiff Stor-All, its counsel and/or opposing parties fail to mention that Newsome, as in the Mississippi actions *is a **PAYING** litigant*. The Supreme Court finding in, *Lakes* v. *State,* 333 S.c. 382, 510 S.E.2d 228 (1998) that:

> According to the State, Lakes has submitted **one** direct appeal, **three** PCR applications, **two** petitions for writ of certiorari, **a** federal petition for writ of habeas corpus, **petitions** for writs of mandamus, attorney grievances, and **proposed orders** for release. Although Lakes's requests for relief are numerous, *the trial judge **failed to make factual findings** to show the requests rise to the level of repetitive and abusive filings as in Maxton or those cases cited in Maxton.* [FN2] Therefore, **231 *we **reverse** the order of the trial judge and remand the case for further proceedings consistent with this opinion*. In so doing, we make no comment as to the merit of Lakes's claims. Lakes still bears the burden of proving why his application should not be dismissed as successive pursuant to *387 S.C.Code Ann. § 17-27-90 (1976). See *Foxworth v. State,* 275 S.c. 615, 274 S.E.2d 415 (1981).
>
> **FN2.** The United States Supreme Court denies litigants who have repeatedly filed frivolous petitions *the right to proceed in forma pauperis*. However, the Court has done so pursuant to its Rule 39.8. See, e.g., *In re Whitaker,* 513 U.S. 1, 115 S.Ct. 2, 130 L.Ed.2d 1 (1994) (petitioner filed **23** claims for relief that had all

> been denied without dissent); *In re Anderson*, 511 U.S. 364, 114 S.Ct. 1606,128 L.Ed.2d 332 (1994) (petitioner submitted **22** *separate* petitions and motions *in a **three** year* time span); *In re Demos.* 500 U.S. 16, III S.Ct. 1569, 114 L.Ed.2d 20 (1991) (petitioner made **32** in forma pauperis filings with the Supreme Court, most of which challenged sanctions imposed by the lower court); *In re Sindram*, 498 U.S. 177, III S.Ct. 596, 112 L.Ed.2d 599 (1991) (petitioner filed **42** *separate* petitions and motions *in **three** year time span*, all of which were denied without dissent); *In re McDonald*, 489 U.S. 180, 109 S.Ct. 993, 103 L.Ed.2d 158 (1989) (petitioner made **71** *separate* filings, all of which were denied without dissent). Rule 39.8 states:
>
> > If satisfied that a petition for writ of certiorari, jurisdictional statement, or petition for an extraordinary writ, as the case may be, is frivolous or malicious, the Court may deny a motion for leave to proceed in forma pauperis.

Again, supporting that attempts to label Newsome a "serial litigator" is **NOT** befitting and ***neither*** applicable because Newsome is **NOT** proceeding in this lawsuit *in forma pauperis* and has paid the United States Supreme Court's $300.00 filing fee to bring her Certiorari action ***which has merits** and can be sustained/supported by facts, evidence and legal conclusions* (i.e. in accordance with previous decisions by the United States Supreme Court as well as other State Supreme Courts and/or lower courts).

> **IMPORTANT TO NOTE:** The Ohio Supreme Court and lower court/Judge West is attempting to deprive Newsome EQUAL protection of the laws and DUE PROCESS of laws by dismissing this action with knowledge that the following TIMELY and PROPERLY motions have been submitted before the Hamilton County Court of Common Pleas and to date is still pending:
>
> | | |
> |---|---|
> | 7/12/2010 | DEFENDANTS MOTION FOR LEAVE TO FILE OUT OF TIME MOTION FOR FINDINGS OF FACT REGARDING JUNE 7 2010 ORDER LIFTING STAY ENTERED APRIL 08 2009 AND ORDER DENYING DEFENDANTS MOTION FOR DEFAULT JUDGMENT |
> | 5/11/2009 | DEFENDANT'S REBUTTAL/OPPOSITION TO PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S APRIL 24, 2009 REQUEST/MOTION FOR |

	FINDINGS OF FACT AND TO VACATE APRIL 17, 2009 ORDER; MOTION FOR RULE 11 SANCTIONS
5/11/2009	DEFENDANT'S REBUTTAL/OPPOSITION TO PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MAY 5, 2009, REQUEST/MOTION FOR FINDINGS OF FACT AND TO VACATE APRIL 29, ORDER GRANTING BIFURCATION AND REMAND, MOTION FOR RULE 11 SANCTIONS
5/5/2009	DEFENDANT'S REQUEST/MOTION FOR FINDINGS OF FACT AND CONCLUSION OF LAW; MOTION TO VACATE APRIL 29, 2009 ENTRY GRANTING BIFURCATION AND REMAND
4/24/2009	DEFENDANTS REQUEST FOR MOTION FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW MOTION TO VACATE APRIL 17 2009 ORDER GRANTING PLAINTIFFS MOTION FOR PARTIAL STAY
3/12/2009	DEFENDANTS REQUEST/MOTION FOR FINDINGS OF FACT AND CONCLUSION OF LAW MOTION TO VACATE MARCH 2 2009 ENTRY GRANTING MOTION OF STORE-ALL ALFRED LLC FOR LEAVE TO FILEMEMORANDUM IN OPPOSITION TO MOTION FOR RULE 11 SANCTIONS AND SUPPORTING MEMORANDUM BRIEF
3/11/2009	AMENDED DEFENANT'S REQUESST/MOTION FIR FINDINGS OF FACT AND CONCLUSION OF LAW; MOTION TO VACATE MARCH 2, 2009 ENTRY GRANTING MOTION OF STOR-ALL ALFRED, LLC FOR ENLARGEMENT OF TIME; AND SUPPORTING MEMORANDUM BRIEF
3/10/2009	DEFENDANT'S REQUEST/MOTION FOR FINDINGS OF FACT AND CONCLUSION OF LAW; MOTION TO VACATE MARCH 2, 2009 ENTRY GRANTING MOTION OF STOR-ALL ALFRED, LLC FOR ENLARGEMENT OF TIME; AND SUPPORTING MEMORANDUM BRIEF
3/10/2009	DEFENDANT'S REQUEST/MOTION FOR FINDINGS OF FACT AND CONCLUSION OF LAW; MOTION TO VACATE MARCH 2,2009 ENTRY GRANTING MOTION OF STOR-ALL ALFRED, LLC FOR LEAVE TO FILE MEMORANDUM IN OPPOSITION TO MOTION FOR RULE 11 SANCTIONS; AND SUPPORTING MEMORANDUM BRIEF

See **EXHIBIT "51"** – Docket Sheet of the Hamilton County Court of Common Pleas. As the **United States Supreme Court** found in *Lakes v. State*, "*the trial judge* ***failed to make factual findings*** *to show the requests rise to the level of repetitive and abusive*

filings as in ***Maxton*** *or those cases cited in Maxton. Therefore,* ***we reverse*** *the order of the trial judge. . .,*" Newsome believes this Court will find that Judge West as well as the Ohio Supreme Court in keeping with their role in the CONSPIRACY and efforts to COVER-UP the criminal/civil wrongs complained of by Newsome in the lower court filings as well as her September 24, 2009 and December 28, 2009 FBI Criminal Complaints, have FAILED to make factual findings although the proper pleadings have been filed requesting said relief. The **United States Supreme Court** finding in *In re Maxton,* 325 S.C. 3, 478 S.E.2d 679 (S.C.,1996) that:

> Petitioner, . . . has submitted **sixty-four** pro se petitions *over the past* ***three*** years, including **forty-six** so far ***this year***, asking this Court to hear matters in its original jurisdiction or issue various extraordinary writs. Each petition submitted by petitioner has been frivolous and dismissed pursuant to *Key* v. *Currie,* 305 S.C. 115, 406 S.E.2d 356 (1991), *because no extraordinary reason existed to entertain* the matter in the original jurisdiction of this Court .
>
> . . . The courts in other jurisdictions have responded in a variety of ways to abusive filings such as those by petitioner. The United States Supreme Court has denied litigants who have filed repetitive, frivolous petitions the right to proceed in forma pauperis, resulting in the litigants having to pay the required filing fee with that Court. *In re Whitaker,* 513 U.S. I, 115 S.Ct. 2, 130 L.Ed.2d 1 (1994); *In re Anderson,* 511 U.S. 364, 114 S.Ct. 1606, 128 L.Ed.2d 332 (1994); *In re Demos,* 500 U.S. 16, III S.Ct. 1569, 114 L.Ed.2d 20 (1991); *In re Sindram,* 498 U.S. 177, III S.Ct. 596, 112 L.Ed.2d 599 (1991); *In re McDonald,* 489 U.S. 180, 109 S.Ct. 993, 103 L.Ed.2d 158 (1989). Other courts have required that the abusive litigant file an affidavit certifying that he believes the petition raises an original claim or is nonfrivolous before accepting filings from the litigant. *In the Matter of Verdone,* 73 F.3d 669 (7th Cir.l995); *Abdul-Akbar* v. *Watson,* 901 F.2d 329 (3d Cir.1990); *Green* v. *Warden,* 699 F.2d 364 (7th Cir.), cert. denied, 461 U.S. 960, 103 S.Ct. 2436, 77 L.Ed.2d 1321 (1983).

Again, supporting that there is no evidence to support/sustain that Newsome is a "serial litigator." Furthermore, ***extraordinary reasons*** *exist* for the United States Supreme Court to entertain this instant matter in its ***original*** *jurisdiction.* Moreover, that based upon the facts, evidence and legal conclusions, *Newsome is a* ***VICTIM*** *of vicious and malicious SUPREMACIST/TERRORIST groups* (i.e. LIBERTY MUTUAL, BAKER

DONELSON, and other conspirators/co-conspirators**)** who are engaging in a ***Pattern-Of-Practice***, Pattern-Of-Abuse, Pattern-Of-Criminal Conduct, Pattern-Of-Judicial Abuse, Pattern-Of-Usurpation of Power/Authority, etc. ***In further support of said issue(s) Newsome states:***

50) The record evidence will support that Newsome's pleadings are drafted in accordance to the Federal Rules and/or Rules of courts for purposes of expedition and saving costs of litigation. Pleadings are drafted to support the facts, evidence and legal conclusions presented. Thus, supporting opposing parties INABILITY to defend and, therefore, resorting to criminal/civil wrongs for purposes of obtaining an undue and unlawful/illegal advantage in lawsuit.

51) In the Mississippi actions, Newsome *shared concerns that courts are entertaining* **"SERIAL STALKERS/PREDATORS"** - *who are following her from* ***job-to-job, attorney-to-attorney*** – harassers, abusers of the judicial system/process, etc. (i.e. as the list can go on and on) who use their clients (i.e. *such as Stor-All* – ***with its permission***) to ***hood/mask*** their *ill-gotten fetishes* toward Newsome. See **EXHIBIT "58"** – *Response to Motion to Show Cause* (**BRIEF** Only) attached hereto and incorporated by reference as if set forth in full herein. In the Mississippi matter, Liberty Mutual and Baker



Donelson relied upon an attorney by the name of Clark Monroe to lead opposing parties/counsel in carrying out the attacks on Newsome. Just as sexual offenders are required to be posted on the appropriate *offenders* websites, so should it be with those who engage in CRIMINAL STALKING (i.e. *following citizens from state-to-state, job-to-job/employer-to-employer and court-to-court*) for **purposes** of unlawful/illegal practices – i.e. ***termination of employment***, **harassment**, **threats**, **intimidation**, **coercion**, **extortion**, **discrimination**, ***obstruction of justice/administration of justice***, etc.

> *Scheidler v. National Organization for Women, Inc.*, 123 S.Ct. 1057 (U.S.,2003) - While coercion and extortion overlap to the extent that *extortion necessarily involves the use of coercive conduct to obtain property*, the two crimes are distinct.

Newsome believes a reasonable mind may conclude that (based upon the facts, evidence and legal conclusions contained herein and in support records) litigants (i.e. as the Plaintiff Stor-All, its insurance carrier (Liberty Mutual and their attorneys/law firm such as Baker

Donelson)) may be deemed ***CRIMINAL STALKERS*** and ***SUPREMACIST/TERRORIST*** groups who **are *"hooded and/or masked"*** *and hide in the dark/hide behind the scene to* ***avoid*** *detection and recognition*; however, *come out during the day and may have assumed positions under the Obama Administration, United States Senate/United States House of Representatives, with legal Bar Associations, courts* (i.e. Clerk of Courts, Judge/Justices, etc.),[77] *government agencies, and other key PUBLIC offices.*[78] As with Clark Monroe and others that engage in such SUPREMACIST/TERRORIST acts, once the hood/mask is removed, it apparent from their countenance/face what is really in them and what they are really about. *While such STALKERS/PREDATORS and SUPREMACIST/TERRORIST appear to be well-groomed, educated, intelligent, smug, etc., **BE WARNED**, they are far from that and are of a NATIONAL/WORLDWIDE **threat** to the PUBLIC and are **walking liabilities** to whomever they come into contact with in defending claims brought by Newsome*[79] – i.e. as evidenced in this instant lawsuit wherein Plaintiff Stor-All's counsel *(David Meranus) filed the malicious complaint against Newsome*; however, when met with her Counterclaim, quickly "***tucked tail and abandoned his client***." Meranus did this **after** opening himself and his client (Stor-All) and their conspirators/co-conspirators up to **"CRIMINAL"** *prosecution* and **"CIVIL"** *liability*. *Now they are looking to Judge West, **President Obama** and his Administration as well as other **corrupt PUBLIC OFFICIALS** to AID & ABET in the cover-up of criminal/civil wrongs leveled against Newsome and are **attempting the close the doors of the court** to Newsome and deprive her of rights secured/guaranteed under the Constitution and other laws of the United States **on October 22, 2010**.*

IMPORTANT TO NOTE: *The record evidence will support Newsome's **OPPOSITION/CONTESTING** of said*

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[77] See _____ of this instant pleading as well as **EXHIBIT "17"** – DAVID DUKE/KU KLUX KLAN info attached hereto and incorporated by reference as if set forth in full herein.

[78] See _____ List at No. ___ of this instant pleading – i.e. which is **NOT** an exhaustive list of where members of such SUPREMACIST/TERRORIST groups are hiding and/or having their people serve.

[79] Newsome first warning of said liabilities in the Mississippi action. To no avail. Now because of the courts ***FAILURE to act*** as well as United States Legislature/Congress and President Obama's ***FAILURE to act*** (i.e. report crimes and prosecute, etc.), *Newsome and other citizens have been subjected to and placed in harm's way of such STALKERS/PREDATORS and SUPREMACIST/TERRORIST*. See **EXHIBIT "58"** – Motion to Strike Show Cause at No. __ - Page __ (**BRIEF** ONLY) attached hereto and incorporated by reference. Furthermore, now the *Commonwealth of Kentucky*, ***State of Ohio/County of Hamilton, Ohio*** and others have been exposed and *subjected to LIABILITY* as a ***DIRECT and PROXIMATE result*** *of the injuries Newsome has sustained* – i.e. as reported in her FBI Complaints.

*CONSPIRACIES leveled against her was **timely**, **properly** and **adequately** brought to Senators and Representatives of the United States Congress'/Legislature's attention as early as July 14, 2008,* through Newsome's ***Emergency Complaint*** - See **EXHIBIT "38"** attached hereto and incorporated by reference along with documentation supporting United States Postal Service PROOF-OF-MAILING and/or RECEIPT information. Nevertheless, *when the **FOX is GUARDING the Hen House*** – i.e. Baker Donelson have their people strategically placed in positions with Government agencies (i.e. such as **Branton S. Clanton** *who at the time of Newsome's filing appears to have been appointed by the **United States Commission on Civil Rights** for the position of **Chairman** of its Mississippi Advisory Committee* as well as other attorneys serving in KEY Government positions[80] for purposes of OBSTRUCTING justice and COVERING UP criminal/civil wrongs *because of the PERSONAL/FINANCIAL interest at stake*), **then it is of PUBLIC/WORLDWIDE interest** *as well as **NATIONAL** SECURITY because the record evidence sustains at PATTERN-OF-PRACTICE and PATTERN-OF-CRIMINAL behavior that are RACIALLY motivated* – i.e. clearly *evidence of **HATE** CRIMES being leveled against Newsome as well as other citizens and/or individuals to **promote the AGENDA** of such Supremacist/Terrorist group*s.

Nevertheless, because of the NEGLIGENCE of the United States Congress'/Legislature's Newsome has been subjected to further CRIMINAL/CIVIL wrongs carried out by Plaintiff Stor-All, its insurance carrier (LIBERTY MUTUAL), their attorneys (i.e. Baker Donelson, *Schwartz Manes Ruby & Slovin* and *Markesbery & Richardson Co LPA*) and others who each have fulfilled their roles in the CONSPIRACY leveled against Newsome.

52) The record evidence will support that while Plaintiff Stor-All, its insurance provider and its counsel/attorneys may attempt to paint Newsome as a "serial litigator," there is NO evidence to sustain such an argument. However, there is record evidence, facts and legal conclusions to support that Plaintiff Stor-All engage in criminal activities – i.e. Stalking, Burglary, Theft, etc. – and has

[80] See **EXHIBIT "59"** attached hereto as well as the list provided above at No. __ of this instant pleading along with **EXHIBIT "35"** – Listing of Judges/Judges attached hereto.

ill obsession with her that its insurance provider (Liberty Mutual) and its counsel (it appears) rely upon THIRD-PARTY information to aid them in the CRIMINAL Stalking and other crimes leveled against Newsome because she engages in protected activity(s). For instance see Clark Monroe's (attorney for Liberty Mutual's interest and its insureds) FRIVOLOUS assertions in the Mississippi matter – i.e. he uses tactic for the ***UNtrained*** eyes since most lawyers know that it is the Law Clerk of the Judges/Justices that review pleadings:

> "Plaintiff's abuse of the judicial system is not limited to the circumstances giving rise to this litigation. Rather, Plaintiff is a "serial litigator," having shown a propensity for filing repeated, frivolous, harassing lawsuits and appeals in the past, and having been previously sanctioned by the United States Court of Appeals for the Fifth Circuit. *Vogel Newsome v. EEOC,* 2002 WL 31845750 (5th Circuit 2002). . . . Counsel has reviewed each of the **twenty-two "hits"** on Westlaw and written the outcome of each in the margin. Twenty-one involved Ms. Newsome and ***she went 0-21*** overall ***with several specific findings that her complaints were frivolous***, one in which she was ordered to file nothing further and of course the sanctions from the Fifth Circuit." See **EXHIBIT "60"** at Paragraph 4 – *Melody Crews and Dial Equities, Inc.'s Joinder in Motion for Security of Costs and Separate Motion for Security of Attorneys Fees* (Filed August 1, 2007, in the Mississippi action Case No. 3:07-cv-00099) - filed by LIBERTY MUTUAL'S counsel (Clark Monroe) attached hereto an incorporated by reference as if set forth in full herein.

From Baker Donelson's listing, the facts, evidence and legal conclusions contained herein, it may provide Law Clerks with BRIBES, etc. to obtain rulings in its clients favor – i.e. look at Judge West's Bailiff, he was paid to dismiss lawsuits/legal actions. See **EXHIBIT "6"** attached hereto and incorporated by reference as if set forth in full herein.

53) The record evidence will support that Plaintiff Stor-All's insurance provider (Liberty Mutual) having knowledge of Newsome's employment with Wood & Lamping. Moreover, settled a claim with her that occurred during her employment with Wood & Lamping. See **EXHIBIT "118"** attached hereto and incorporated by reference. Supporting that it is Liberty Mutual and its insureds that rely upon THIRD-PARTY information to locate Newsome and engage other CONSPIRATORS/CO-CONSPIRATORS in its criminal/civil attacks on Newsome.

54) **IMPORTANT TO NOTE:** Clark Monroe states *"twenty-one" hits* – **NOT lawsuits**. Being very ***"crafty with the stroke of a pen"*** and fails to mention that out of his list, it only contains ***two (2) lawsuits*** brought by Newsome for monetary relief against her former employers. Clark Monroe fails to mention the role (if any) his client (LIBERTY MUTUAL and its attorneys) may have played in getting decisions in favor of its insured.

Actions brought against the EEOC were for purposes of requiring that they perform ministerial duties MANDATED (NOT discretionary) under the law. Two lawsuits against employers over a period of approximately ten (10) years – hardly grounds and/or evidence to label Newsome as a ***"serial litigator."*** Clark Monroe fails to mention the unlawful/illegal tactics used (if any) that his client (LIBERTY MUTUAL and its lawyers) used to get the EEOC to abandon MANDATORY duties owed citizens that bring complaints to its attention. While the court ruled in *Newsome v. EEOC* and *Newsome v. Entergy* the following:

> **. . .plaintiff is *instructed* to seek any further relief to which she feels entitled in the Fifth Circuit Court of Appeals, as may be appropriate in due course**" (2002 WL 1303123), and ***"Newsome also is not entitled to the writ because she has another adequate remedy available, i.e. she could file suit in court against her employer. . ."*** (37 Fed.Appx. 87)

See **EXHIBIT "57,"** the record evidence will support that LIBERTY MUTUAL (Plaintiff Stor-All's insurance provider) relied upon it or its attorneys' relationships to judges/justices to obtain rulings in its and its client's favor. Moreover, the record evidence will support that in ALL cases (i.e. in which Liberty Mutual's insureds are parties) involving Newsome, it/its counsel/its insureds contacted employers to notify of her engagement in protected activities for purposes of getting her employment terminated and financially devastating her to obtain an UNDUE and unlawful/illegal advantage over Newsome – i.e. depriving her ***equal*** protection of the laws, ***equal*** immunities and privileges and ***due process*** of laws. Supporting the WILLFUL, DELIBERATE, INTENTIONAL and MALICIOUS acts by Liberty, its insureds (i.e. as Plaintiff Stor-All) and its attorneys (i.e at the law firms of Schwartz Manes Ruby & Slovin and Markesbery & Richardson Co).

55) The record evidence will support that the lower court and/or in court/agency actions that Newsome has been a party to, the factfinder and/or Judges do not require any VERIFICATION of pleadings (as the law requires) by opposing counsel. Therefore, as the lower court record in this instant action as well as others that Newsome is involved in, the evidence will support just how ROGUE opposing parties' (i.e. as Plaintiff Stor-All) attorneys become and are willing to turn the judicial process into a "three-ring circus" – i.e. make a mockery of the judicial system and processes therein. Furthermore, opposing parties' (i.e as Plaintiff Stor-All) attorneys resorting to unlawful/illegal practices merely to ***"MILK their CASH COW(S)"*** (i.e. clients) because they

have knowledge of clients' financial wealth and WELL-ROOTED connections to CORRUPT Public Officials. See for instance the following evidence:

> "The Dial Defendants ***expended $10,036.40*** in defending Plaintiff's improper "appeal" to the County Court of the initial ruling by the Justice Court. . . This was largely due to Plaintiff repeated abuses of the judicial process in the course of that action, repeated frivolous motions, re-scheduling of hearings, withdrawal of her attorney to whose advice she refused to listen, *pro se* filing of pleadings even when represented and submission of lengthy tedious papers, much like the Complaint filed herein, that each take hours to review." See **EXHIBIT "60"(**BRIEF Only) at Paragraph 5 – *Melody Crews and Dial Equities, Inc.'s Joinder in Motion for Security of Costs and Separate Motion for Security of Attorneys Fees* (Filed August 1, 2007, in the Mississippi action Case No. 3:07-cv-00099) attached hereto an incorporated by reference as if set forth in full herein.
>
> "Plaintiff's **repeated** attempts ***to extort money*** from Dial Defendants ***through oppressive litigation*** can only be described ***as stalking by litigation***. Indeed, if ever there were a situation where the "bad faith" exception to the "American Rule" should be applied, it is the instant matter. While much leeway is usually afforded to a *pro se* litigant by the Courts, Ms. Newsome, ***a current or former*** *paralegal,* ***no longer fits that profile*** *nor should she be afforded the usual courtesy* provided to *pro se* litigants. Ms. Newsome knows the rules, she "games" the system, she ignores court directives and she maliciously causes significant financial harm to her litigation victims." – See **EXHIBIT "60"** at Paragraph 7 – *Melody Crews and Dial Equities, Inc.'s Joinder in Motion for Security of Costs and Separate Motion for Security of Attorneys Fees* (Filed August 1, 2007, in the Mississippi action Case No. 3:07-cv-00099) attached hereto an incorporated by reference as if set forth in full herein.

56) Newsome's argument of such SLANDEROUS and FRIVOLOUS labeling of her as a "serial litigator" and/or "veteran *pro se* litigator" may also be found in pleading provided by her ***FORMER*** *employer,* Page Kruger & Holland ("PKH"). PKH in one of the Mississippi lawsuits is representing Hinds County, the Sheriff, Judge William Skinner and Constable Lewis. This information is RELEVANT and PERTINENT as it goes to the PATTERN-

OF-PRACTICE at the root of the conspiracies leveled against Newsome. Moreover, confirms the TRUE reasons for Newsome's termination being PKH's being contacted and notified of Newsome's engagement in protected activities as evidenced in May 16, 2006, email entitled "***VOGEL NEWSOME: PKH's Termination of Employment***" – See **EXHIBIT "61"** attached hereto and incorporated by reference as if set forth in full herein – as well being contacted by opposing counsel (i.e. a reasonable mind/person may conclude from the STALKING pattern the filing of the lawsuit underlining this appeal, it was LIBERTY MUTUAL's counsel[81]) in lawsuit pending that Newsome was engaging in legal actions. The actions taken by PKH and opposing counsel clearly are PROHIBITED by law and deprived Newsome EQUAL protection of the laws, EQUAL privileges and immunities of the laws, and DUE PROCESS of laws.

> "Plaintiff's records show that she is **a veteran *pro se* litigator** who has filed numerous frivolous lawsuits . . ." – See **EXHIBIT "62"** at Page 5 and Paragraph 14 – *Motion for Security Costs* (Filed Hinds County/Sheriff McMillan July 13, 2007, in the Mississippi action Case No. 3:07-cv-00099) attached hereto an incorporated by reference as if set forth in full herein.
>
> "Additionally, Plaintiff *has an **extensive** record of filing numerous excessive* . . ." See **EXHIBIT "62"** at Page 5 and Paragraph 15 – *Motion for Security Costs* (Filed Hinds County/Sheriff McMillan July 13, 2007, in the Mississippi action Case No. 3:07-cv-00099) attached hereto an incorporated by reference as if set forth in full herein.

57) To further understand the CRIMINAL STALKING pattern of LIBERTY MUTUAL and its clients/counsel, Newsome provides a copy of the February 6, 2009, correspondence memorializing her conversation with Plaintiff's counsel (David Meranus) who was upset in losing to Newsome on her Motion to Transfer. Therefore, in RETALIATION and for purposes of ***coercion***, ***intimidation***, ***blackmail***, ***threats***, ***obstructing justice***, ***harassment***, ***bribery***, and other reasons known to Meranus to get Newsome to withdraw her Counterclaim, he advised Newsome of his and/or his client's knowledge of her engagement in protected activities in New Orleans, Louisiana. See **EXHIBIT "13"** attached hereto and incorporated by reference as if set forth in full herein. The record evidence will further support that while Meranus was counsel who filed the lawsuit on behalf of Plaintiff Stor-All, upon receipt of Newsome's Counterclaim, he moved SWIFTLY to distance himself and advised of his not wanting to defend against Newsome's Counterclaim. Surely a reasonable mind may conclude, why did Meranus bring legal action on behalf of his client (Stor-All) if he was not ready to suffer the consequences for bringing such a MALICIOUS lawsuit. Furthermore, Newsome believes that a reasonable mind may conclude from the record evidence that Meranus DID **NOT** file the lawsuit on behalf of his client

[81] Same attorney approaching Newsome's counsel during an in-chamber meeting between Judge and counsel for parties to litigation.

UNTIL *he removed the CONFLICT OF INTEREST that* ***existed*** *with Newsome's employment at Wood & Lamping and her working with an attorney by the name of Thomas J. Breed* – former lawyer/employee of Schwartz Manes & Ruby (n/k/a Schwartz Manes Ruby & Slovin and the law firm in which Meranus is employed). Upon reaching a mutual agreement that Wood & Lamping would terminate Newsome's employment on January 9, 2009, Plaintiff Stor-All having said assurance of Newsome's termination moved SWIFTLY to serve her with ***"NOTICE TO LEAVE THE PREMISES"*** on January 9, 2009 – See **EXHIBIT "63"** attached hereto and incorporated by reference as if set forth in full herein. Then on or about January 20, 2009, Meranus brought the MALICIOUS Forcible Entry and Detainer action out of which this appeal arises and Judge West is presiding over.

58) The lower court's record will further support Plaintiff Stor-All's insurance provider (LIBERTY MUTUAL) with knowledge that Meranus wanted to abandon their client, went and retained the legal services of the law firm of *Markesbery & Richardson Co*. In bringing said law firm onboard, counsel (Michael Lively) wasted no time in attempting to mask/hide the "serial litigator" defense and ACKNOWLEDGING his and his clients' (i.e. Liberty Mutual and Stor-All) role in the CRIMINAL STALKING of Newsome. Lively's term for such unlawful/illegal and criminal behavior being "***multi-state*** *conspiracy*." Lively's use of such term coming through his filing of Motion For Protective/Restraining Order wherein he and his clients attempt to paint Newsome as a potential murder and associate her with criminals who have gone on shooting sprees – i.e. such characterizations alone which are slanderous, malicious, libelous, defamatory, etc. – especially when Lively is fully aware of ***HIS*** *role* and the role of his clients and others in the CONSPIRACIES leveled against Newsome.

Plaintiff's (Stor-All) ***Motion For Protective/Restraining Order*** - See **EXHIBIT "64"** attached hereon and incorporated by reference as if set forth in full herein. Lively stating on behalf of himself and his clients:

> "Throughout her brief, Defendant consistently lumped Plaintiff, its counsel and insurance carrier together in an alleged ***multi-state*** *conspiracy* against her. Within said Motion, Defendant made reference to unrelated news stories, including that of Carl Brandon in Mississippi. . . and even went so far as to attach an article of the Motion explaining how Mr. Brandon went on a shooting spree targeting county employees and legal counsel involved in his case. . . Defendant stated, 'Stor-All *and its representatives* have stooped to criminal acts as a direct intent to cause the Defendant harm/injury. Moreover, efforts taken by Stor-All, *its counsel, its insurance provider (**Liberty Mutual**)* being done in hopes of driving the Defendant to the point they did Carl Brandon, Jena 6 victims, and who knows who else.' (***Emphasis*** added)."
>
> "These statements can be reasonably construed as a physical threat to Plaintiff, its representatives, its legal counsel and perhaps even the Court itself." @ Page 3.

Then Lively on behalf of himself and his clients moved to file Plaintiff's (Stor-All) ***Memorandum In Opposition To Defendant's Motion To Strike Plaintiff's Motion For Protective Order*** . . . . - See **EXHIBIT "65"** attached hereon and incorporated by reference as if set forth in full herein – wherein he states:

> "Defendant accuses Plaintiff and this counsel specifically in her above captioned motion of making scandalous, slanderous, defamatory, insulting, offensive and derogatory statements within Plaintiff's Motion for Protective/Restraining Order. . . ." @ page 2.
>
> "Of course, this counsel takes some personal offense at being lumped into Defendant's category of "certain whites" that have and apparently still commit legal violations against and otherwise conspire to deprive Defendant of her civil rights in multiple states . . . including burglary, robbery, assault and kidnapping. For the record and clarity, the undersigned strongly denies any such activity on his part and that of his client."[82] @ page 2.

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[82] *Dorger v. State*, 179 N.E. 143 (Ohio.App.1.Dist.**Hamilton.**Co.,1931) - Where evidence showed conspiracy . . . *each* conspirator ***is bound by other's acts*** in *furtherance* of conspiracy.

State v. Carver, 283 N.E.2d 662 (Ohio.App.4.Dist. 1971) - *Each* party to a conspiracy *is criminally responsible for **all** acts done in furtherance of the conspiratorial design.*

Bertear v. State, 8 Ohio Law Abs. 252 (**Ohio**.App.8.Dist. 193) - Where conspiracy was established, each conspirator ***was liable** for the acts **performed by the others** in furtherance* thereof.

English v. Matowitz, 72 N.E.2d 898 (**Ohio**,1947) - ***One need not be present** at place of the crime **in order to be charged** as an **aider** and **abettor** or **conspirator**, but constructive presence is sufficient.*

State v. Rogers, 27 N.E.2d 791 (**Ohio**.App.7.Dist. 1938) - ***One who enters into a conspiracy** to commit an unlawful act **is guilty of any unlawful act of his coconspirators** in furtherance of the conspiracy,* and it is not necessary that the conspiracy be one to commit the identical offense charged in the indictment, or even a similar one, but it is enough that the offense charged was one which might have been contemplated as resulting from the conspiracy.

Maple Hts. v. Ephraim, 2008 -Ohio- 4576 (**Ohio**.App.8.Dist. 2008) - Much like the rule of aiding and abetting, ***the overt acts of one** person in a criminal conspiracy **are attributable to all persons** in the conspiracy*.

Williams v. Aetna Fin. Co., 700 N.E.2d 859 (**Ohio**,1998) - In a conspiracy, *the acts of coconspirators **are attributable to each other***.

Solomon v. U.S., 276 F.2d 669 (1960) - *Under **basic** concept of conspiracy, act of any one conspirator **is legally the act of each***.

Pumphrey v. Quillen, 141 N.E.2d 675 (**Ohio**.App.9.Dist. 1955) - One **who knows** *purpose of a conspiracy* to do an unlawful act or to do a lawful act by unlawful means and who ***enters** into such conspiracy* **is bound** *by things said and done **by any** of the conspirators* in carrying out purpose of the conspiracy, *so long as **he remains** in the conspiracy*.

> "Perhaps most troubling and pertinent to the actual case before the Court, however, is Defendant's statement on Page 31, Paragraph h) of her brief where she states, 'Newsome believes that the record evidence will support that Stor-All, their ***counsel***/representatives, and others are relying upon their wealth, social status, powers and controls, ***relationships to judges***, etc. to get them verdict (sic) and decisions they know are contrary to statutes/laws." *Defendant seems to make a **veiled** accusation of **improper collusion** between legal counsel in the case and the Court, perhaps in reference to other procedural motions and orders.* @ page 3.
>
> "While interesting for political dialogue, Defendant's discussion of the overarching meaning of President Obama's election and the 2008 Presidential campaign are wholly irrelevant to the case. *No one should make light of Scripture and the teachings of the Apostles Paul and Peter and David's Psalms, but their placement by Defendant into the argument is improper for purposes of this motion and the Court in general.*" @ Page 3.

Keeping to true form of SUPREMACIST/TERRORIST groups, Lively and his Conspirators/Co-Conspirators WILLINGLY, KNOWINGLY and MALICIOUS engage in criminal/civil wrongs for purposes of promoting their RACIAL bias, RACIST agenda, DISCRIMINATORY and PREJUDICAL practices which target citizens (as Newsome). Not only that the resort to HOSTILE methods for purposes of destroying a person's livelihood (i.e. taking of job, property, monies, etc.), life, liberties and pursuit of happiness and mentally and physically breaking them down in efforts to have their victims resort to such criminal acts that he has SLANDEROUSLY, MALICIOUSLY, LIBELOUSLY and with DEFAMATORY intent, etc. implied and/or asserted that Newsome is capable of. Making such unfounded actions of criminal intent that Newsome would never engage in. Such attacks on Newsome by Lively for purposes of distracting the factfinder from the truth – Plaintiff Stor-All failed to file a timely Answer to Newsome's Answer and Counterclaim and that on or about March 20, 2009, Newsome filed a timely MOTION FOR DEFAULT JUDGMENT. See **EXHIBIT "66"** – Docket Sheet. Newsome believes that a reasonable person may conclude from ALL circumstances, facts, evidence and legal conclusion, that such VICIOUS attacks on Newsome by Lively will also support efforts to steer factfinder away from the relief Newsome is now entitled to because of

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Calcutt v. Gerig, 271 F. 220 (C.A.6. 1921) - **All** *who participated in unlawful acts committed in furtherance of a conspiracy* **are equally liable** *as co-conspirators, regardless of whether they were **original** parties to the conspiracy or not.*

Plaintiff Stor-All's failure to file a timely Answer to her Counterclaim which supports the following relief:

a) ***General Damages*** in an amount of no less than $150,000;

b) ***Special Damages*** in an amount of no less than $550,000;

c) ***Compensatory Damages*** in an amount no less than $1,000,000;

d) ***Punitive Damages*** in an amount no less than $2,500,000; and

e) Attorney/***Litigation Fees***; and

f) Any/All other relief that the laws allow.

Relief Newsome is now entitled to as a matter of law that Lively its clients and Judge West as well as other Conspirators/Co-Conspirators are trying to keep Newsome from receiving. Therefore, Lively and other Conspirators/Co-Conspirators that are conspiring with Judge West to deprive Newsome of EQUAL protection of the laws, EQUAL privileges and immunities of the laws and DUE PROCESS of laws have placed "all their eggs in one basket" in the DECISION set to be entered on or *about* ***Friday, October 22, 2010,*** where Judge West is expected to move to dismiss the lawsuit in their favor for purposes and in effort of providing Lively, Meranus, their clients (i.e. Liberty Mutual, Stor-All, etc.) with a SHAM/BOGUS and FRIVOLOUS defense to the ***inevitable*** civil lawsuits which will arise from their September 9/10, 2010 criminal acts and/or criminal/civil wrongs birthed from the filing of this MALICIOUS Forcible Entry and Detainer Lawsuit.

59) The lower court records will support that Newsome has **REPEATEDLY** addressed the Conspiracies leveled against her to destroy her life. To no avail. Matters of EXTREME and EXCEPTIONAL circumstances to support granting of Certiorari relief and the need for the United States Supreme Court's INTERVENTION in this lawsuit. While the laws are clear that the statute of limitation begins to run from EACH over act, it is of PUBLIC and NATIONAL/WORLDWIDE interest that the United States Supreme Court exercise its jurisdiction over this Appeal and correct the legal wrongs complained of herein. In fact, in Newsome's ***Motion to Strike Plaintiff's Motion for Protective/Restraining Order Against Defendant Denise V. Newsome; Request for Rule 11 Sanctions; and Memorandum in Support (Jury Trial Demanded in this Action)*** – See **EXHIBIT "67"** (**BRIEF** Only) attached hereto. She addresses just how evil and wicked Plaintiff Stor-All and its counsel/representatives are:

No there are laws to address the work of evil and malicious acts as Stor-All and its counsel/representatives. Said laws being designed to expose and rid the world of the work of the evil and malicious discriminatory practices that Stor-All and its counsel/representatives seeks to breed through their hatred towards Newsome and members of her class.

> *Neff v. Civil Air Patrol,* 916 F.Supp. 710 (S.D.**Ohio**.E.Div., 1996) - . . . designed to rid the world of *work of the evil* of discrimination because of individual's race. . .
>
> *Salinas v. U.S.,* 118 S.Ct. 469 (1997) - Conspiracy may exist and be punished whether or not substantive crime ensues, for conspiracy *is distinct evil*, **dangerous to public**, and so punishable in itself.

See Page 5 at Paragraph 11. Clearly there are court decisions to support the characterization of Plaintiff Stor-All and their counsel/representatives is appropriate. Moreover, that because Judges/Justices and Government Agencies/Officials may have engaged in CONSPIRACIES leveled against Newsome, as in the handling of this matter, on or about September 9/10, 2009, Plaintiff Stor-All, its counsel/representatives and Judge West, Judge Allen and other Conspirators/Co-Conspirators moved SWIFTLY to subject Newsome to further crimes for purposes of covering up PUBLIC CORRUPTION involving Government Officials. At least Newsome's allegations can be sustained by facts, EVIDENCE and legal conclusions. Furthermore, prior decision(s) by the United States Supreme Court will support that such failure to prosecute and handle Newsome's legal claims in the accordance with the laws governing said matters, will *further* **encourage** and **allow** such *CAREER CRIMINALS* as Plaintiff Stor-All, its attorneys (Meranus, Lively, Vance, Healy, Decker, etc.), its representatives (i.e. Liberty Mutual, etc.) and their Conspirators/Co-Conspirators to go on and spread and subject/impose such RACIAL bias, RACIAL injustices, DISCRIMINATORY and PREJUDICIAL practices on other citizens.

> *U.S. v. Jimenez Recio,* 123 S.Ct. 819 (2003) - Essence of a conspiracy is an agreement to commit an unlawful act.
>
> Agreement to commit an unlawful act, which constitutes the essence of a conspiracy, *is a* ***distinct evil*** that may exist and be punished whether or not the substantive crime ensues. *Id.*
>
> Conspiracy ***poses a threat to the public*** over and above the threat of the commission of the relevant substantive crime, both because *the combination in crime* ***makes more likely*** *the commission* ***of other*** *crimes* and because it **decreases the probability** that *the individuals involved* ***will depart from their path of criminality***. *Id.*

60) The record evidence will support that while there is no offense intended; however, Stor-All's MFPRO[83] is merely an underhanded effort to paint African-Americans as those who are hostile, full of hate, revenge, rage, etc. To the contrary. Newsome harbors **no** *ill will* and would commit **no** such criminal acts asserted by Stor-All and its counsel. *Newsome is in a very good position in this lawsuit- in that Stor-All has waived its rights to file an Answer and/or responsive pleading or Rule 12 motion - and even if she was not, no such criminal acts asserted by Stor-All against her in its MFPRO would be committed.* It is a known fact that such unlawful practices as Stor-All, its counsel, its representatives, etc. in contacting Newsome's employer to get her terminated is a common practice by *certain* whites to keep African-Americans oppressed. Moreover, acts and characteristics of SUPREMACIST and TERRORIST groups. <u>It was Stor-All who brought this instant lawsuit and, therefore, as a matter of law, Newsome was entitled to file a counterclaim</u>. To Stor-All's disappointment and not taking the Carl Brandon route, ***Newsome has brought this matter to the lower court to allow a JURY (i.e. <u>not</u> Judge West) to decide the matter.*** Moreover, Stor-All and its counsel/representatives are aware that rather than taking such matters into her own hand, Newsome has brough such unlawful acts of Stor-All and others to the proper agency's attention to address such criminal/civil wrongs. No the lower court records will sustain, being the Christian that she is, Newsome believes in relying upon the laws to decide this matter – what would be the purpose of claiming to be a Christian and then *stooping* to the level in which Stor-All and its counsel/representatives were trying to take her. *Both the laws of the United States as well as that set out in books (i.e. issued by **<u>KING</u> James**) advise Newsome on how she is to proceed against such CAREER CRIMINALS as Plaintiff Stor-All, its counsel/representatives, Judge West and their Conspirators/Co-Conspirators.* No when one is on the housetop he/she does not need to come down:

> I Timothy 1:
> (8) **But we know that the law is good, if a man use it lawfully;**
>
> (9) Knowing this, that the law is not made for a righteous man, but for the lawless and disobedient, for the ungodly and for sinners, for unholy and profane, for murderers of fathers and murders of mothers, for manslayers.
>
> I Peter 4:
> (12) Beloved, think it not strange concerning the fiery trial which is to try you, as though some strange thing happened unto you;

[83] Abbreviation for "Motion For Protective/Restraining Order."

(13) But rejoice, inasmuch as ye are partakers of Christ's sufferings; that, when his glory shall be revealed, ye may be glad also with exceeding joy.

(15) **But let none of you suffer as a murder, or as a thief, or as an evildoer, or as a busybody in other men's matters**.

(16) Yet if *any man suffer* as a Christian, let him not be ashamed; but let him glorify God on this behalf.

It is apparent the laws have been put in place for such as Stor-All, its counsel and representatives; therefore, Newsome is exercising her rights under the governing statutes/laws. It is Stor-All and its counsel/representatives who have engaged in criminal acts, stalking Newsome from job-to-job, contacting her employer to get her terminated, etc. Such evil deeds which are being rewarded with them falling into the traps they set for Newsome – in which Newsome is now allowed to recover from damages/liability. *Oh what a tiny web one weaves when he/she practice to deceive*.

Psalm 141:
(9) Keep me from the snares which they have laid for me, and the gins of the workers of iniquity.

(10) **Let the wicked fall into their own nets, whilst that I withal escape**.

Psalm 35:
(7) For without cause have they hid for me their net in a pit, which without cause they have digged for my soul.

(8) **Let destruction come upon him at unawares; and let his net that he had hid catch himself; into that very destruction let him fall.**

See Pages 5 through 6 at Paragraph 12. Clearly the record evidence will support just how far Plaintiff Stor-All, its counsel/representatives, Judge West and their Conspirators/Co-Conspirators have gone to lay traps and force Newsome into committing criminal acts; however, instead, they became ensnared and resorted to of a LIFE and PATTERN of criminal practices.

61) The record evidence will further support the role Plaintiff Stor-All and its counsel/representatives played in getting Newsome's employment with Wood & Lamping terminated. Moreover, the PERSONAL/FINANCIAL interest in having Judge West dismiss this lawsuit **on October 22, 2010,** for purposes of providing them with a defense to further lawsuits which they know are *inevitable*.[84]

[84] *Haddle v. Garrison*, 119 S.Ct. 489 (1998) - [n.1] At-will employee who alleged that his employer and two of its officers *conspired to terminate him in retaliation* for obeying federal grand jury subpoena and *to deter him from testifying* at federal criminal trial ***was "injured in his person or property***" and, thus, *could state claim for damages under civil rights statute prohibiting conspiracies to intimidate or retaliate against witnesses in federal court proceedings*, though employee had no constitutionally protected interest in continued employment. 42 U.S.C.A. § 1985(2, 3).

Section 1985(2), in relevant part, *proscribes conspiracies to "deter, by force, intimidation, or threat, any party* or witness *in any court of the United States from attending such court*, or *from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party* or witness *in his person or property on account of his having so attended or testified*." [FN1] The statute provides that *if **one*** *125 *or more persons engaged in such a conspiracy "do, or*

*cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, ... **the party so injured** ... **may have an action for the recovery of damages occasioned by such injury** ... **against any one** or more **of the conspirators**.*" § 1985(3).[FN2]

> FN1. Section 1985(2) proscribes the following conspiracies: "If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws."
>
> FN2. Section 1985(3) contains the remedial provision granting a cause of action for damages to those harmed by any of the conspiracies prohibited in § 1985. See *Kush v. Rutledge*, 460 U.S. 719, 724-725, 103 S.Ct. 1483, 75 L.Ed.2d 413 (1983) (listing the various conspiracies that § 1985 prohibits).

[n.2] Plaintiff *need **not** suffer an injury* to a constitutionally protected property interest ***in order to state a claim for damages** under civil rights statute prohibiting conspiracies to intimidate or retaliate* against witnesses *in federal court proceedings*. 42 U.S.C.A. § 1985(2, 3).

[n.3] *Fact that employment at will **is not** "property" for purposes of the Due Process Clause **does not mean** that loss of at-will employment **may not injure** employee in his person or property for purposes of stating claim for damages under civil rights statute prohibiting conspiracies to intimidate or retaliate against witnesses in federal court proceedings.* U.S.C.A. Const.Amend. 14; 42 U.S.C.A. § 1985(2, 3).

[n.4] *Harm occasioned **by third-party interference** with at-will employment relationship may give rise to claim for damages under civil rights statute prohibiting conspiracies to intimidate or retaliate* against witnesses in federal court proceedings. 42 U.S.C.A. § 1985(2, 3).

> [4] We hold that the sort of harm alleged by petitioner here-essentially third-party interference with at-will employment relationships-states a claim for relief under § 1985(2). Such harm has long been a compensable injury under tort law, and we see no reason to ignore this tradition in this case. As Thomas Cooley recognized:
>
> > "***One** who **maliciously** and **without justifiable cause**, induces an employer to discharge an employee, **by means of false statements**, **threats** or **putting in fear**, or perhaps by means of **malevolent** advice and persuasion, **is liable** in an action of tort to the employee for the damages thereby sustained. And it makes no difference whether the employment was for a fixed term not yet expired or is terminable at the will of the employer*." 2 Law of Torts 589-591 (3d ed.1906) (emphasis added).

This Court also recognized in *Truax v. Raich*, 239 U.S. 33, 36 S.Ct. 7, 60 L.Ed. 131 (1915):

"*The fact that the employment is at the will of the parties, respectively, **does not** make it one **at the will of others**.* The *employee **has manifest interest in the freedom** of the employer to exercise his judgment **without illegal** interference or compulsion* and, by the weight of authority, the ***unjustified** interference **of third** persons* is actionable although the employment is at will." Id., at 38, 36 S.Ct. 7 (citing cases).

62) Newsome believes that this instant action will support how it evolved from the *ONGOING conspiracy leveled against her and the CRIMINAL STALKING, harassment and discriminatory/prejudicial practices leveled against her because of her race and/or the color of her skin as well as her exercising PROTECTED rights secured/guaranteed under United States Constitution and other laws.*

63) *Information which is **of PUBLIC/WORLDWIDE importance*** because *when courts **allow** CRIMINAL STALKING as that addressed by Newsome to*

The kind of interference with at-will employment relations alleged here is merely a species of the traditional torts of ***intentional*** *interference with contractual relations and intentional interference with prospective contractual relations*. See Restatement (Second) of Torts § 766, Comment*127 g, pp. 10-11 (1977); see also id., § 766B, Comment c, at 22. *This **protection** against **third-party interference** with at-will employment relations **is still afforded** by **state** law today*. See *W. Keeton, D. Dobbs, R. Keeton, & D. Owen, Prosser and Keaton on Law of Torts* § 129, pp. 995-996, and n. 83 (5th ed.1984) (citing cases). For example, the State of Georgia, where the acts underlying the complaint in this case took place, provides a cause of action ***against third parties** for **wrongful interference** with employment relations*. See *Georgia Power Co. v. Busbin*, 242 Ga. 612, 613, 250 S.E.2d 442, 444 (1978) ("*[E]ven though a person's employment contract is at will, he has a **valuable** contract right which **may not** be **unlawfully interfered with** by a **third** person*"); see also *Troy v. Interfinancial, Inc.*, 171 Ga.App. 763, 766-769, 320 S.E.2d 872, 877-879 (1984) (directed verdict inappropriate against defendant who procured plaintiff's termination for failure to lie at a deposition hearing)...Thus, to the extent that the terms "injured in his person or property" in § 1985 refer to principles of tort law, see 3 W. Blackstone, Commentaries on **493 the Laws of England 118 (1768) (describing the universe of common-law torts as "***all** private wrongs*, or *civil injuries*, which may be offered to the ***rights of either a man's person or his property***"), we find ample support for our holding that the harm occasioned by the conspiracy here may give rise to a claim for damages under § 1985(2). . . .

At-will employee brought action against his employer and two of its officers for alleged violation of civil rights conspiracy statute, claiming that employer and officers *conspired to have him fired from his job in retaliation for obeying federal grand jury subpoena and to deter him from testifying at federal criminal trial*. The United States District Court for the Southern District of Georgia granted defendants' motion to dismiss for failure to state a claim. On appeal, the United States Court of Appeals for the Eleventh Circuit affirmed. After granting certiorari, **the Supreme Court**, *Chief Justice Rehnquist*, held that **employee was "injured in his person or property**" and, thus, *could state claim for damages under civil rights conspiracy statute*.

Held: The sort of the harm alleged by petitioner-**essentially third-party interference** *with at-will employment relationships*-**states a claim for damages under § 1985(2)**. **490 In relevant part, the statute proscribes conspiracies to **"deter, by force, intimidation, or threat,** any ... witness **in any** [federal] **court** *... from attending such court*, or *from testifying to any matter pending therein, ...* or *to injure [him] in his person or property **on account of his having so attended or testified**,"* § 1985(2), and provides that if conspirators "do ... any act in furtherance of ... such conspiracy, whereby another is injured in his person or property, ... the party so injured ... may" recover damages, § 1985(3). The Eleventh Circuit **erred** *in concluding that petitioner must suffer an injury to a "constitutionally protected property interest" to state a claim*. Nothing in the language or purpose of the proscriptions in the first clause of § 1985(2), nor in its attendant remedial provisions, establishes such a requirement. The gist of the wrong at which § 1985(2) is directed **is not** deprivation of property, ***but intimidation or retaliation against witnesses*** in federal-court proceedings. **The terms "injured in his person or property" define the harm that the victim may suffer as a result of the conspiracy to intimidate or retaliate**. Thus, the fact that employment at will is not "property" for purposes of the Due Process Clause, see *Bishop v. Wood*, 426 U.S. 341, 345-347, 96 S.Ct. 2074, 48 L.Ed.2d 684, **does not mean that loss of at-will employment may not "injur[e] [petitioner]** *in his person or property"* for § 1985(2)'s purposes. *Such harm has **long been**, and **remains**, a compensable injury under tort law, and **there is no reason** to* *122 ***ignore this tradition here***. To the extent that the terms "injured in his person or property" refer to such tort principles, there is ample support for the Court's holding. Pp. 491-493. See **EXHIBIT "122"** attached hereto and incorporated by reference as if set forth in full herein.

continue ***with the AIDING & ABETTING of Judges/Justices***, *it clearly* ***sends the wrong message*** *not only the citizens of the United States but* ***to Foreign Countries/Leaders*** *that such SUPREMACIST/TERRORISTS acts are acceptable and APPROVED*!! Further supporting this instant ***EMTS & MFEOTWOC***.

XII. CONGRESSIONAL INVESTIGATION(S)[85]

Newsome believes that Certiorari will be granted in that EXTREME and EXCEPTIONAL circumstances exist. Moreover, that as early as July 14, 2008, Newsome submitted for filing her *Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Findings* (See **EXHIBIT "38"** attached hereto and incorporated by reference as if set forth in full herein); however, to date has not received anything regarding the status of said filing. Newsome believes that a reasonable mind may conclude that as a DIRECT and PROXIMATE result of the United States Legislature's/Congress' FAILURE to prosecute and/or report crimes/civil wrongs reported, those engaging in CONSPIRACIES proceeded to ESCALATE their attacks on Newsome. Furthermore, the record evidence will support that the MAJOR Conspirators (i.e Baker Donelson and Liberty Mutual) have DEEP ROOTS in Government Agencies charged with handling the Complaints/Charges filed by Newsome. See **EXHIBITS "59," "22," "80"** and **"35"** respectively, attached hereto and incorporated by reference as if set forth in full herein. **In further support thereof, Newsome states:**

[85] *Watkins v. U.S.*, 77 S.Ct. 1173 (1957) - Power of Congress to conduct investigations is inherent in the legislative process, and is broad.

Congressional power of investigation is not unlimited and there is no general authority to expose the private affairs of individuals without justification in terms of the functions of Congress. *Id.*

It is duty of all citizens to co-operate with Congress in efforts to obtain facts needed for intelligent legislative action, to respond to subpoenas, to respect the dignity of Congress and its committees, and to testify fully with respect to matters within province of proper investigation, assuming that constitutional rights of witnesses will be respected by Congress as they are in a court of justice. *Id.*

Eastland v. U. S. Servicemen's Fund, 95 S.Ct. 1813 (1975) - Although the power of Congress to investigate is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution, Congress is not vested with a general power to inquire into private affairs and the subject of any inquiry always must be one on which legislation could be had. U.S.C.A.Const. art. 1, § 6, cl. 1; Amend. 1.

Watkins v. U.S., 77 S.Ct. 1173 (1957) - [n.2] Power of Congress to conduct investigations is inherent in the legislative process, and is broad.

[n.5] In conducting investigation, Congress is not a law enforcement or trial agency and no inquiry is an end in itself, but it must be related to and in furtherance of a legitimate task of Congress.

> [2][5]We start with several basic premises on which there is general agreement. The power of the Congress to conduct investigations is inherent in the legislative process. That power is broad. It encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes. It includes surveys of defects in our social, economic or political system for the purpose of enabling the Congress to remedy them. It comprehends probes into departments of the Federal Government to expose corruption, inefficiency or waste. But, broad as is this power of inquiry, it is not unlimited. There is no general authority to expose the private affairs of individuals without justification in terms of the functions of the Congress. This was freely conceded by the Solicitor General in his argument of this case. [FN8] Nor is the Congress a law enforcement or trial agency. These are functions of the executive and judicial departments of government. No inquiry is an end in itself; it must be related to, and in furtherance of, a legitimate task of the Congress. Investigations conducted solely for the personal aggrandizement of the investigators or to 'punish' those investigated are indefensible.
>
> > FN8. 'Now, we don't claim on behalf of the Government that there is any right to expose for the purposes of exposure. And I don't know that Congress has ever claimed any such right. But we do say, in the same breath, that there is a right to inform the public at the same time you inform the Congress.'

64) Newsome *believes that Certiorari action is of National/Worldwide importance because President Obama advised that he wanted his Presidency and/or Administration to be* ***one of TRANSPARANCY*** *and/or* ***open to the PUBLIC***. Therefore, the granting of the Certiorari relief Newsome will seek, will do just that. Moreover, ***EXPOSE*** *the PATTERN-OF-PRACTICE involving the* ***Racial Injustices*** *and* ***Discriminatory/Prejudicial*** *practices of those in whom President Obama relies upon for counsel/advice which has deprived Newsome as well as other citizens of EQUAL protection of the laws, DUE PROCESS of laws, life, liberties and the pursuit of happiness that are secured/guaranteed under the United States Constitution.*

How early were President Obama and the United States Legislature/Congress made aware of such SUPREMACIST/TERRORIST practices? As early as July/August 2008. See **EXHIBIT "38"** – ***Emergency Complaint***. Newsome following up with President Obama (i.e. then Senator Obama) on or about November 12 and 14, 2009 – See **EXHIBIT "68"** (Letters ONLY with supporting RECEIPT confirmations) attached hereto and incorporated by reference as if set forth in full herein.

65) The record evidence will support that Newsome has followed many avenues and filed numerous complaints and charges in pursuit of happiness, life and liberties. Moreover, has contacted the proper government officials – i.e. United States President, Governor, United States Senate, United States House of Representatives – to no avail. The record evidence will support that Baker Donelson has cornered the market and LOBBYIST on behalf of its clients and are willing to violate the laws no matter what it costs. The record evidence will support, for instance, in the Mississippi matter, Newsome contacted Senator Thad Cochran who advised her on or about June 1, 2006:

> *This appears to be a private, legal matter. However, in an effort to be of assistance, I have contacted the proper Office of the Attorney General officials on your behalf. As soon as I receive a report from them, I will get back in touch with you.*

See **EXHIBIT "69"** attached hereto and incorporated by reference as if set forth in full herein. However, upon research Newsome found information wherein a reasonable person/mind may conclude he is one of the Senators purchased by Baker Donelson and its BIG MONEY interest groups – i.e. insurance companies, private/public corporations, etc. See **EXHIBITS "69"** *and* **"18"**. Also see **EXHIBIT "59"** which contains the following information:

> (Jackson, MS/May 10, **2007**) Bradley S. Clanton, of the law firm of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, *has been appointed by the* ***United States Commission on Civil Rights*** *(USCCR) to serve as* ***Chairman*** *of its Mississippi Advisory Committee*.
>
> The *Committee* ***assists*** the USCCR with its *fact-finding, investigative* and *information dissemination* activities. The functions of the USCCR include investigating complaints alleging that citizens are being ***deprived of their right*** *. . . studying and collecting information relating to* ***discrimination*** *or a* ***denial*** ***of equal protection of the laws*** *under the Constitution*; ***appraising*** *federal laws and policies with respect to* ***discrimination*** *or* ***denial*** *of* ***equal*** *protection of the laws because of race, color, . . .* or *in the* ***administration of justice***; *serving as a* ***national clearinghouse*** *for information in respect to discrimination or denial of equal protection of the laws*; *submitting reports,* ***findings*** *and recommendations to the* ***President and Congress***; *and* ***issuing***

public ***service announcements*** *to discourage discrimination or* ***denial*** *of equal protection of the laws.*

Mr. Clanton, *a* ***shareholder*** *in Baker Donelson's* ***Jackson*** *and* ***Washington, D.C.*** *offices,* ***concentrates*** *his practice in* ***government*** *litigation,* securities and *other* ***fraud*** *investigations,* and litigation, ***election*** *law and appeals. His appellate practice has included matters before the* ***U.S. Supreme Court****, U.S.* ***Courts of Appeals****, the Mississippi Supreme Court and Court of Appeals, and various other state appellate courts*. His internal investigations and government litigation practice has included matters related to ***Securities and Exchange*** *Commission investigations,* health care fraud investigations, *federal* ***campaign*** *finance investigations,* and *state and federal* ***securities*** *fraud* class action litigation and arbitration proceedings. Previously, *Mr. Clanton served as* ***Chief*** ***Counsel*** *to the U.S. House Judiciary Committee's Subcommittee on the Constitution,* ***where his responsibilities included advising the Chairman*** ***and*** ***Republican*** ***Members of the*** ***Judiciary*** ***Committee on legislation and*** ***Congressional oversight*** ***implicating*** ***civil and constitutional rights****,* Congressional authority, separation of powers, proposed constitutional amendments and ***oversight*** *of the Civil Rights Division of the* ***Department of Justice*** *and the* ***U.S. Commission on Civil Rights****.*

attached hereto and incorporated by reference as if set forth in full herein.

66) The record evidence will further support that one of Plaintiff Stor-All's insurance provider's (Liberty Mutual) counsel on record for another legal action involving Newsome, provides information on the INTERNET of how their special services in "White Collar Crime and Government Investigations" would be beneficial and experience in "STATE law enforcement, heavily-regulated litigation, civil lawsuits and criminal prosecution." Again, when there are foxes (i.e. like Bradley S. Clanton – SHAREHOLDER and attorney for Baker Donelson) placed in CRITICAL positions to handle Complaints and Charges as those filed by Newsome, clearly the smoking gun and others have been found/exposed:

> *White Collar Crime and Government Investigations: . . .* few corporations can safely assume that their operations and employees are immune from government investigations and even prosecution. . . the very existence of such probes can do substantial damage. When the stakes are highest, corporations and individuals need lawyers versed in the unique challenges of such cases.
>
> When the unthinkable happens, businesses and executives need a law firm that moves quickly to answer and defend against charges of illegal behavior. Attorneys in the White Collar Crime Group ***limit client exposure in government and internal investigations of employee wrongdoing, and defend companies and executives in parallel proceedings involving agency litigation, civil lawsuits and criminal prosecution.***

> **Relying** upon attorneys *with **backgrounds** in state law enforcement*, **heavily-regulated** industries, **DOJ, FBI**. . . and ***various agencies***, this Group assists clients in responding. . .handle appeals and fight threats of suspension, debarment and exclusion. . .

See **EXHIBIT "70"** – Baker Donelson's "*White Collar Crime and Government Investigations*" attached hereto and incorporated by reference as if set forth in full herein.

XIII. PROHIBITION/MANDAMUS ACTION(S)

Newsome believes that Certiorari will be granted in that the record evidence supports that prior to bringing this Appeal she EXHAUSTED avenue in which to address the judicial abuses, usurpation of judicial power, etc. of Judge Nadine Allen – i.e. a Judge who clearly LACKED Jurisdiction to act. Nevertheless, keeping to TRUE FORM and PATTERN-OF-PRACTICES supporting Conspiracies leveled against Newsome, she proceeded even with knowledge that jurisdiction was lacking:

> *Schlagenhauf v. Holder*, 85 S.Ct. 234 (U.S.**Ind**.,1964) - The writ of mandamus is appropriately issued when there is usurpation of judicial power or a clear abuse of discretion.
>
> *Commonwealth of Virginia v. Rives*, 100 U.S. 313 (1879) - Mandamus may be used to restrain inferior courts to keep them within their lawful bounds.
>
> *Ex parte Bradley*, 74 U.S. 364 (1868) - Mandamus issues to judges of any inferior court commanding them to do justice according to powers of their office whenever the same is delayed.

In further support thereof, Newsome states:

67) The record evidence, facts and legal conclusions will sustain that Newsome has REPEATEDLY followed the laws and brought the applicable Mandamus and/or Prohibition actions. To no avail.

68) This instant action involves a ***COMPLICATED*** *matter* in which the Ohio Supreme Court has proven that it is ***INCAPABLE*** of handling issues raised by Newsome. Moreover, its ***INABILITY*** *to remain impartial* due to the

FINANCIAL/PERSONAL interests of the Justices of said court because the Insurance Carrier (LIBERTY MUTUAL) and/or its attorneys/lawyers/law firms are BIG FINANCIAL CONTRIBUTORS of at least **86%** of the justices. See **EXHIBIT "54"** attached hereto and incorporated by reference as if set forth in full herein.

69) The Certiorari action that Newsome will bring CANNOT be determined without her addressing the PATTERN-OF-CRIMINAL/CIVIL wrongs and/or ABUSE-OF-PRACTICES, USURPATION OF POWER, CONSPIRACY, etc. out of which the lower court lawsuit arose and this instant Appeal action is birthed. This is a matter of ***EXECPTIONAL*** and ***EXTREME*** circumstances that is beyond comprehension as to why Newsome has been targeted for no other reasons for RACIAL bias and RACIAL injustices. Further supporting this instant ***EMTS & MFEOTWOC***.

70) The Certiorari action Newsome desires to bring will also address and confirm the ***longstanding-beliefs*** of many African-Americans and/or people of color regarding the RACIAL INJUSTICES as well as how the United States Constitution is REPEATEDLY violated and that when African-Americans and/or people of color are involved, the laws are **NOT *EQUALLY*** applied. Furthermore, will support how BIG MONEY has repeatedly been used to BUY/PURCHASE decision as a means of bribery, extortion, coercion, blackmail, to obtain favorable rulings that are clearly contrary to statutes/laws governing said matters.

71) Newsome believes that the Certiorari matter she will bring before this Court is of NATIONAL and HOMELAND SECURITY importance in that the evidence provided herein as well as to be provided in Certiorari will support the DOOM, DESPAIR and HOPELESSNESS that citizens such as:

a. Omar Thornton[86] – i.e. Hartford Distributors Shooter (See **EXHIBIT "71"**) attached hereto and incorporated by reference as if set forth in full herein.

[86] ". . . Some people don't want to discuss racism as being a form of violence because it would reveal that they themselves are in fact extremely violent and in denial about it. . .

Hartford Distributors may have used racism and gradually managed to kill Omar Thornton mentally and emotionally before the killing spree via attrition. . ."

"Thornton seethed with a sense of racial injustice for years that culminated in a shooting rampage. . .

'You probably want to know the reason why I shot this place up.' Thornton said in a recording released Thursday. 'This place is a racist place. They're treating me bad over here. And treat all other black employees bad over here, too. So I took it to my own hands and handled the problem. I wish I could have got more of the people. . .

b. Carl Brandon - i.e. Port Gibson, Mississippi Shooting (See **EXHIBIT "72"**) attached hereto and incorporated by reference as if set forth in full herein.

c. Andrew Joseph Stack III – i.e. Austin, Texas (flew plan into IRS Building) See **EXHIBIT "73"** attached hereto and incorporated by reference as if set forth in full herein.

may have felt when they resorted to the criminal acts carried out by each of them. *Furthermore, will support how such unlawful/illegal practices as those administered by President Obama, his Administration, his counselors/advisors and others are <u>used to drive and/or **BULLY** citizens to commit such crimes by stripping them of their livelihood</u>; moreover, life, liberties and the pursuit of happiness – i.e. rights secured under the United States Constitution.*

72) There are no excuses for the acts of Thornton, Brandon Stack, etc. Men apparently felt they were pushed to such extremes through the acts of others and/or no fault of their own and believed that, the only way out, was to take the law into their own hand and render SWIFT justice.

73) Newsome believes that Thornton, Brandon and Stack may have been driven to such crimes because unlike her, they knew that there were those who sought to destroy their lives; however, when reporting such matters, said reports fell on deaf ears. Unlike Newsome these men probably did not have the evidence to support their claims although they knew that there were those who sought to deprive them the pursuit of happiness, life and liberties. In Newsome's situation CONSPIRATORS (Plaintiff Stor-All) and other Conspirators/Co-Conspirators (Liberty Mutual, its attorneys and other government officials) have engaged in the following for purposes of destroying her life, depriving her of liberties and pursuit of happiness so that it could obtain an UNDUE and unlawful/illegal advantage in lawsuit filed against her:

Hartford Distributors president Ross Holland said there was no record to support claims of 'racial insensitivity' made through the company's anti-harassment policy, the union grievance process or state and federal agencies. Relatives of the victims also rejected the claims . . .

'I'm sick of having to quit jobs and get another job because they can't accept me'. . .

'He was such a caring person,'. . . 'He showed me so much love. He was like a teddy bear.'

'He just didn't understand why people had so much hatred in their lives, . . .'

he showed her cell phone photos of racist graffiti in the bathroom at the beer company and overheard a company official using a racial epithet in reference to him, but a union representative did not return his phone calls. Police said they recovered the phone and forensics experts would examine it.

'Nothing else bothered him except these comments he would make about them doing the racial things to him,. . .' "

a) Criminal/Civil wrongs in ***contacting Newsome's employer*** (Wood & Lamping) to obtain termination of her employment – in which they were successful in accomplishing;

b) ***Obtaining FRIVOLOUS and UNLAWF/ILLEGAL rulings*** for purposes to covering up the criminal acts reported in Newsome's September 24, 2009 FBI Criminal Complaint;

c) ***Unlawful/Illegal seizure and/or EMBEZZLEMENT of her 2009 Federal Income Tax Return*** by the United States Department of Treasury – i.e. research yielding relationship between Secretary for the Department of Treasury (Timothy Geithner) and that of Liberty Mutual (insurance provider for Plaintiff Stor-All) and their counsel/attorneys (Baker Donelson) – See **EXHIBIT "79"** attached hereto and incorporated by reference as if set forth in full herein. The PUBLIC/WORLD needs to know ***who actually is RUNNING THE UNITED STATES GOVERNMENT***. Geithner having been selected for this position by United States President Barack Obama. Geithner who during the time approached by President Obama for this position appears to owe approximate **$140,000** in back taxes. Nevertheless, he was confirmed. Geithner's other friend (Thomas Daschle) that President Obama for the position for Secretary of the Health and Human Services Department, is the husband of one of Baker Donelson's TOP and/or PROMINENT LOBBYIST (Linda Daschle).[87]

d) ***Theft and EMBEZZLEMENT of her monies***. Engaging bank(s) in which Newsome conducts business to engage in such CONSPIRACIES and allow the unlawful/illegal seizure of her monies – See **EXHIBIT "27"** attached hereto. Banks failing to determine whether or not prior to allowing actions, whether legal procedures (i.e. notification to Newsome/citizens) were followed. In Newsome's case, legal procedures and/or prerequisites for taking said actions (if lawful, which they were not) were adhered to. In fact, the

[87] "Daschle withdrew his name from consideration as Barack Obama's nominee for secretary of the Health and Human Services Department after *he revealed that he **owed** until recently $140,000* in **back taxes**. . . Obama had asked *Daschle to **spearhead** a massive effort to reform health care* in the United States and, as such, ***head*** *the new White House Office of Health Reform. . .*

Daschle spent ten years as leader of the Senate's Democratic Party, but only two as majority leader. A liberal with big ideas for health care and international development, he spent most of his Senate career in the minority fighting against the majority Republicans.

One of his biggest accomplishments in the Senate *was keeping his party from convicting* President Clinton after the House impeached the former president in December 1998. . .

Daschle's ***wife***, *Linda Daschle*, who worked . . . under President Clinton, is a ***prominent lobbyist*** *for Baker Donelson. . .*" See **EXHIBIT "79."**

Kentucky Department of Revenue did KNOWINGLY, WILLINGLY and MALICIOUS altered Kentucky Statute and issued SHAM Legal Process with knowledge that it was committing a crime. In fact, according to the bank's (JP Morgan Chase Bank [a/k/a Chase Bank]) representative (**LaTrenda** – Supervisor in the *Levy Department of Chase Bank* at **(866) 578-7022**)), the Kentucky Department of Revenue and JP Morgan Chase Bank has a relationship and they handle such seizures (i.e. unlawful) all of the time. **IMPORTANT TO NOTE:** *This is of PUBLIC/WORLDWIDE interest. How many other citizens have been victims of such **FRAUDULENT** and unlawful/illegal **SCAMS** of the Commonwealth of Kentucky and Chase Bank?* A reasonable person/mind may conclude that Chase Bank is KNOWINGLY and WILLINGLY with MALICIOUS intent allowing such unlawful/illegal seizures/liens on other citizens of the United States based on SHAM/BOGUS document as that created by the Kentucky Department of Revenue to obtain monies from Newsome's account(s). This unlawful/illegal lien/seizure coming approximately **four (4) days** [i.e. executed on July 17, 2010) **prior** to the July 21, 2010 hearing that was set before Judge West, then was set for September 28, 2010, and now a DECISION is set to be rendered on or about **Friday, October 22, 2010,** although Newsome has timely, properly notified Judge West, opposing parties and President Obama that she would be appealing this matter to the United States Supreme Court and OPPOSE Judge West's presiding over lawsuit. See **EXHIBIT "8"** - *"Notification of Intent to File EMERGENCY Writ of Certiorari with the United States Supreme Court; Motion to Stay Proceedings – Request for Entry of Final Judgment/Issuance of Mandate as Well as STAY of PROCEEDINGS Should Court Insist on Allowing August 2, 2010 Judgment Entry to Stand"* (BRIEF Only) attached hereto and incorporated by reference as if set forth in full herein. From Newsome's research she was also able to find out that attorney involved in the Mississippi Matter (Lawson – i.e. who was employed at PKH when Newsome's employment was terminated upon learning of her engagement in protected activities), has abandoned PKH and is now employed by a law firm by the name of Wyatt Tarrant & Combs – i.e. whose clients is Chase Bank, PNC Bank and Liberty Mutual.

e) For other malicious reasons known to it.

74) In fact, another citizen was beat down by such criminal abuses as that Plaintiff Stor-All, its insurance provider (Liberty Mutual) and its attorneys rely upon to destroy a person and to leave them hopeless, that some citizens believe there is no other way out but to take the laws into their own hands and resort to criminal acts as Carl Brandon (See EXHIBIT "72") and others:

Cut & Pasted From: http://www.wapt.com/news/8141556/detail.html

> ***"I don't know how you can consider me a danger. I was made a criminal through the system … The sexual harassment charges made against me were trumped up, yet the system allowed the board of supervisors to take them and run with them,"*** Brandon said in court.
>
> Karl Devine, Brandon's longtime friend, said Brandon never got over the fact that the courts upheld the board's decision to fire him in 1997.
>
> *Devine believes the years Brandon spent unsuccessfully trying to clear his name, caused him to finally snap.* ***"Carl, would always talk about it he said 'The one thing that I want, I just want them to clear my name. They don't have to pay me, they don't have to give me no job, just clear my name,"*** *said Devine***.**

Cut & Pasted From: http://www.topix.com/forum/city/port-gibson-ms/T0RUM1ECTB788O4HN# comments

> "I would put Carl Brandon as a model from my town. I think he was one of the more intellegent and well manners persons in the class. i cannot imagine this guy walking up one morning to decide that he want to destroy his life and others." – Sarah Kelly (Chicago, IL)
>
> "Some time a person ***try to walk away from a problem, but there are people in this world that want let them do that***. *This man had left his job and move on, but that was not good enough.* **They had to call his job and tell them what happened 9 years ago, and got this man fired**. I hate that he let the devil take over him at the time, but I do understand . . . I hope we can learn something from this tragedy." – Shelly Jones (Nashville, TN)
>
> "He had lost his job because someone said he had harassed them. He lost his reputation and the respect of some. *When he tried to move on* ***some vindictive, vicious persons went to his next job and scandalized him****. He fought through every legal avenue available to him and found* ***no*** *justice.*" – Cassandra Cook Butler (AOL)

75) Newsome believes that Certiorari action ***is of National/Worldwide importance*** *in that it will shed additional light and/or EXPOSURE the NEXUS between this instant legal matter involving Newsome and the recent ATTACK that President Obama and his Administration launched against Shirley Sherrod.*

> ***Shirley Sherrod: White House Forced My Resignation***
>
> The Department of Agriculture employee who resigned after a controversy erupted over recent remarks she made is ***now saying that the White House forced her resignation***. . .
>
> Shirley Sherrod, the USDA's former director of rural development in Georgia, said USDA deputy undersecretary *Cheryl Cook called her Monday and* ***said the White House wanted her to resign***, the Associated Press reports.
>
> "They *called me* ***twice***," Sherrod told the AP, noting that she was driving when she received the calls. "*The last time they asked me to pull over the side of the road and* ***submit my resignation*** *on my Blackberry, and that's what I did*."

Revealing the NEXUS between ***those who counsel/advise***[88] President Obama and the need to *BULLY, DESTROY, BEAT DOWN/BREAK DOWN* the ***strong will*** of African-Americans and/or people of color who are determined to see EQUALITY, equal protection of the laws, due process of laws, civil rights, etc. prevail for all.

76) Newsome believes that Certiorari will be granted in that it will support the *need to address* ***such SYSTEMATIC racial injustices*** *leveled against African-Americans and/or people of color and the criminal/civil wrongs orchestrated to see that such classes of people NEVER achieve and arise above the OBSTACLES set to keep them in BONDAGE and mentally/physically enslaved.* Furthermore, the need to explore why citizens are attacked on their "First Amendment Rights" as Justice Sotomayor – i.e. wherein she came under attack during the "Confirmation Hearings" for the following comment:

> ***"I would hope that a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn't lived that life."***

[88] See **EXHIBIT "4"** – *Internet Articles on Shirley Sherrod* matter attached hereto and incorporated by reference as if set forth in full herein.

When potential Justices and/or citizens are going to be subjected to such *HOSTILE, AGGRESSIVE and BULLYING as that of the United States Senators for such comments and stating the TRUTH, what does that say about **"First Amendment Rights"** and those who seek to CONTROL and PREVENT the truth of being revealed*? This is ***2010*** *and rather than going **forward** and **progressing***, it appears that African-Americans are living in a country *that is **being run by those who insist** on taking them and the United States **back into an era of SLAVERY** and **OPPRESSION***. A reasonable mind may conclude that when a United States Senator (Arlan Specter) is willing to address concerns of the LACK of DIVERSITY on the Judiciary, then, **INDEED**, something is wrong:

> Specter supported a broader range of experience on the Court and said **the future Justice should represent minorities**. . . .
>
> "I'd like to see more diversity," he said. "I think another woman. Ultimately maybe now **we need a Hispanic**; **African Americans are underrepresented**. . .
>
> "I'd like to see more diversity," he said. "I think another woman would be good. I think that ultimately maybe now we need an Hispanic. African-Americans are underrepresented."
>
> *Specter also said that he could envision, and could support, **someone who was not a lawyer** for the opening seat, acknowledging that **there is no Constitutional requirement that a Supreme Court Justice be an attorney**.. . .*

See **EXHIBIT "74"** attached hereto and incorporated by reference as if set forth in full herein. In light of the facts, evidence and legal conclusions sustained herein, Newsome believes a reasonable mind may conclude that CONSPIRACY to COVER-UP criminal/civil wrongs leveled against her as well as deprive her EQUAL protection of the laws and DUE PROCESS of laws will sustain the EXCEPTIONAL and EXTREME circumstances supporting this instant ***EMTS & MFEOTWOC***.

77) Newsome believes that Certiorari will be granted because as with her, she believes a reasonable mind may conclude that such attacks leveled against Justice Sotomayor during her "Confirmation Hearing" for such remark as, ***"I would hope that a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn't lived that life"*** was handled in a manner to place her in FEAR of not getting the job as well as a ***SUBLIMINAL*** *message-of-control* used by the United States Senators conducting such hearings *to COVER-UP **known** RACISM and RACIAL INJUSTICES in the United States*. *In fact, it*

appears as with Newsome, there were others who saw such "Confirmation Hearing" used to attempt to ***get one to DENY their beliefs and to separate*** *himself/herself from their race and/or ethnicity which defines them and/or have made them the person he/she is* – see **EXHIBIT "75"** which states in part:

> *As we saw in the confirmation hearings, Sotomayor's ethnicity, gender, heritage, public service, judicial philosophy* ***came under fire*** *and Sotomayor while demonstrating intellectual acumen and an impressive cool, did, in fact,* ***distance herself from the very details that define herself****.*

Furthermore, such attacks as those leveled against Justice Sotomayor appeared to have been conducted to FORCE her to abandon the promise made to President Obama wherein the following was requested and confirmed:

> But my attention lingers on the **two promises** Obama asked Sotomayor to keep:
>
> > "*The* ***first*** *was to remain the person I was*, and the ***second*** *was to stay connected to my community*," she said. "And *I said to him that those were two easy promises to make, because those two things I* ***could not*** *change*." . . .
> >
> > *Sotomayor's elevation to the high court should inspire the many she is said to represent –women, Latinas/non-whites– and the nation that has presumably been enriched by the social advancement that her confirmation heralded, to embrace the challenges that were left in the wake of "progress."*

see **EXHIBIT "75"** attached hereto and incorporated by reference as if set forth in full herein. Newsome believes considering the facts and evidence contained herein as well as recent attacks on her life and wellbeing, a reasonable min may conclude that President Obama *may have realized that he has allowed himself to be PURCHASED by BIG MONEY/SPECIAL INTERESTS and SUPREMACIST/TERRORIST groups that required/demanded that he abandon who he is and his race to be successful in becoming the President of the United States as well as the* ***need to DISCONNECT himself*** *from his community and RACIAL bias and RACIAL INJUSTICES leveled against African-Americans and/or people of color*. President Obama becoming the person that his TOP/KEY Financial Supporters and Contributors (i.e. Baker Donelson, Liberty Mutual, etc.) have clearly shaped and molded him into – ***losing touch with himself and his community***.

Newsome's *experience has shown that the* ***attacks on her*** *life, liberties and pursuit of happiness* ***are RACIALLY motivated*** *and have been done to* ***BREAK her DOWN*** *and to* ***BEAT her into SUBMISSION*** *and* ***ABANDONMENT*** *of her heritage/roots as well as the rights to which she is*

entitled to under the United States Constitution and other statutes/laws governing such matters. Nevertheless, President Obama (it appears) ***is authorizing***, ***leading***, ***supporting*** *and* ***condoning*** such *attacks leveled on Newsome's and other African-Americans (i.e. such as Shirley Sherrod) in efforts of silencing her as well as get her to ABANDON who she is and to disconnect from her community/heritage/people as he has done*.

> **Important To Note:** As with the attacks on Newsome, so were such practices RECENTLY used on Shirley Sherrod and PUBLICLY put on the INTERNET (i.e. *via YouTube*). Newsome believes that these are such ***DISCRIMINATORY and RACIST measures SUPREMACIST/TERRORIST groups*** (i.e. as Liberty Mutual and Baker Donelson) *resort to when they want to destroy African-Americans and/or people of color that are seen as STRONG and PASSIONATE about Civil Rights and EQUALITY for all regardless of the color of their skin*.

78) Newsome believes Certiorari action ***is of National/Worldwide importance*** in that it *will EXPOSE the* ***ELABORATE*** ***techniques*** *and* ***criminal*** *techniques* - used by those who provide the President of the United States with counsel/advice – ***SYSTEMATICALLY*** *used for purposes of destroying the livelihood and liberties of African-Americans and/or people of color*. Moreover, to MENTALLY and PHYSICALLY beat those African-Americans and/or people of color into SUBMISSION/ACCEPTANCE of slavery practices who oppose and/or speak out against Constitutional/Civil Rights violations. Said **practices/tactics that were OUTLAWED decades ago**.

79) Newsome believes that the recent HARASSMENT and VICIOUS attacks in the unlawful/illegal EMBEZZLEMENT of her 2009 Federal Income Tax Refund by the **United States Department of Treasury** (i.e. on behalf of the *Department of Education*) **that is headed by Timothy Geithner** – i.e. who, based on information retrieved from the INTERNET was confirmed **owing**

approximately $43,000 in BACK TAXES – is another example of how the United States Government abuses its authority and FAILS to comply with the statutes/laws governing matters. Moreover, unlawfully/illegally embezzling monies owed Newsome in efforts of providing Baker Donelson's (*i.e. whose attorney* ***[Lamar Alexander] served as Secretary of the United States Department of Education*** – See **EXHIBIT "80"** and Paragraph 82 at about Page 205 above) and its client's (Liberty Mutual) with an undue and unlawful/illegal advantage in lawsuit by committing such CRIMES for purposes of FINANCIAL devastation and depriving Newsome EQUAL protection of the laws; EQUAL privileges and immunities of the laws; and DUE PROCESS of laws.

Newsome believes that based upon the July 14, 2010 Email as well as other emails released to the PUBLIC/WORLD by her, that a reasonable person/mind may conclude that President Obama/his Administration and other Government Agencies are RETALIATING in to deprive Newsome First Amendment Rights, Constitutional Rights as well as efforts to silence her for speaking out about the RACIAL INJUSTICES and CORRUPTION in the United States Government.

XIV. PATTERN-OF-PRACTICE

While United States law PROHIBITS criminal/civil violations such as CRIMINAL STALKING (i.e. for example, stalking citizens from state-to-state, employer-to-employer and contacting their employers to advise of employee(s) participation in protected activities), the evidence contained herein will support that this did not stop Plaintiff Stor-All in this this instant lawsuit, its attorneys, insurance provider and/or opposing parties from engaging in such crimes. In fact, the record evidence, facts and legal conclusions will support this instant Appeal is birthed from a malicious lawsuit filed against Newsome because of Plaintiff Stor-All's knowledge of her engagement in protected activities and that Stor-All did not file its lawsuit against Newsome until it was successful in getting her employment with Wood & Lamping terminated.

To understand the EVOLVEMENT of the Certiorari to be brought, the following facts are PERTINENT and/or CRITICAL for purposes of understanding and seeing the ***PATTERN-OF-PRACTICE***, PATTERN-OF-**ABUSE**, PATTERN-OF-**JUDICIAL ABUSE**, PATTERN-OF-***USURPATION OF POWER/AUTHORITY***, *PATTERN-OF-**CRIMINAL/CIVIL WRONGS***, etc. Furthermore, to understand the EVOLVEMENT of the Certiorari action to be brought, it is important for Newsome *to establish a NEXUS and/or the RELATIONSHIP between the legal matters addressed herein and how it now involves the lawsuit in which this Certiorari action arises*. Therefore, it **is IMPORTANT to note the KEY/MAJOR culprits/conspirators** who may also be the ***SUPREMACIST*** *and* ***TERRORIST*** *groups* (i.e. from information/evidence obtained) *in the **CONSPIRACY** and COVER-UP of criminal/civil wrongs leveled against Newsome* and other citizens:

a) Liberty Mutual Insurance Company who claims to be:

> . . .the **5th *largest*** *P&C insurance company in the United States*, why we've *earned an A.M. Best Co. 'A' (Excellent) rating*, and why we have the breadth, depth and ***financial strength*** *that you can always depend on - in the United States and around the **world***.

See **EXHIBIT "76"** attached hereto and incorporated by reference as if set forth in full herein. It appears Liberty Mutual is the insurance provider for Plaintiff (Stor-All) in the ***Ohio*** *lower case actions in Cincinnati, Ohio* out of which this instant action arises. It appears that Liberty Mutual may also be the insurance provider for Defendant (*Entergy Services Inc./Entergy New Orleans, Inc.*) in the **Louisiana** matter involving Newsome. It also appears that Liberty Mutual is the insurance provider for the Defendants (*Dial Equities, Inc/Melody Crews* – in Spring Lake Apartments matter) in the Jackson, **Mississippi** involving Newsome.

b) ***Baker Donelson Bearman Caldwell & Berkowitz*** **–** pomp's itself as:

> "as one of the ***10 fastest growing*** **law firms in the U.S.** by The National Law Journal and is one of the **100 largest law firms in the country**"

See **EXHIBIT "77"** attached hereto and incorporated by reference as if set forth in full herein. Baker Donelson on its firm website acknowledging such "Recognition" as:

> We take pride in our attorney and practice area achievements. At Baker Donelson, the *highest* ***accolade*** we can receive is *when a client* ***views us*** *as a* ***valued*** *business partner*. Our commitment to understanding our clients' businesses and providing knowledgeable and consistent guidance is a primary factor in the consistent recognition we have achieved.
>
> - Named as **73rd largest law** firm by *National Law Journal* in 2009 (number of attorneys).
> - Ranked 114th largest law firm by *The American Lawyer* in 2010.
> - Ranked by FORTUNE as one of the "**100 Best Companies to Work For**" in 2010.
> - Ranked by FORTUNE as one of the **top ten public policy firms in Washington, D.C.** in its most recent survey of this kind.
> - Consistently ranked in the "**Top 100 U.S. Law Firms For Diversity**" by *Multicultural Law Magazine* since 2005.
> - Ranked in the "Top 100 Law Firms For Women" by *Multicultural Law Magazine* since 2008.
> - Since 2006, listed *as a* ***"Go-To Law Firm"*** in the Directory of **In-House** Law Departments of the Top 500 Companies produced by *Corporate Counsel* and American Lawyer Media.
> - **63 attorneys in** *Chambers USA: America's Leading Business Lawyers* in 2010.
> - 189 attorneys in *Best Lawyers In America*® in 2011 edition. Based upon total number of attorneys listed, **ranked 4th** in the U.S. overall,

and **first in the nation** in the areas of Gaming Law, Mass Tort Litigation, Personal Injury Litigation, Product Liability Litigation, Professional Malpractice Law, Medical Malpractice Law and Transportation Law.

- 63 attorneys in *Mid-South Super Lawyers* and 15 attorneys in *Mid-South Rising Stars* – covering Arkansas, Mississippi and Tennessee (2009); 14 attorneys in *Louisiana Super Lawyers* (2010); 14 attorneys in *Alabama Super Lawyers* and 6 attorneys in *Alabama Rising Stars* (2010); 7 attorneys in *Georgia Super Lawyers* and 4 attorneys in *Georgia Rising Stars* (2010).
- Ranked as **one of the top ten Labor and Employment Litigation** firms in the nation by *Employment Law 360* (2006, 2007).
- Ranked among the top bond counsel firms in Mississippi by *The Bond Buyer* (2007, 2008).
- Ranked by ***Modern Healthcare* as the 6th largest health law firm in the U.S.** (2008).
- Named by *Health Lawyers News* (June 2009) as one of the top ten health law practices in the nation.
- Named by *Nightingale's Healthcare News* (May 2006) as one of the **nation's largest health care law practices**.
- Selected by *Chambers USA: America's Leading Business Lawyers* (2010) as **one of the nation's leading health law practices**.
- Ranked by *Intellectual Property Today* as one of the top 100 trademark firms in the country (2007, 2008, 2009, 2010).
- Named among the Best Employers in Tennessee (2007, 2008, 2009, 2010).
- Named by *Benchmark: Litigation* (2009) as a **Recommended Firm in Louisiana, Mississippi** and Tennessee.[89]

Baker Donelson is the law firm that stepped in to represent Entergy Services, Inc./Entergy New Orleans Inc. in Louisiana legal matters

[89] Nevertheless, when faced with Newsome's lawsuits brought against its client's (Liberty Mutual) insureds, rather than come forth and reveal itself, Baker Donelson took the COWARDLY approach and remained behind the scene LEADING/DIRECTING/ORCHESTRATING the criminal/civil wrongs leveled against Newsome.

involving Newsome **after** Entergy's in-house counsel abandoned it – being the ***"Go-To Law Firm"*** as mentioned in the above list (see **EXHIBIT "78"** – attached hereto and incorporated by reference as if set forth in full herein) and supported by its entering the New Orleans lawsuit replacing Entergy's In-House counsel – See **EXHIBIT "33."**

Important To Note: This is a law firm which also has an office in **Jackson, Mississippi** – however, *Newsome believes that the reason why it did not enter an appearance to represent in Mississippi matter is because it knew and/or may have known that Newsome would have readily* ***made the connection with the criminal/civil wrongs*** *leveled against her out of which lawsuit arose as well as the* ***reasons for her unlawful/illegal termination of her employment*** *to which Baker Donelson/Liberty Mutual remained behind the scenes directing and/or orchestrating criminal/civil wrongs*[90] – i.e. **supporting documentation to sustain engagement in CONSPIRACIES leveled against Newsome**. Newsome believes that a reasonable mind from the evidence presented herein and/or to be presented in Certiorari will further support *the role this law firm as well as its client (Liberty Mutual) and others played in the unlawful/illegal terminations of her employment in Louisiana, Mississippi and Ohio.* Moreover, the NEXUS ties to government officials, court officials and others involving criminal/civil wrongs leveled against Newsome. Furthermore, the role it is playing in the RECENT attacks leveled against Newsome.

IMPORTANT TO NOTE: This is a law firm which also *has an office in* ***Washington, DC*** *as well as DEEP ROOTS and TIES in POLITICS and GOVERNMENT* (i.e. United States White House, United States Senate, United States House of Representatives, Governorships, etc.) – See for example information provided at Paragraph 28(h)/Page 44 of this instant pleading.

[90] See No. __ of this pleading – i.e. definition for TERRORIST CELL.

To support that Newsome has timely, properly and adequately brought the required legal actions to address the CONSPIRACY, CRIMINAL STALKING, HARASSMENT, THREATS, INTIMIDATION, DISCRIMINATORY/PREJUICIAL practices leveled against her as well as other citizens (i.e. which clearly affect the PUBLIC-AT-LARGE) to the proper authorities, she provides the following documentation (**BRIEF** Only – Government Agencies/Courts' record contain the supporting Exhibits if referenced in pleading/document):

A. ENTERGY SERVICES INC./ENTERGY NEW ORLEANS MATTER

This is a matter which was REALLOTTED to Judge G. Thomas Porteous ("Judge Porteous"). Judge Porteous may ***presently*** be before Congress for **IMPEACHMENT** purposes.[91] When the case was filed, it was assigned to Judge Morey L. Sear. Judge Sear failed to advise Newsome of any CONFLICT-OF-INTEREST with his presiding over lawsuit. Judge Sear abandoning case AFTER Newsome's success on appeal challenging his decision as to whether or not she was entitle to legal representation. See **EXHIBIT "33"** – Docket Sheet and **EXHIBIT "32"**- Fifth Circuit Ruling regarding appointment of counsel (EMPHASIS ADDED).

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[91] • *Involvement in a corrupt kickback scheme*

- *Failure to **recuse** himself* from a case he was involved in
- Allegations that Porteous *made **false** and **misleading** statements*, including concealing debts and gambling losses
- Allegations that Porteous *asked for and **accepted** "numerous things of value*, including meals, trips, home and car repairs, *for his **personal** use and benefi*t" **while taking official actions *on behalf* of his benefactors**
- Allegations that Porteous lied about his past to the U.S. Senate and to the FBI about his nomination to the federal bench "*in order to **conceal corrupt** relationships*," Schiff said in his floor statement as prepared for delivery

. . .Schiff said. "His ***long-standing** pattern of corrupt activity*, so utterly lacking in *honesty and integrity*, *demonstrates* his **unfitness to serve** as a United States District Court judge . . . "

See **EXHIBIT "12"** – CNN, FoxNews and Washington Post Articles attached hereto and incorporated by reference as if set forth in full herein.

80) ***Petitioner's Petition Seeking Intervention/Participation of the United States Department of Justice*** ("PPSI/POUSDOJ")**–** This was submitted for filing on or about September 17, 2004, to the attention of the following persons:

Original To:	Office of the Solicitor General c/o Paul D. Clement **United States Department of Justice** 950 Pennsylvania Avenue, NW Washington, DC 20530-0001
Copy To:	Office of the Assistant Attorney General Civil Rights Division c/o R. Alexander Acosta **United States Department of Justice** 950 Pennsylvania Avenue, NW Washington, DC 20530

See **EXHIBIT "34"** – 09/17/04 Petition (**BRIEF** Only) attached hereto and incorporated by reference as if set forth in full herein. At the time of said filing, **neither** the United States Department of Justice, Baker Donelson, nor Liberty Mutual made known to Newsome of any potential CONFLICT-OF-INTEREST. *Newsome has recently retrieved information from the Internet which she finds **very disturbing** (i.e. and believes that **a reasonable mind** may also find disturbing) in that Baker Donelson thrives on PUBLICLY advertising positions its attorneys hold and/or held with the United States Department of Justice* – **United States Attorneys**. See **EXHIBIT "22"** attached hereto and/or listing above at **Paragraph 28(h)/Page 44** of this instant pleading. However, *since going PUBLIC and releasing such information to other citizens, foreign Nations/Leaders, Baker Donelson has SCRUBBED the website from which this information was retrieved*. ***It is a good thing that Newsome retained a hard copy of such evidence to sustain her allegations and issues raised***.

Even more disturbing is information Newsome has uncovered to support that Plaintiff Stor-All's insurance provider relies on its relationship with its attorneys (i.e. Baker Donelson) to be sure its law firms have their attorneys in KEY/PROMINATE positions (i.e. which include judges/justice) to SECURE favorable rulings:

> Mr. Clanton, *a **shareholder** in Baker Donelson's **Jackson** and **Washington, D.C.** offices, **concentrates** his practice in **government** litigation,* securities and *other **fraud** investigations,* and litigation, ***election** law and appeals. His appellate practice has included matters before the **U.S. Supreme Court**, U.S. **Courts of Appeals**, the Mississippi Supreme Court and Court of Appeals, and various other state appellate courts*. His internal investigations

and government litigation practice has included matters related to ***Securities and Exchange*** *Commission investigations*, health care fraud investigations, *federal* ***campaign*** *finance investigations*, and *state and federal* ***securities*** *fraud* class action litigation and arbitration proceedings. Previously, *Mr. Clanton served as* ***Chief Counsel*** *to the U.S. House Judiciary Committee's Subcommittee on the Constitution*, ***where his responsibilities included advising the Chairman and Republican Members of the Judiciary Committee on legislation and Congressional oversight implicating civil and constitutional rights***, Congressional authority, separation of powers, proposed constitutional amendments and ***oversight*** *of the Civil Rights Division of the* ***Department of Justice*** *and the* ***U.S. Commission on Civil Rights***.

The record evidence supports that Newsome as early as the litigation of the Entergy matter as well as filing of the ***PPSI/POUSDOJ*** supports/sustains that the proper Government Agencies (i.e. higher courts, Department of Justice, etc.) were timely, properly and adequately notified of Newsome's concerns of Judge Porteous and others role in CONSPIRACY and CORRUPT practices which infringed upon her Constitutional Rights and deprived her EQUAL protection of the laws and DUE PROCESS of laws as well as other rights secured/guaranteed under the laws of the United States that has been afforded to other citizens. In fact, in ***PPSI/POUSDOJ***, relief sought clearly states at:

Paragraph 131 – Page 51: "that the United States Department of Justice and/or Congress retain jurisdiction of the action *sub judice* and see that Newsome is provided legal representation/counsel for the duration of this lawsuit;"

Paragraph 134 – Pages 51: "that the United States Department of Justice prepare and submit the applicable *pleadings for the* ***disqualification*** of the following Judge(s)/Magistrate(s):

a. Honorable G. Thomas Porteous, Jr. (District Court Judge)
b. Honorable Morey L. Sear (District Judge)
c. Magistrate Judge Sally Shushan"

Paragraph 135 – Pages 51 thru 52: "that the United States Department of Justice, on behalf of Newsome, file the applicable Criminal lawsuits or actions (if warranted) for Obstructing Justice, conspiracy, fraud, etc. – ***under the applicable laws governing said violations or the likes –*** against any or all of the following:

a. Honorable G. Thomas Porteous, Jr. (District Court Judge)
b. Honorable Morey L. Sear (District Judge)
c. Magistrate Judge Sally Shushan"

Paragraph 138 – Pages 52 thru 53: "That the United States Department of Justice, on behalf of Newsome, file the applicable ***Criminal*** lawsuits (if warranted) for Obstructing Justice, conspiracy, fraud, etc. – ***under***

the applicable laws governing said violations or the likes – against any or all of the following:

a. Entergy Services, Inc.
b. Locke, Liddell & Sapp, LLP
c. Justice For All Law Center, LLC
d. Jones, Walker, Waechter, Poitevent, Carrére & Denégre, LLP
e. Baker, Donelson, Bearman, Caldwell, & Berkowitz, PC
f. Christian Health Ministries
g. Baptist Community Ministries
h. Michelle Ebony Scott-Bennett
i. Renee Williams Masinter
j. Allyson K. Howie
k. Amelia Williams Koch
l. Steven F. Griffith, Jr.
m. Phyllis Cancienne
n. Jennifer A. Faroldi"

Paragraph 139 – Pages 53: "That the United States Department of Justice, on behalf of Newsome, file the applicable ***Civil*** lawsuits (if warranted) for Obstructing Justice, conspiracy, fraud, etc. – ***under the applicable laws governing said violations or the likes*** – against any or all of the following:

a. Entergy Services, Inc.
b. Locke, Liddell & Sapp, LLP
c. Justice For All Law Center, LLC
d. Jones, Walker, Waechter, Poitevent, Carrére & Denégre, LLP
e. Baker, Donelson, Bearman, Caldwell, & Berkowitz, PC
f. Christian Health Ministries
g. Baptist Community Ministries
h. Michelle Ebony Scott-Bennett
i. Renee Williams Masinter
j. Allyson K. Howie
k. Amelia Williams Koch
l. Steven F. Griffith, Jr.
m. Phyllis Cancienne
n. Jennifer A. Faroldi"

Paragraph 141 – Pages 54: "That the United States Department of Justice, on behalf of Newsome, file the applicable ***pleadings/documents*** (if warranted) for **disbarment** for Obstructing

Justice, conspiracy, fraud, etc. – ***under the applicable laws governing said violations or the likes*** – against any or all of the following:

a. Locke, Liddell & Sapp, LLP
b. Justice For All Law Center, LLC
c. Jones, Walker, Waechter, Poitevent, Carrére & Denégre, LLP
d. Baker, Donelson, Bearman, Caldwell, & Berkowitz, PC
e. Michelle Ebony Scott-Bennett – **Louisiana Bar No. 25342**
f. Renee Williams Masinter – **Louisiana Bar No. 19831**
g. Allyson K. Howie – **Louisiana Bar No. 20574**
h. Amelia Williams Koch – **Louisiana Bar No. 2186**
i. Steven F. Griffith, Jr. – **Louisiana Bar No. 27232**
j. Phyllis Cancienne – **Louisiana Bar No. (not known at this time)**
k. Jennifer A. Faroldi – **Louisiana Bar No. 25668**"

IMPORTANT TO NOTE: CERTIFICATE OF SERVICE will support that ***PPSI/POUSDOJ*** (at Pages 55 thru 56) was served on:

a. Honorable G. Thomas Porteous, Jr.
b. Michelle E. Scott-Bennett @ Justice For All Law Center, LLC
c. Rutledge C. Clement, Jr. and Amelia Williams Koch @ Locke Liddell & Sapp LLP
d. Roy C. Cheatwood and Amelia Williams Koch @ Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
e. Robert B. Acomb, Jr. and Jennifer A. Faroldi @ Jones, Walker, Waechter, Poitevent, Carrére & Denégre, LLP

81) While Newsome also appealed this matter to the United States Supreme Court, it was not made known to her that Baker Donelson had attorneys who were holding and/or held positions as:

- **Chief of Staff** *of the Supreme Court of the United States*
- **Administrative Assistant** to the ***Chief Justice*** *of the United States*

see **EXHIBIT "22"** attached hereto as well as the List above at Paragraph 28(h)/Page 44. Therefore, Newsome believes leaving a reasonable mind to conclude that a CONFLICT OF INTEREST may have existed with the Justices of the United States Supreme Court. *Information Newsome believes is CRITICAL and PERTINENT; however,* ***was not*** *made known to her but withheld. Nevertheless, Newsome brings this*

instant matter in that since her last visit the make-up of this Court has changed tremendously. Moreover, Newsome comes with much more experience, evidence and information regarding criminal/civil wrongs leveled against her since her last visit to this Court and present facts and evidence to sustain said allegations. Newsome prays that ***justice will prevail*** *and the legal wrongs rendered her will be* ***vindicated*** *through this instant filing as well as Certiorari action to be brought.*

82) While President Obama made the following statement during his January 27, 2010 State of the Union Address:

> But we can't stop there. *It's time to require lobbyists to disclose each contact they make on behalf of a client with my Administration or Congress*. And it's time to *put strict limits on the contributions that lobbyists give to candidates for federal office*. Last week, ***the Supreme Court reversed a century of law to open the floodgates for special interests*** – including foreign corporations – ***to spend without limit in our elections***. Well *I don't think American elections should be* ***bankrolled*** *by America's* ***most powerful interests****, or worse, by foreign entities*. They should be decided by the American people, and that's why ***I'm urging Democrats and Republicans to pass a bill that helps to right this wrong***.

While President Obama has proven himself to be an ELOQUENT speaker proving speeches ***"full of hot air and no substance,"*** Newsome believes and believes that a *reasonable mind may conclude*, that it is time to call President Obama out on such statements and make him (i.e. as well as his Administration and others involved in CONSPIRACY leveled against Newsome) ACCOUNTABLE for his and/or his Administration's actions.

Newsome found the following information retrieved from the INTERNET regarding Baker Donelson and its SPECIAL/BIG MONEY INTEREST supporting the ***financial contributions to President Obama and members of those in his Administration*** and others. See **EXHIBIT "24"** attached hereto and incorporated by reference as if set forth in full herein.

83) In support of this instant ***EMTS & MFEOTWOC*** Newsome found the following information she believes a reasonable mind as well as the United States Supreme Court may find PERTINENT/CRITICAL to the issues and allegation raised herein as it relates to the CONSPIRACY and COVER-UP of criminal/civil wrongs leveled against Newsome – *bringing the meaning of*

*the cliché "**The FOX guarding the Hen House**" to light and explaining why Newsome has had so much difficulty in getting JUSTICE and EQUAL protection of the laws and DUE PROCESS of laws because those in whom she is involved in legal matters are using their TIES/RELATIONSHIP to Government Officials and Agencies for purposes of COVERING UP Conspiracy and influencing decisions Courts, Government Agencies, etc.:*

ATTORNEY/SENATOR	DESCRIPTION/POSITIONS HELD
Howard Henry Baker, Jr.	• Grandfather **founder** of Baker Donelson • *Senate **Majority** Leader* • *Senate **Minority** Leader* • *White House **Chief of Staff** (President **Ronald Reagan**)* • *U.S. **Ambassador** to China (**George W. Bush**)* • ***Senior Counsel** to Baker Donelson* • ***Presidential** **Advisor*** • *Vice Chairman of the Senate **Watergate Committee*** • 1980 *Candidate for **Republican Presidential** Nomination* • *Delegate – **United Nations*** • **Member** – *President's **Foreign** **Intelligence** Board* • **Member** – ***Council** on **Foreign** **Relations*** • ***Board Member** – Forum Of **International** Policy* • Author – ***"No Margin for Error"*** • *Was **considered by President Richard Nixon for** one of the two **vacancies** that occurred on the **United States Supreme Court*** • Son-In-Law (wife – former ***Senator*** Nancy Landon Kassebaum) of former Governor Alfred M. Landon – *1936 **Republican Nominee for President*** • Son-In-Law (deceased wife – Joy Dirksen) of former ***Senate Minority Leader Dirksen***
Shirley P. Burke	• Served approximately ***19 years** on Capitol Hill* • *Senate Finance Committee (Deputy Chief of*

	Staff) • Legislation regarding – Medicare, Medicaid and other Health Programs • Deputy Chief of Staff to Senator Majority Leader Bob Dole – 1996 Republican Presidential Nominee • Secretary of the Senate • Chief Administration Officer of the United States Senate
Robert Devine	• ***Chairman of the Immigration Group*** *at Baker Donelson* • Chief Counsel and Acting Director of the United States Citizenship and Immigration Services
Lawrence S. Eagleburger	• *Secretary of State* (later resigning under **George H. W. Bush**) • *Deputy Secretary of State* (**George H. W. Bush**) • ***Senior Policy Advisor*** *for Baker Donelson* • ***Board*** *Member of* ***Halliburton Company***
Lamar Alexander	• Baker Donelson is listed as Alexander's **4th LARGEST Campaign Contributor** • ***United States Secretary of Education***[92] • ***Governor of Tennessee*** • 1996 & 2000 Candidate for the ***Republican Presidential Nomination*** • *Legislative Assistant/Staffer* ***for Howard Baker***
Nancy L. Johnson	• Approximately ***24 years*** *in the United States Congress* • Approximately ***18 years*** *with House Ways & Means Committee*

[92] **EMPHASIS ADDED:** NEXUS in the recent attacks by President Obama and his Administration's unlawful/illegal EMBEZZLEMENT of Newsome's 2009 Federal Income Tax Return. While the Department of Treasury (Timothy Geithner – having a debt of approximate $43,000 owed in taxes at the time nominated [i.e. most likely Baker Donelson's choice] – See **EXHIBIT "79"** attached hereto and incorporated by reference) assumed responsibility for such criminal acts, it was done on behalf of the Department of Education – wherein Newsome received a full athletic scholarship to attend college(s) attended. NEXUS established with connections to criminal acts rendered Newsome – i.e. Baker Donelson's ***sitting*** Senator LAMAR ALEXANDER to which it is **his 4th Largest Campaign Contributor**

	• ***Senior Public Policy Advisor*** *for Baker Donelson*
J. Keith Kennedy	• Approximately ***28 years*** *in the Senate* • *Served under* ***Senator Thad Cochran*** • ***Majority Staff Director*** *of United States Senate Committee on Appropriation* • ***Managing Director*** *of Baker Donelson*
Eric Washburn	• Policy-Maker/Management Capacity in United States Senate • *Worked for Senator Tom Daschle – wife (Linda Daschle) who was a* ***TOP Lobbyist*** *for Baker Donelson – Tom Daschle was President* ***Obama's pick for Secretary for Health and Human Services Department*** • *Democratic Staff Director* for **Harry Reid** of the Senate Environment & Public Works • ***Legislative Director*** *for Tom Daschle* • ***Senior Public Policy Advisor*** *for Baker Donelson*
George C. Montgomery	• *Ambassador of the United States to Sultanate of Oman* (***President Ronald Reagan***) • *Member –* ***Council on Foreign Relations*** • ***Chief Legislative Assistant*** *to Senator Howard Baker* • ***Managing Partner*** *at Baker Donelson*
Harry S. Mattice	• ***United States Attorney General*** • ***Counsel of Baker Donelson*** • ***Senior Counsel*** *to United States Senate Committee on* ***Government Affairs***
John Tuck	• ***Assistant to*** *United States President* • Senior Policy Advisor at Baker Donelson • ***Assistant Secretary for the Majority*** *– United States Senate* • Chief of the Minority Floor Information Services

See **EXHIBIT "80"** - attached hereto and incorporated by reference as if set forth in full herein. PERTINENT and RELEVANT information in that it goes to support what is going on with the Complaints Newsome is filing with the required Government Authorities – i.e. United States White House, United States Department of Justice, United States Congress/Legislature, United States Courts, State Courts, United States Department of Labor, etc. For example, see Paragraph 28(h)/Page 44 and **EXHIBIT "22"** of this instant pleading as well as the following information regarding Clanton at **EXHIBIT "59"** attached hereto and incorporated by reference as if set forth in full herein.

> (Jackson, MS/May 10, **2007**) Bradley S. Clanton, of the law firm of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, *has been appointed by the* ***United States Commission on Civil Rights*** *(USCCR) to serve as* ***Chairman*** *of its Mississippi Advisory Committee*.
>
> The *Committee* ***assists*** the USCCR with its *fact-finding, investigative* and *information dissemination* activities. The functions of the USCCR include investigating complaints alleging that citizens are being ***deprived of their right*** *. . . studying and collecting information relating to* ***discrimination*** *or a* ***denial of equal protection of the laws*** *under the Constitution*; ***appraising*** *federal laws and policies with respect to* ***discrimination*** *or* ***denial*** *of* ***equal*** *protection of the laws because of race, color, . . .* or *in the* ***administration of justice***; *serving as a* ***national clearinghouse*** *for information in respect to discrimination or denial of equal protection of the laws; submitting reports,* ***findings*** *and recommendations to the* ***President and Congress***; *and* ***issuing public service announcements*** *to discourage discrimination or* ***denial*** *of equal protection of the laws*.
>
> Mr. Clanton, *a* ***shareholder*** *in Baker Donelson's* ***Jackson*** *and* ***Washington, D.C.*** *offices,* ***concentrates*** *his practice in* ***government*** *litigation*, securities and *other* ***fraud*** *investigations,* and litigation, ***election*** *law and appeals. His appellate practice has included matters before the* ***U.S. Supreme Court***, *U.S.* ***Courts of Appeals***, *the Mississippi Supreme Court and Court of Appeals, and various other state appellate courts*. His internal investigations and government litigation practice has included matters related to ***Securities and Exchange*** *Commission investigations*, health care fraud investigations, *federal* ***campaign*** *finance investigations,* and *state and federal* ***securities*** *fraud* class action litigation and arbitration proceedings. Previously, *Mr. Clanton served as* ***Chief Counsel*** *to the U.S. House Judiciary Committee's Subcommittee on the Constitution,* ***where his responsibilities included advising the Chairman and Republican Members of the Judiciary Committee on legislation and Congressional oversight implicating civil and constitutional rights***, Congressional authority, separation of powers, proposed constitutional amendments and ***oversight*** *of the Civil Rights Division of the* ***Department of Justice*** *and the* ***U.S. Commission on Civil Rights***.

B. OTHER FORMER EMPLOYERS OF NEWSOME

BARIA FYKE HAWKINS STRACENER ("BFH&S");
BRUNINI GRANTHAM GROWER & HEWES ("BGG&H");
MITCHELL MCNUTT & SAMS ("MM&S"); AND
PAGE KRUGER & HOLLAND ("PK&H") MATTERS

Newsome believes that the information pertaining to employment with these employers is RELEVANT and PERTINENT as it goes to the CONSPIRACY and COVER-UP of criminal/civil wrongs leveled against her and RETALIATION by these employers based on their knowledge of her engagement in protected activities. Moreover, *UNADDRESSED and UNPROSECUTED actions against such employers that engage in DISCRIMINATORY and PREJUDICIAL practices gives rise and* ***FUELS other*** *RACIST employers and/or businesses that harbor RACIAL bias (i.e. as Plaintiff Stor-All in the lower court action) to engage in ONGOING Conspiracies that result in* ***malicious*** *lawsuits as the one Plaintiff Stor-All has brought against Newsome out of which this Appeal arises*. Furthermore, information will sustain/support the need for the United States Supreme Court's exercising its ORIGINAL jurisdiction to address the issues contained in this instant ***EMTS & MFEOTWOC*** as well as the Certiorari action to be brought. Newsome believes that the record evidence, facts and legal conclusions contained herein further support the United States Supreme Court retaining jurisdiction and intervention in this matter *because of the* ***EXTREME*** *and* ***EXCEPTIONAL*** *circumstances which exist*; moreover, ***without*** *this Court's intervention,* ***SUPREMACIST/TERRORIST groups*** (i.e. such as Plaintiff Stor-All, Liberty Mutual and their attorneys/counsel [such as *Baker Donelson*, *Schwartz Manes Ruby & Slovin* and *Markesbery & Richardson Co LPA*, etc.]

and other Conspirators/Co-Conspirators) will continue to engage in criminal/civil wrongs (***which are motivated by RACIAL bias***) leveled against Newsome as well as other citizens – i.e. ***matters which are of a PUBLIC/WORLDWIDE concern***.

84) **BARIA FYKE HAWKINS & STRACENER:** This is a law firm Newsome began working for in late 2002. It is a law firm Newsome was employed with while she was involved in a lawsuit against Entergy (USDC-Eastern District of LA, New Orleans; Case No. 2:99-cv-03109). **As a matter of law**, this case is **still** pending (while the Docket may show it as closed *for purposes of COVERING UP CONSPIRACY*) because **NO** *Final Judgment* (although Newsome **repeatedly** requested entry of "final" judgment) has ever been entered in this case. Now with the recent IMPEACHMENT proceedings involving Judge G. Thomas Porteous and ***admission*** *by attorneys who paid monies for services*, it brings to light further evidence of the JUDICIAL Injustice that Newsome has been REPEATELY subjected to.

> Most of Monday's testimony involved a close relationship that Porteous maintained with two attorneys who once worked with the judge, Robert Creely and Jacob Amato.
>
> As they did earlier before House investigators, the two acknowledged giving Porteous thousands of dollars in cash going back to the 1980s, including about $2,000 **stuffed in an envelope** in **1999**, just before Porteous *decided a **major** civil case in **their client's favor***. They also acknowledged taking him on trips such as one to Las Vegas for a bachelor party for the judge's son, at which Creely said he helped pay for an expensive meal, a hotel room and dancing at a strip club.

See **EXHIBIT "12"** – Articles attached hereto and incorporated by reference as if set forth in full herein. Clearly, further evidence of the courts' blatant disregard for Newsome's rights and refusal to enter the required judgments in compliance with the statutes/laws in which they are governed. Therefore, this is a matter that Newsome also brought before the Legislature/Congress through her ***Emergency Complaint*** submitted it.

While employed at BFH&S, Newsome worked with David Baria (*Former **President** of the Mississippi Trial Lawyers Association*). ***Prior*** *to a trip to New Orleans, Louisiana for a conference, Newsome realized that Mr. Baria's behavior and/or attitude towards her had changed.* ***After*** *his return from New Orleans it was more noticeable and his demeanor very **agitated**, **hostile**, etc. Newsome believed that prior to and during his trip to New Orleans that Baria may have met with attorneys representing Entergy in a lawsuit she had filed.* Baria (with the consensus of the Partners/Shareholders of BFH&S) **abruptly** terminated Newsome's employment with BFH&S telling her that she did not seem to be happy there, so he was letting Newsome go to do something else. Such a statement which Newsome knew was false and never did she advise him she was not happy there. *In fact, the employment agency, which assigned Newsome to BFH&S, advised her of the positive feedback they had received in regards to her job performance and how the firm wanted to extend to Newsome a job. This being a job offer in which Newsome accepted.* While Newsome believed that her ***abrupt*** termination with BFH&S was due to the fact that she was suing Entergy and was done as a favor for Entergy's attorneys, at the time she had no proof so Newsome merely moved on. However, Newsome believes that based upon the evidence presented herein as well as that obtained through further research into the CONSPIRACY and criminal/civil wrongs leveled against her, *a reasonable mind may conclude and sustain* the role of BFH&S in the unlawful/illegal actions leveled against her and that Newsome's employment with BFH&S *was terminated **in RETALIATION** because of her engagement in protected activities*. Moreover, evidence to sustain the PATTERN-OF-PRACTICE regarding the CRIMINAL STALKING of Newsome from job-to-job/employer-to-employer and state-to-state for purposes of depriving her EQUAL protection of the laws and DUE PROCESS of laws as well as life, liberties and pursuit of happiness – rights secured/guaranteed under the United States Constitution and other laws of the United States.

> **IMPORTANT TO NOTE:** Newsome's last research on David Baria yielded that he is presently serving as State Senator in the Mississippi Senate. However, based on her observation of him during her employment, she realized how ambitious he is. Concerns because the next seat that Baria may be eyeing is that of the GOVERNOR of the State of Mississippi. *Concerns because if Baria is a member and a **participant and/or member** of such SUPREMACIST and TERRORIST groups that are involved in the criminal/civil wrongs leveled*

against Newsome, then ***such information is of PUBLIC and WORLDWIDE interest.***

See **EXHIBIT "81"** – attached hereto and incorporated by reference as if set forth in full herein.

85) **BRUNINI GRANTHAM GROWER & HEWES:** After leaving BFH&S an employment agency assigned Newsome to the law firm of Brunini Grantham Grower & Hewes (BGG&H). The people there seemed to be nice and happy that Newsome came to work for them. Newsome being there for only a couple/few days; however, the person Newsome was assigned to work with, Charles L. McBride ("Chuck"), was pleased with her work. Newsome was approached by the Human Resource person and asked if she was interested in the job and that BGG&H was interested in hiring her. Newsome advised that she was interested and accepted. Newsome then had a conversation with Chuck which during that conversation he had mentioned to her the need to run everything (correspondence, etc.) by him before going out because he was aware of a situation where a secretary had inadvertently mailed out legal documents to the opposing side in error. Had he been the attorney on the other side, he would not have opened the document and would have destroyed realizing that it was information that he should not have received. Newsome advised Chuck she understood. Newsome had first-hand knowledge of the situation Chuck was referring to from the additional information he provided. Upon leaving his office and thinking on their conversation, Newsome returned to advise Chuck that she had first-hand knowledge of the situation he brought to her attention because she was the secretary for the other law firm (which was BFH&S) which had received the inadvertent information that was sent to BFH&S and left it at that. Chuck advised Newsome that he would have to check into this; however, it should be okay. However, it was to the contrary. ***Apparently, upon checking with BFH&S – David Baria – Baria was upset and objected to BGG&H hiring Newsome***. As a ***direct and proximate result*** of Baria's behavior and his **threats to bring legal action** against BGG&H if they hired Newsome, it resulted in BGG&H's ***offer of employment being rescinded***.[93] When Newsome discussed this matter with an attorney she had worked

[93] *Haddle v. Garrison,* 119 S.Ct. 489 (1998) [4] We hold that the sort of harm alleged by petitioner here-essentially third-party interference with at-will employment relationships-states a claim for relief under § 1985(2). Such harm has long been a compensable injury under tort law, and we see no reason to ignore this tradition in this case. As Thomas Cooley recognized:

> "***One*** *who* ***maliciously*** *and* ***without justifiable cause****, induces an employer to discharge an employee,* ***by means of false statements****,* ***threats*** *or* ***putting in fear****, or perhaps by means of* ***malevolent*** *advice and persuasion,* ***is liable*** *in an action of tort to the employee for the damages thereby sustained. And it makes no difference whether the employment was for a fixed term not yet expired or is terminable at the will of the employer*." 2 Law of Torts 589-591 (3d ed.1906) (emphasis added).

with at another firm, she was advised that BGG&H could have taken actions in that lawyers are known to do this (i.e. move to other law firms) all the time. That if there were concerns, all BGG&H needed to do was have her sign an agreement to confidentiality - ***not only that, Chuck and the case or files in relation to the case in question were not even in the department of BGG&H that Newsome would be working for***. Nevertheless, this is what happened. This matter was addressed in Newsome's July 2008 ***Emergency Complaint*** filed. See **EXHIBIT "38."**

> **IMPORTANT TO NOTE:** While BGG&H also contacted a former employer of Newsome (Owens Law Firm – *African-American owned*) to see if there would be a problem with her working for BGG&H. Owens Law Firm *had **no** problem with Newsome's working with BGG&H*. However, one can see how BFH&S (***White*** *owned law firm*) began to create problems for Newsome.
>
> Recent research by Newsome regarding BGG&H has also yielded information to *revealing that **LIBERTY MUTUAL** is a client of theirs*. Therefore, based on the facts, evidence and legal conclusions contained herein as well as in ***Emergency Complaint*** filed, *a reasonable mind may conclude that BGG&H's **rescinding** **of employment opportunity** may be a DIRECT and PROXIMATE result of obtaining **knowledge of Newsome's engagement in protected activities** and actions taken by Liberty Mutual and its attorneys to interfere with employment opportunities to subject Newsome to FINANCIAL DIFFICULTIES for purposes of obtaining an undue and unlawful/illegal advantage in legal matters.*

See **EXHIBIT "82"** attached hereto and incorporated by reference as if set forth in full herein.

> This is PERTINENT and RELEVANT information because if BGG&H and/or any of its attorneys *are members and/or*

*participants **of SUPREMACIST and TERRORIST groups** that are involved in the criminal/civil wrongs leveled against Newsome, **then such information is of PUBLIC/WORLDWIDE interest**.*

86) **MITCHELL MCNUTT & SAMS:** This is a former employer of Newsome who subjected her to very very. . . hostile, sexual and discriminatory treatment. MM&S also encouraged and/or condoned its employees providing of false information during government investigation to deprive Newsome rights secured under the Constitution, Civil Rights Act, and other statutes/laws for the purpose of obstructing the administration of justice, depriving her **EQUAL** protection of the laws, **DUE PROCESS** of laws, etc.

CUT & PASTED FROM:
http://miami.**fbi**.gov/statutes/title_18/section1001.htm

Title 18, U.S.C., Section 1001 - False Statements or Entries Generally

This statute makes it a crime for falsifying, concealing, or covering up material facts surrounding a civil rights investigation, or making false statements, representations, or writings.

This law prohibits a person acting under color of law, statute, ordinance, regulation or custom to make false statements or misrepresentations surrounding their individual or collective actions, during a civil rights investigation. It has been successfully applied to civil rights investigations involving the loss of life, ***where the subjects of the investigation lied to protect their careers and those of other co-conspirators***.

Punishment varies from a fine or imprisonment of up to five years or both.

MM&S conducting and/or operating a business in which it knew and/or should have known that it was violating the Fair Labor Standards Act ("FLSA"), Title VII, Occupational Safety & Health Administration ("OSHA"). Newsome brought employment violations to MM&S' attention and as a direct and proximate result of reporting employment violations, MM&S ***RETALIATED*** and allowed its employees to subject Newsome to retaliatory practices, constant hostile, sexual and discriminatory practices. *MM&S **was aware** of its employees' unlawful/illegal actions towards Newsome; however, **did nothing** to deter such behavior.* ***Instead, MM&S moved to terminate Newsome's employment.***

IMPORTANT TO NOTE: Newsome was able to obtain such *admission* of hostile, sexual harassment and discriminatory practices from MM&S' employees during cross examination during the Mississippi Department of

Employment Security handling of her request for Unemployment Benefits. *Such examination will further support MM&S' willingness to produce employees who are willing to falsify and/or perjure themselves to protect their jobs and to see that Newsome was **deprived** unemployment benefits and/or EQUAL protection of the laws and DUE PROCESS of laws which are secured/guaranteed under the Constitution.* (See **EXHIBIT "83"** – Excerpt of Transcript attached hereto and incorporated by reference as if set forth in full herein.)[94]

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[94] **TRANSCRIPT:** Excerpts From Allen's and Gordon's Examination during Unemployment Compensation Hearing: *McArn v. Allied v. Allied Bruce-Terminix Co., Inc.*, 626 So.2d 603 (Miss. 1993) – *Whether or not there is a written contract, there should be public policy exceptions to employment-at-will doctrine for employee who refuses to participate in illegal act or employee who reports illegal act of his employer; these exceptions will apply even where there is "privately made law" governing employment relationship, or where illegal activity either declined by employee or reported by him affects third parties among general public, though they are not parties to lawsuit.* (n.3) *Employer's alleged statement to Employment Security Commission that employee was terminated for a "bad attitude" was privileged and could not be basis for libel suit, absent proof that such statements were false or maliciously made.*

Newsome	56	2-4	Okay, so my December 1, 2004 e-mail in regards to harassment incident, was not out of the ordinary. I have submitted complaints in the past in regards to Mr. Gordon's behavior, is that correct?
Allen	56	5	You have.
Newsome	56	6-8	At any time during my employment, did I mention to you that I felt that Mr. Gordon's treatment, or his behavior, and conduct in regards to me was hostile?
Allen	56	9	You did.
Newsome	56	10	Okay, was this before your June 7th Memorandum or after?
Allen	56	11	I don't recall.[94]
Newsome	56	16-18	And the complaint that I submitted to OSHA, OSHA contacted the firm, you were to respond, if I'm not mistaken, by June 8, 2004. Is that correct?
Allen	56	19-20	I don't know the exact date. We did respond within the time limits they asked us to.
Newsome	57	1-4	Okay, the date of that Memorandum . . .was June 7, 2004, the response, if I'm not mistaken, because like I said, I wasn't aware this was coming up, was due on June 8, 2004. That e-mail or that Memorandum came out the day prior. Did that have anything to do?
Allen	57	5-6	Absolutely not, that's why I stated in here, you could do all you wanted about, with, with agencies.[94]

Newsome	57	7-10	But also in regards to the complaints that I had submitted to the firm, have I ever submitted any complaints of harassment, discrimination, or anything to the attention of Mitchell, McNutt & Sams in regards to Bob Gordon?
Allen	57	11	Discrimination, harassment, yes, you've used that word several times.
Newsome	57	12-14	Okay, and did I ever mention to you that I felt that I was discriminated or either in the handling of my complaints being discriminative in any nature?
Allen	57	15-16	You asked me to follow through with going to the Board, is that what you're referring to?
Newsome	57	17-20	No, I'm asking did you ever receive any e-mail correspondence from me in regards to complaints I submitted to the firm, that I felt I was being subjected to certain treatment?
Allen	57	20	Discriminatory.
Newsome	58	1	Discriminative treatment?
Allen	58	2	You're, I believe you sent me one like that, yes.
Newsome	58	3-5	Okay, so you were, so Mitchell, McNutt & Sams was made aware prior to November 30th on several occasions that I had filed complaints in regards to Mr. Gordon's behavior?
Allen	58	6	Yes.
Newsome	58	7-9	Did Mitchell, McNutt & Sams at any time prior to November 30, 2004 submit in writing to me, written responses to my complaints in regards to Mr. Gordon's behavior?
Allen	58	10-12	Let's see, we, we talked about it at the Board, and talked to Mr. Gordon about it, and I'm trying to think if, what happened from that point forward. I don't recall if we sent anything to you, if I did.
Newsome	58	13-15	Okay, so I can, it, it is your testimony that I submitted several complaints, but the firm never responded to me in writing in regards to my complaints on Mr. Gordon's behavior.
Allen	58	16	I responded back to you.
Newsome	58	17	In regards to Mr. Gordon's behavior?
Allen	58		Uh hum.
Newsome	58	17-18	Do you have any documentation?[94]
Allen	58	19-20	Oh, I tried, I may have some e-mails that we had through correspondence commenting back on.
Newsome	59	1-3	Okay, did Mr. Gordon ever receive an elaborate e-mail or Memorandum such as. . . that you forwarded to me in regards to the complaints I submitted in regards to him?
Allen	59	4	Did he receive one?

Newsome	59	5-9	Did Mr. Gordon, I submitted a complaint in regards to harassment or discrimination like I said, I don't' have them all, but I submitted my complaints to the firm in regards to Mitchell, McNutt & Sams conduct and behavior as well as Mr. Gordon, did you ever follow up with an e-mail or memorandum as you June 7, 2004?
Allen	59	10	To Mr. Gordon?
Newsome	59	11	To Mr. Gordon?
Allen	59	12	No.
Newsome	59	13-14	So Mitchell, McNutt & Sams did nothing to deter or discourage Mr. Gordon's behavior?
Allen	59	15-16	I don't know if there was, there was some discussions with, that, that we had.

PRETEXT: **(1)** Allen's memory was so good with dates, etc. when MMS' attorney, Ardelean, was coaching him; however, now unable to recall dates and time under cross-examination; **(2)** Credibility, malicious, willful and wanton memorandum brief. Claims Allen was not aware that Memorandum was created day before OSHA deadline to respond to complaint; however, he coincidentally mentions my filing complaints with agencies in Memorandum; and **(3)** At hearing regarding matter, MMS representatives were turning over exhibits regarding Newsome and its evidence of unlawfully and/or illegally padding her personnel file; however, *produced not one document to support MMS' handling of discrimination and harassment complaints Newsome submitted against Gordon*.

Newsome	144	19-20	Yes, just a moment. It was the incident that I went out to lunch with Attorney Mike Farrell and Ladye Margaret?
Gordon	146	7-13	She was gone for, what to me was an inordinate of the time to get something to pick up, to pick something up to bring it back. My recollection is that she was gone approximately forty-five minutes or so, and then she returned and at that time I criticized her for having gone and eaten out when I had told her that she needed to work through the lunch hour, and if she was going to get something to eat, go get it, and bring it back.
Newsome	146	14-15	So you said it was about forty-five minutes. For the record, can you explain your conduct when I did return, your behavior?
Newsome	147	1-2	So would you say your behavior, for instance stomping around and slamming the door is acceptable?
Gordon	147	3-4	I don't know that I stomped around and slammed the door, but I, yes, I was very upset.
Newsome	147	5	Okay, would you say you were hostile?
Gordon	147	6	Yes.
Newsome	147	8-9	Were you aware that your behavior was noticed by other employees at Mitchell, McNutt & Sams?
Gordon	147	10	Yes.
Newsome	147	11	Are you aware that I reported that behavior to Mr. Allen?

The record evidence will support a PATTERN-OF-PRACTICE and how MM&S has a total disrespect for the laws and place itself above the laws, relying upon the **SPECIAL** favors of government employees and/or Courts. Moreover, its links ties to TOP/KEY organizations that have been associated ***with SUPREMACIST/TERRORIST groups***. The record evidence will support how MM&S would stop at nothing to deprive Newsome the relief she sought through the action with the MDES. *How MM&S' employees were willing to come before the MDES and produce information they knew to be false and/or misleading. MM&S' witnesses came with what they thought was a well laid out plan, that before they knew it, they were providing testimony to support Newsome's claims of retaliation, discrimination, hostile treatment, etc. AFTER the*

Gordon	147	12	Sitting here right now, I don't, I do not recall being aware of that.
Newsome	148	1-2	You, were you aware that when I went to lunch, that I was not driving, that I did go with Mr. Farrell and Ladye Margaret?
Gordon	148	3-4	You told me that when you returned, you did not tell me that before you were going.
Newsome	148	5-6	Prior to leaving. Were you aware that the lunch break was only about probably thirty-five minutes?
Gordon	148	7	It occurred, it appeared to me it was around forty-five minutes.
Newsome	148	16-17	Did that thirty-five minutes, or if you say forty-five minutes, did that preclude or prevent you from getting that Pleading filed in time?
Gordon	148	18-20	We got the Pleading filed on that day, but while you were out, a revision or revisions to that Pleading were sitting at your desk and not being done.
Newsome	149	14-16	And are you aware that your conduct affected the work of another attorney, who was wondering whether or not you had calmed down that day after that particular incident?
Gordon	149	17	No.
Newsome	150	2	So Mr. Gordon, you would say your conduct was hostile?
Gordon	150	3	That's what I, yes, I said that.
Newsome	150	4-5	Did Mitchell, McNutt & Sams ever notify you of your conduct of being you know, you being a hostile employee?
Gordon	150	6	No.
Newsome	150	13-14	Are you aware that I have, that I submitted complaints in regards to your conduct to Mitchell, McNutt & Sams?
Gordon	150	15	You have submitted complaints or e-mails alleging harassment.

MDES hearing, in efforts of doing damage control, MM&S closed their Jackson, Mississippi office. Newsome believes MM&S closed their doors – i.e. letting employees go at that location – in that she had notified it that she will be bringing legal action against it. See **EXHIBIT "84"** attached hereto and incorporated by reference as if set forth in full herein.

IMPORTANT TO NOTE: The record evidence will support that in the handling of such matters, the United States Department of Labor has REPEATEDLY subjected Newsome to "Selective Prosecution" in the handling of complaints/charges filed in RETALIATION of Newsome having brought legal action(s) against it. The Department of Labor depriving Newsome of EQUAL protection of the laws, EQUAL privileges and immunities of the laws and DUE PROCESS of laws afforded to other citizens who were deprived rights under the FLSA – for instance see **EXHIBIT "112"** attached hereto and incorporated by reference as if set forth in full herein:

> "The settlement followed a nationwide ***investigation*** *conducted* by the *U.S. Department of Labor's Wage and Hour Division. . .*
>
> *'The Labor Department* ***will not hesitate to enforce federal law to the fullest extent possible*** *when employers* ***do NOT*** *pay their employees* ***ALL*** *of the wages to which they are entitled,'* said Secretary of Labor Hilda L. Solis. 'These workers received the back wages they earned and deserved.' "
>
> "Employees have the right to expect that they will receive full pay on time for their work, and the Labor Department ***will NOT*** sit by while employers attempt to evade their responsibilities,' said Secretary Labor Hilda L. Solis. . ."
>
> "Employers should know that when workers are deprived of their rightful wages, the Labor Department ***will NOT*** hesitate to take action to recover those wages," said Secretary of Labor Hilda L. Solis. "*It's not just* ***the right*** *thing to do,* ***it's the law***."

To better understand the PATTERN-OF-PRACTICE and Racial bias/Discriminatory practices of some of Newsome's former employers and how they have employees who are willing to lie and/or perjure themselves for their jobs, the following information is PERTINENT and RELEVANT:

A. MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY ("MDES")

Decision Code No. 2400
Reporting Point No. 0480
Case No. 00002-R-05-01 and 00241-R-05-01
Circuit Court Case No. 251-2005-163CIV

The record evidence will support a pattern-of-practice and how

opposing parties in actions involving Newsome have a total disrespect for the laws and place themselves above the laws, relying upon the **special** favors of government employees and/or Courts. Moreover, their links ties to key organizations. How they stopped at nothing to deprive Newsome the relief from injury/harm sustained through the action with the MDES. How MM&S' employees were willing to come before the MDES and produce information they knew to be false and/or misleading. They came with what they thought was a well laid out plan, that before they knew it, they were providing testimony to support Newsome's claims of retaliation, discrimination, hostile treatment, etc.

> *DeCarlo v. Bonus Stores, Inc.*, 413 F.Supp.2d 770 (S.D.Miss.,2006.) - In his complaint, McArn charged that Terminix maliciously defamed him before the Mississippi Employment Security Commission by stating he was fired for a "bad attitude." At trial, McArn testified that Terminix's contention that he was insubordinate was false. That is the extent of McArn's evidence of defamation.
>
> > (n. 10) Under Mississippi law, public policy exception to employment at will doctrine permits employee to bring action in tort for damages against his employer if he is terminated for: **(1)** ***refusing*** *to participate in illegal act*, or **(2) reporting** *illegal acts of his employer to employer or anyone else*.
>
> *McArn v. Allied Bruce-Terminix Co., Inc.*, 626 So.2d 603 (Miss.,1993) - [3] McArn argues that the Mississippi Employment Security Commission was falsely told that he was terminated for a bad attitude and not told the true reason for his firing. McArn argues that Miss.Code Ann. § 71-5-131 (1972) *permits a claim for defamation whenever the employer* ***makes statements*** *to the Commission which are "****false in fact and maliciously . . . made for the purpose of causing a denial of benefits****."*
>
> There is no question but that Miss.Code Ann. § 71-5-131 provides that communications between an employer and the Commission are privileged and "when qualified privilege is established, statements or written communications are not actionable as slanderous or libelous absent bad faith or malice if the communications are limited to those persons who have a legitimate and direct interest in the subject matter." *Benson v. Hall*, 339 So.2d 570, 573 (Miss.1976).
>
> In his complaint, McArn charged that Terminix maliciously defamed him before the Mississippi Employment Security Commission by stating he was fired for a "bad attitude." At trial, McArn testified that Terminix's contention that he was insubordinate was false.

IMPORTANT TO NOTE: This is a matter in which Judge Bobby DeLaughter resided over. Based on information Newsome was able retrieve from research, Judge DeLaughter was recently INDICTED for:

18 USC § 371. ***Conspiracy to Commit Offense or to Defraud United States***

18 USC § 666. ***Theft or bribery concerning programs receiving Federal funds***

18 USC § 1341. ***Frauds and Swindles***

18 USC § 1346. . . .***Scheme or Artifice to Defraud***

18 USC § 1512. ***Tampering with a witness, victim, or an informant****;*

however, only pled guilty to "lying to an FBI agent who was investigating a corruption case. . . attempting to obstruct, influence and impede an official proceeding while being interviewd. . ." and pled GUILTY. See **EXHIBIT "11"** attached hereto and incorporated by reference, as well as Paragraph B/Page 14 of this instant ***EMTS & MFEOTWOC***.

This is PERTINENT and RELEVANT information because if Judge DeLaughter is a ***hidden*** member and participant (i.e. based on the listing provided at Paragraph 28(h)/Page 44 above and listing of Judges/Justices PUBLISHED and ADVERTISED on the Internet by Baker Donelson – See **EXHIBIT "35"**) *of such SUPREMACIST/TERRORIST groups* that are involved in the criminal/civil wrongs leveled against Newsome, ***then such information is of PUBLIC/WORLDWIDE interes***t.

B. **UNITED STATES DEPARTMENT OF LABOR – EEOC, WAGE & HOUR AND OSHA:** See **EXHIBIT "38"** at Pages 49 thru 52 of July 14, 2008 ***Emergency Complaint***. *There is record evidence to support that Newsome voiced her OPPOSITION to the unlawful/illegal employment violations* (i.e. as evidenced in excerpt of MDES Hearing Transcript) *as well as in the Charges/Complaints she filed with the United States Department of Labor's Wage & Hour Division* ("W&H") *for Fair Labor Standard Act violations* ("FLSA"); *Equal Employment Opportunity* ("EEOC") *for Title VII/employment violations; and Occupational Safety & Health Administration* ("OSHA") *for health and safety violations*. As a DIRECT and PROXIMATE result and ***in RETALIATION*** *of Newsome having brought MANDAMUS* (non-monetary) *actions against the United States Department of Labor* in the past, said Government Agency(s) RETALIATED and failed to enforce the statutes/laws (***MANDATORILY***[95] required) governing the employer violations reported by

[95] **NOT** discretionary.

Newsome. Moreover, said failure to enforce the laws resulted in the RETALIATION by the United States Department of Labor's knowledge of Newsome's engagement in protected activities and its DELIBERATE, WILLFUL and MALICIOUS acts in posting FALSE/MISLEADING and MALICIOUS information on the Internet regarding Newsome's Wage & Hour Division charge as well as its role in CONSPIRACY to provide outcome of proceedings in which it knew and/or should have known results were obtained through the use of UNLAWFUL/ILLEGAL practices for purposes of depriving Newsome EQUAL protection of the laws and DUE PROCESS of laws – i.e. violations which infringes upon rights secured/guaranteed under the Constitution and/or laws of the United States – that have been afforded to other citizens of the United States. For example, see the list of cases the Department of Labor has brought against employers for Wage & Hour/FLSA violations at **EXHIBIT "112"** attached hereto and incorporated by reference as if set forth in full herein. However, when Newsome filed her Wage & Hour Charge/FLSA Complaint, the United States Department of Labor took a far departure from the laws in RETALIATION of Newsome having engaged in protected activities and for purposes of depriving her rights secured under the Constitution.

> **IMPORTANT TO NOTE:** Prior to Newsome bringing her Wage & Hour/FLSA Charge/Complaint, she checked with an attorney she knew to determine if her understanding of the Wage & Hour/FLSA was correct. Newsome's understanding was confirmed. Moreover, the List contained in **EXHIBIT "112"** sustains/supports that Newsome's understanding of the laws are correct. Nevertheless, the United States Department of Labor sought to CONSPIRE and COVER-UP said employment violations of MM&S.

Newsome believes that a reasonable mind may conclude that based upon the facts, evidence and legal conclusions provided herein and in the record of the Government Agencies (i.e EEOC, W&H, OSHA, courts, Legislature/Congress) and the United States White House/United States Department of Justice, etc. that a CONSPIRACY and actions taken to COVER-UP criminal/civil wrongs leveled against Newsome can be sustained/established. Moreover, further supporting and sustaining the need for the United States Supreme Court's intervention in this matter through this instant ***EMTS & MFEOTWOC.***

The record evidence will support that Newsome has voiced her OPPOSITION to RACIAL bias, DISCRIMINATORY practices and CRIMINAL/CIVIL wrongs leveled against her as well as other citizens of

the United States to President Barack Obama (i.e. Head of the Executive Department), United States Attorney General Eric Holder (i.e. United States Department of Justice), United States Legislature/Congress and others. Moreover, the proper agencies/officials have **ALL** been timely, properly and adequately notified of the employment violations of MM&S. To no avail. Said agency(s) records will support sufficient facts, evidence and legal conclusions presented to sustain the complaint(s) and/or concern(s) Newsome has brought to their attention. Newsome on or about September 23, 2004 provided a letter (i.e. *RE: **Request for Department of Justice Intervention**/Participation in this Case* – See **EXHIBIT "169"** attached hereto and incorporated by reference as if set forth in full herein) to Paul D. Clement at the Office of Solicitor General/United States Department of Justice, Tammy D. McCutchen/Alfred Robinson with the Wage and Hour Division of the U.S. Department of Labor/ESA, and Madonna Cynthia Douglass with the Administrative Review Board. ***While these agency(s) were aware of MM&S' violation of the laws governing the FLSA and/or Wage and Hour Laws, they did nothing to deter such acts or to see that the wrongs complained of were corrected and that the injustices rendered against Newsome cease. Instead, the Department of Labor, as a direct and proximate result of her OPPOSITION and reporting said employment violations RETALIATED against Newsome. Furthermore, this agency, its agents and others engaged in conspiracy and RETALIATED by POSTING false/misleading/malicious information on the Internet that it knew was for unlawful/illegal purposes***. See **EXHIBIT "87"** attached hereto and incorporated by reference as if set forth in full herein. It is a good thing that Newsome retained a copy of the MDES transcript to support MM&S' ***admission to employment violations*** and the LIST of cases brought by the Department of Labor (see **EXHIBIT "112"**) further sustain DISCRIMINATORY/PREJUDICIAL treatment in its handling of Newsome's Charge/Complaint which resulted in her being deprived EQUAL protection of the laws and DUE PROCESS of laws; moreover, deprivation of protected rights that have REPEATEDLY been extended to other citizens of the United States; however, deprived Newsome for exercising her CONSTITUTIONAL rights and speaking out against such criminal/civil wrongs leveled against her.

In further support of the Wage & Hour/FLSA violations, Newsome was able to obtain from the United States Department of Labor the following **FLSA NARRATIVE REPORT**:

> Evidence: Interviews of Supervisor Robert Gordon, Attorney Mike Farrell, and Secretary Ladye Margaret Townsend[96] revealed that Ms. Newsome had been rebellious and insubordinate in job duties assigned her from the start of her employment.

[96] All of whom are "White" and having a personal interest and financial interest (either employment and/or business investment related).

[redacted] interview (Exhibit [redacted]) ***stated that every since Ms Newsome was hired she been looking for a way to get fired to pursue a lawsuit. . .*** After this incident Ms Newsome began working on whether she was paid properly . . . Newsome disagreed with Attorney Farrell and told Cochanuer and Townsend she was going to contact Wage Hour. [redacted] didn't know if Newsome did or not because nothing came of it. [redacted] further confirmed other events of insubordination. (Exhibit [redacted]).

Further action:
[redacted]

(Note) ***During the course of this investigation, District Directo***r ("DD") ***Billy Jones retired from the department***. Regional Administrator McKeon assigned Assistant District Director ("ADD") Oliver Peebles as Acting DD for the Gulf Coast District. DD Peebles has been advised through all actions of this case, and all of his instructions have been followed.

See **EXHIBIT "88"** attached hereto and incorporated by reference as if set forth in full herein. *Information which clearly supports MM&S and its employee's* ***knowledge of Newsome's engagement in protected activities***. Newsome believes the redacted information is pertinent. Moreover, that Newsome may not have been provided with the entire file. *During Newsome's employment with MM&S, she noticed how Billy Jones would call quite often requesting to speak to Michael Farrell (one of the attorneys). Newsome found it interesting because during one of the meetings with Farrell, he made it known how he was familiar with the Wage & Hour Division; moreover, how he had the employees personal direct lines and provided such information.* While the Department of Labor (Wage & Hour) Officials wanted Newsome to believe she did not understand the FLSA and that MM&S was not in violation, such is not the case. Prior to bringing FLSA action, **Newsome spoke with an attorney she had worked with at another firm and said attorney *confirmed* Newsome's understanding of the statute/laws was correct**. In fact, said attorney had also advised that their firm had recently represented a client who was paying its employees in the same way as MM&S, ***violations*** *were found* and the matter was resolved. According to information Newsome has been able to retrieve from the United States Department of Labor's website they have brought MANY lawsuits on behalf of other citizens for the very violations that Newsome reported was occurring at MM&S. See **EXHIBIT "112"** attached hereto, it confirms that this agency ***DISCRIMINATED*** in the handling of Newsome's Wage & Hour Charge/Complaint and ***RETALIATED by POSTING*** (see **EXHIBIT "87"**) what it knew to be **false/misleading/malicious** information on the INTERNET for purposes of depriving Newsome EQUAL

protection of the laws and due process of laws; moreover, to ***subliminally/deceptively*** notify potential employers of Newsome's engagement in protected activities. Moreover, engaging in CONSPIRACY *to* ***deter*** *and send a* ***subliminal*** *message to citizens that speak out like Newsome and take on suing the United States Department of Labor will suffer the same unlawful/illegal practices of said Government Agency seeing to it that citizens' (i.e. such as Newsome) lives, liberties and pursuit of happiness are STRIPPED.* Said criminal/civil violations leveled against Newsome in RETALIATION of her speaking out and OPPOSING unlawful/illegal employment practices can be sustained by GOOGLING her name on the Internet. See **EXHIBIT "89"** – "Vogel Newsome" and/or any other version of her name attached hereto and incorporated by reference.

IMPORTANT TO NOTE: Because Newsome believes that a reasonable mind may conclude that when the United States Department of Labor and its Officials engage in criminal/civil violations, that most likely than not, it is in RETALIATION against Newsome *for speaking out and exercising rights secured/guaranteed under the CONSTITUTION – i.e. criminal/civil wrongs leveled against Newsome to silence her; moreover, for purposes of coercion, intimidation, threats, discrimination, harassment, etc.* Therefore, as a matter of law, just as the United States Department of Labor as well as other GOVERNMENT AGENCIES have gone PUBLIC to post FALSE/MALICIOUS and MISLEADING information on the INTERNET that it knew and/or should have known was obtained through unlawful/illegal practices, Newsome has a right to REBUT such malicious attacks that are unlawful and illegal practices PUBLICLY/NATIONALLY and WORLDWIDE. Furthermore, it is Newsome's duty to NOTIFY the PUBLIC that such MALICIOUS attacks by the United States Government are criminal and violates the Constitutional Rights, Civil Rights and other laws of the United States that have been afforded to other citizens.

This is PERTINENT and RELEVANT information because (based upon the listing provided by Baker Donelson at Paragraph 28(h)/Page 44 and **EXHIBITS "22,"** and **"35"**) if the United States Department of Labor and/or its Officials are members and participants of ***such SUPREMACIST and TERRORIST groups*** that are involved in the criminal/civil wrongs leveled against Newsome and other citizens, ***then such information is of PUBLIC/WORLDWIDE interest***. *Moreover, a reasonable mind may conclude that Newsome is entitled to know why the United States Department of Labor* ***has brought legal actions/lawsuits*** *on behalf of other citizens for similar employment violations; however, when Newsome reported employment violations, it* ***DISCRIMINATED, RETALIATED and*** *failed to perform MANDATORY ministerial duties owed Newsome (i.e.* ***performed for other citizens****) and failed to enforce the statutes/laws in which it is MANDATORILY required enforce.*

C. **PUBLIC/WORLDWIDE INTEREST:** *Newsome believes this matter is of public concern in that it affects the* ***financial welfare*** *and/or being of other* ***citizens*** *and* ***other employees*** *of MM&S.* Newsome believes it is of PUBLIC/WORLDWIDE importance ***to expose*** just how far **the United States Government will go** to ***silence*** and ***deter*** its citizens from exercising their CONSTITUTIONAL RIGHTS!! Newsome believes that based upon the facts, evidence and legal conclusions ***that MM&S may be a member and/or participant with SUPREMACIST/TERRORIST groups*** who have used their SPECIAL TIES/RELATIONSHIPS to government agencies ***to deprive employees of wages/earnings*** *in RETALIATION* of its knowledge of Newsome's engagement in protected activities as well as her bringing legal action against the United States Department of Labor.

Furthermore, *the Wage & Hour Division's assistance and condoning such of such unlawful/illegal employment practices was done as a DIRECT and PROXIMATE result realizing that to find in favor of Newsome and the evidence, will require that MM&S compensate its employees as well as Newsome for the*

unpaid *wages earned that they failed to pay. Thus, being a huge financial hit on MM&S.*

IMPORTANT TO NOTE: That there is a Mississippi Appeals Court Judge (Donna Barnes) who was employed by MM&S prior to taking judgeship role. See **EXHIBIT "90"** attached hereto and incorporated herein by reference. *Judge Barnes name appears on the List of Judges that Baker Donelson has posted on the Internet.* See **EXHIBIT "35"** attached hereto and incorporated by reference as if set forth in full herein.

IMPORTANT TO NOTE: It appears MM&S has closed its Jackson, Mississippi Office out of which Newsome was working **AFTER** the MDES matter and perhaps **AFTER** their receipt of the Transcript provided from the MDES hearing. However, while the MDES was in the position to deter and punish MMS and its employees for the unlawful/illegal actions committed against Newsome, said government agency failed to do so for the *purposes of aiding and abetting MM&S and its employees in employment violations; moreover, for purposes of depriving Newsome of unemployment benefits.* MM&S may have closed its downtown Jackson, Mississippi location shortly **AFTER** the January 27, 2005 MDES hearing when it had just moved into the facility about May 2004, and had plans of expanding. The MMS matter is one in which an **INDICTED** Judge (Bobby DeLaughter)[97] presided over. See **EXHIBIT "132"** - *March 9, 2005 Letter to DeLaugther* attached hereto and incorporated by reference as if set forth in full herein.

IMPORTANT TO NOTE: Magistrate Judge James C. Sumner in the Mississippi matter filed an Order on or about August 13, **2007**, requiring Newsome to post Security Bond for purposes of FINANCIALLY DEVASTING her and to preclude/prevent her from litigating lawsuit. Then on or about September 5, **2007**, Magistrate Sumner filed ORDER OF RECUSAL because of ***CONFLICT OF INTEREST***. See **EXHIBIT "42"** – Docket Sheet and **EXHIBIT "92"** – *Order of Recusal* attached hereto and incorporated by reference as if set forth in full herein. The laws are clear (i.e. and have been briefed in the required pleadings in that action to preserve Newsome's rights) that because of the CONFLICT OF INTEREST and RECUSAL ORDER that *any such rulings by Magistrate Sumner* ***is NULL/VOID***; moreover, parties **are not** required to comply with any rulings by him. Furthermore, Judge Tom S. Lee **CANNOT**, as a matter of law, sustain any such rulings by Magistrate

[97] See **EXHIBIT "11"** attached hereto.

Sumner because of the RECUSAL and CONFLICT OF INTEREST. Based upon the Listing of Judges provided above at Paragraph F(x)/Page 62 as well as at **EXHIBIT "35"** of this instant *EMTS & MFEOTWOC,* Judge Lee should have **also RECUSED himself**; however, elected to remain in the case and play a role in the CONSPIRACY, in which, under his watch *the record of the Southern District Court of Mississippi has become **HEAVILY breached** and **compromised** as a direct and proximate result to COVER-UP criminal/civil wrongs leveled against Newsome*. When Judge Lee and opposing parties thought that Newsome was bringing her MM&S lawsuit in 2007, it worked hard to try and FINANCIALLY devastate her to prevent and/or OBSTRUCT the administration of justice in insisting that she pay a bogus Security Bond to which the laws do not sustain nor require based upon the facts, evidence and legal conclusion provided. Furthermore, *the record evidence, facts and legal conclusions will support that Judge Lee's actions in the Mississippi matter are WILLFUL and MALICIOUS in efforts of attempting to provide opposing parties with an undue and unlawful/illegal advantage in lawsuit. Moreover, attempts to provide Baker Donelson (based on his relationship with Baker Donelson) and its client (LIBERTY MUTUAL) with an undue and unlawful/illegal advantage in lawsuit on behalf of opposing parties and their counsel/attorneys.* Therefore, on or about November 13, 2007, Judge Lee authorized an entry requiring that Newsome be required to post a Security Bond approximately one month from the deadline (three-year) for Newsome to bring action against MM&S. However, to Judge Lee and opposing counsel's disappointment, Newsome has until December 2010 (**six-year** statute of limitation).[98]

> **IMPORTANT TO NOTE:** Based upon such information, Judge Lee and opposing counsel and their clients *have LAUNCHED an ALL out **LYNCHING mob** to go after Newsome with clear instructions to do whatever it takes to see that she does not have access to the COURTS and that the DOORS of the Courts are closed to her*. Therefore, *requiring the **intervention of the United States Supreme Court** in this matter, in that the DECISION set to be*

[98] However, to their disappointment Mississippi has a **SIX-YEAR** *Catch All Statute of Limitation*. Therefore, giving Newsome until December 2010 to bring legal action against MM&S.

*rendered on or about **October 22, 2010**, by Judge John Andrew West is **a part of said CONSPIRCY** that has been leveled against Newsome to deprive her **EQUAL** protection of the laws and **DUE PROCESS** of laws secured under the Constitution; moreover, are attempts by President Barack Obama, Judge West and their Conspirators/Co-Conspirators to cover up the criminal/civil wrongs leveled against Newsome and reported to the United States Department of Justice/FBI in September 24, 2009 Criminal Complaint.*

87) **PAGE KRUGER & HOLLAND ("PKH"):** Is the law firm Newsome was employed with at the time of my arrest on **February 14, 2006.** Prior to my termination of employment, the PKH did not advise Newsome of any employment violations and neither was Newsome on probation for any employment issues. In fact, during Newsome's employment, she was commended on her work ethics to support *Letter of References* and/or information provided in **EXHIBIT "93"** of this instant *EMTS & MFEOTWOC* which provide:

> This letter is to confirm and recommend Ms. Vogel Newsome to a position of Executive Assistant, Administrative Assistant or greater. While working with Lash Marine, she performed the duties of Executive Assistant with skill and energy. Her spirit and motivation acted as a beacon of light to others. Her leadership and training of others was a great service. Always willing to share; she possess a unique ability to teach complex skills to the beginner and bring them quickly up to speed. In addition, being a caring and concerned citizen she put aside her time to train and work with Training, Inc. employees to develop their office skills for a better future.
>
> She is an asset and will be sorely missed at Lash Marine. -- ROBERT K. LANSDEN (**VICE PRESIDENT**)
>
> I have been very, very pleased with Vogel, not only in terms of her work product, but also in terms of her attitude and personality. I would rate her as one of the best legal secretaries with whom I have ever worked. I would highly recommend her to anyone who is looking for a full-time legal secretary. If my previous secretary were not rejoining me, I would want

Vogel to be my new permanent secretary.

If anyone would care to discuss Vogel with me, please do not hesitate to give them my name and number. I will be more than happy to talk with them.

I am not certain of the exact day when my previous secretary will rejoin me. It could be immediately, or, it could be a couple of weeks. In light of that, we would like to request that we be allowed to continue to work with Vogel until further notice. However, the last thing I want to do is have Vogel miss another good opportunity that might lead to permanent employment. Therefore, if she must be reassigned, I will understand, but grudgingly so.. . . . - - RALPH B. GERMANY, JR. (**ATTORNEY**)

I was first introduced to Ms. Newsome over five (5) years ago. Since that time, she has been a Woman of integrity and intelligence. Ms. Newsome always has presented herself in a professional manner and has always addressed me and others with the uttermost of respect. Ms. Newsome outgoing personality and personal strengths would make her an excellent additional to anyone's staff. I have had the opportunity to work with Ms. Newsome and she has demonstrated flexibility in working outside of her field of endeavor and doing an excellent job is a strong indicator of how well she will do in her chosen field of endeavor. Ms. Newsome demonstrated a willingness to perform any task assigned to her promptly and correctly with little supervision. Ms. Newsome is a very pleasant person to associate with, works as a team player, and would truly be an ASSET to your organization because she is the best one for the job. - - LISA J. WASHINGTON (**COORDINATOR**)

As well as the following feedback Newsome received during her employment with PKH:

TOMMY PAGE EMAIL – 06/16/05:

TP: "***You looked very smart & professional as you walked toward the building***!"

VN: "Why thank you. I strive to dress and carry myself in the manner in which PKH requires. ☺"

TP: "You do it well."

Also, such compliments as:

Vogel, First and foremost, you are doing an **excellent** job. These are just a few things that I thought of that might save us

both some time and help things flow smoother. . . - - SUSAN O. CARR[99]

See **EXHIBIT "94"** attached hereto and incorporated by reference as if set forth in full herein. Other PERTINENT and RELEVENT information to support Newsome's ability to use software applications and possesses the skills necessary to perform duties assigned her to sustain/support the Letter of References and comments provided above is as follows:

Alphanumeric – 8844 kph / 2% error rate
Typing – 60 wpm / 1% error rate
Word 97 – 100 overall (100 on basic, intermediate & advanced)
Excel 97 – 100 overall (100 on basic, intermediate & advanced)

See **EXHIBIT "95"** attached hereto and incorporated by reference as if set forth in full herein.

IMPORTANT TO NOTE: At **EXHIBIT "96"** Newsome provides a copy of PKH's Telephone Directory (i.e.which is attached hereto and incorporated by reference as if set forth in full herein). In looking at the PKH Phone Directory, during Newsome's employment with PKH and from information, understanding and belief, there was a Legal Assistant, John Noblin, who was an attorney; however, did not want to practice law. Therefore, as a filler (until something better came along) he worked at PKH. John later left PKH to accept another job opportunity (non-legal). **John is the son of the Clerk of the Court** – United States District Court/Southern District Mississippi (Jackson Division) – J. T. Noblin. See **EXHIBIT "97"** attached hereto and incorporated by reference. Newsome believes the court record/files in the Mississippi matters have been BREACHED and/or COMPROMISED. Furthermore, *record evidence reveals that file released to NON- Party (Mr. Moorehead) without notification to parties to the action was provided with court record*. See **EXHIBIT "42:"**

12/18/2007 DOCKET SHEET ENTRY: *"Remark - Certified copy of record and*

[99] It is important to note that since leaving PKH and from information obtained from research, Carr has since left PKH as well and is presently a Law Clerk for one of the Mississippi Courts. See **EXHIBIT "111"** attached hereto and incorporated by reference as if set forth in full herein.

exhibits ***checked out to Mr. Moorehead****, 633 Northstate Street, Jackson, MS 39209. . .."*

attached hereto and incorporated by reference. Newsome believes that a reasonable person/mind knowing all the facts and circumstances, may conclude efforts taken by the United States District Court/Southern District of Mississippi (Jackson Division) may have *compromised its records because of the CONFLICT of INTEREST that existed* with the Clerk (J.T. Noblin) of said court and son's (John Noblin) relationship with PKH – i.e. counsel for defendant parties (Hinds County, Mississippi; Sheriff Malcom McMillan, Judge William Skinner, Constable Jon Lewis and other possible county employees) in the lawsuit

IMPORTANT TO NOTE: That since Newsome's employment with PKH was terminated it appears that at least two of the attorneys are now working ***"WITHIN"*** the courts (judicial system) in Mississippi. Carr being a Clerk now and another attorney by the name of **A.B. (Trey) Smith III** is a judge in a Mississippi court. (See **EXHIBIT "98"** attached hereto and incorporated by reference).

EMPHASIS ADDED: Because the evidence presented herein reveals the **"special"** relationships Newsome's former employers have with the courts as well as Baker Donelson's need to get acquainted with attorneys (i.e. such as Donna Barnes – Mississippi Appeal Court Judge [*Chairs* **Pro Se** *Litigation* Subcommittee of the Mississippi Access to Justice Commission] who was employed at MM&S during Newsome's employment with it – See **EXHIBIT "90"**) and law firms that Newsome has worked with. Information PERTINENT and RELEVANT to establish the CONSPIRACY and CRIMINAL STALKING practices, bias and prejudices, etc. by Baker Donelson, Liberty Mutual and/or opposing parties in legal matters involving Newsome.

The reasons provided Newsome at the time of my termination are set out in my e-mail of May 15, 2006. Although Newsome requested whether or

not she would be given written reasons (pink slip) for my termination, PKH denied providing her with the grounds upon which it was basing termination of her employment. Therefore, as a follow-up and to memorialize the reasons provided for Newsome's termination, Newsome memorialized said meeting and submitted PKH's reasons for her termination in an e-mail:

> E-MAIL of 05/16/06 from Vogel Newsome to Louis J. Baine III (shareholder), Thomas Y. Page, Jr. (shareholder), Linda Thomas (Office Administrator) – providing the reasons given for my termination. Page Kruger & Holland's ***advising being contacted and having knowledge of lawsuit filed by me.***

See **EXHIBIT "61"** attached hereto and incorporated by reference as if set forth in full herein. Clearly supporting that PKH engaged in a CONSPIRACY leveled against Newsome wherein it was contacted and notified of Newsome's engagement in PROTECTED activities. Furthermore, as a direct and proximate result of the February 14, 2006 arrest, Newsome responded to CONFLICT CHECK conducted by PKH.

> E-MAIL of 03/30/06 regarding CONFLICT CHECK to Lawson Hester (shareholder) and providing Linda Thomas (Office Administrator) a copy on 06/31/06:
> VN: Lawson: I recently had a matter occur with a Constable of Hinds County, where I am presently considering. Would this present a conflict? Thanks.

NOTE: Newsome's concerns went unaddressed. See **EXHIBIT "99"** attached hereto and incorporated by reference. The record evidence further supporting that PKH was timely, properly and adequately notified of Newsome's concerns of conflict in its representing Hinds County, as well as her advising of considering filing a lawsuit against Constable. To no avail. It is important to note that this conflict was also brought to Newsome's attention by another attorney, Raymond Fraser (African-American attorney with whom she worked and in whom Newsome confided in regarding what was transpiring and called during the unlawful/illegal seizure of her property/residence on February 14, 2006). Newsome advising Fraser upon her return to PKH of the February 14, 2006 arrest. In fact, Fraser *advised Newsome that he had tried to call her back on the day she was arrested in follow up to their telephone conversation because Newsome had called him during the time Constable Lewis, Crews and others were in her residence to advise him of what was going on.* During said conversation Fraser ***confirmed that the actions being rendered against her were unlawful*** and his surprise in the way things were taking place since he had knowledge of the legal pleadings that were before the court which prohibited such practices.

It is important to note that Fraser also advised that Newsome should talk to Jamie Travis (an African-American attorney at PKH – who during the time of her employment was an Associate; however, since Newsome's termination and the filing of lawsuit, it appears PKH has made him a shareholder – perhaps a move to buy his silence in that from Newsome's understanding and belief, during her employment Travis had been seeking shareholder status for a while and felt that he was entitled to it; however, PKH was not budging) ***in that Travis went to school with Judge Skinner and may be able to assist in getting the matter resolved***. How would the average citizen with no connection to law firms, or the legal industry be aware of such a relationship? Based upon the information provided by Fraser, Newsome has found the following: a) Travis completed laws school (Mississippi College of Law in **1999**) and was admitted to practice **09/28/1999**; and b) Judge Skinner completed law school (Mississippi College of Law in December **1998**, and was admitted to practice **4/27/99**). See Travis' Bio at **EXHIBIT "100"** and incorporated by reference as if set forth in full herein, and Skinners Resume at **EXHIBIT "101".**

> **IMPORTANT TO NOTE:** From Skinner's Resume, a reasonable person/mind may conclude that a SPECIAL TIES/RELATIONSHIP to FBI can be established and the FBI's connection in the death of Skinner's father. Possibly COVER-UP of the FBI's murder of his father (Officer William Skinner) and framing members of the New Republic of Africa for his death (i.e. conflicting reports state Officer Skinner was standing under a tree while another places him inside a car). Leaving a reasonable mind to conclude that the FBI may be engaging in a CONSPIRACY leveled against an African-American organization and its members and FRAMED them for Officer Skinner's murder to break up and/or destroy the group. Relying on the Willie Lynch Practices and those recently used in the Iran/Afghanistan ***wars*** *by United States Soldiers.* See **EXHIBIT "153"** attached hereto and incorporated by reference as if set forth in full herein. If said information is true, then it explains why the FBI has failed to deter/prevent Judge Skinner from committing further acts – i.e. *it CONDONES such racial injustices and relying upon its powers and sources to cover HATE CRIMES carried out by the FBI and/or under its instructions/knowledge and control – i.e. for example like the Malcolm X set up and Martin*

> *Luther King assassination*. A reasonable person may conclude based upon the facts, evidence and legal conclusions as well as the prosecution of other citizens who commit the same and/or similar crimes as that reported by Newsome, the FBI and others are engaging in CONSPIRACIES and PUBLIC CORRUPTION.

However, Newsome **did not** discuss this matter with Travis in that she knew that the actions rendered her were unlawful/illegal and the very acts of engaging Travis to seek what she took as "special" favors due to his relationship with Judge Skinner to Newsome was UNETHICAL/UNACCEPTABLE and clearly went to the very concerns that she realized that African-Americans have believed for years - *the judicial system is tainted and the* ***"shady/corrupt"*** *dealings that take place behind the scenes.* Newsome definitely did not want to be a part of such corrupt practices that she as well, as other African-Americans, knew was present and the reason why the laws are so adverse towards them when faced with judicial and/or justice issues. Leaving Newsome wondering whether or not Travis used her incident and/or PKH knew from Newsome's incident that making Travis a partner/shareholder was simply a **"buy-out"** tactic (for his silence) – giving him an interest in the firm in efforts of warring of any liability it knew it would be facing and any other possible **CONFLICT OF INTEREST** – due to Travis' (and perhaps others) relationship with Judge Skinner. Newsome wanted justice to be based upon the statutes/laws and not upon such improprieties and special favors. Said beliefs being confirmed in the filing of the legal action(s) brought by Newsome in Mississippi.

88) There is record evidence to support that ***AFTER*** Lawson Hester's blowing of the Mississippi lawsuit – i.e. *in leaving litigation in the hands of a NOVICE* – he moved on to the law firm of Wyatt Tarrant & Combs ("WT&C"). This is important information because prior to Newsome's termination, Hester had just joined Page Kruger & Holland *as a SHAREHOLDER*. Now Hester is with WT&C – *a law firm with offices in the State of Kentucky*. See **EXHIBIT "138"** attached hereto and incorporated by reference as if set forth in full herein. WT&C having relationships with Liberty Mutual as well as banks in which Newsome conduct(ed) business – i.e. banks [**JP Morgan Chase Bank** and PNC] that retaliated against Newsome and engaged in unlawful/illegal actions in furtherance of CONSPIRACIES leveled against her. *Chase Bank having a working relationship with Kentucky Department of Revenue and it appears with Liberty Mutual's counsel* – i.e. NEXUS established.

89) **WOOD & LAMPING LLC ("W&L"):** The record evidence will support that Newsome's employment with W&L was terminated as a DIRECT and PROXIMATE result of its knowledge of her engagement in protected

activities. Moreover, for RACIAL and bias intent. The record evidence will further support that in efforts of COVERING UP its role in CONSPIRACIES leveled against Newsome, W&L had its employee(s) engage in criminal acts – i.e. breaking and entering Newsome desk – for purposes of DESTROYING evidence, OBSTRUCTING justice, and other reasons known to it in efforts of fulfilling its role in conspiracy as well as TAMPERING/DESTROYING[100] evidence W&L knew was incriminating. From information Newsome was able to obtain from the Wage & Hour Division, she was able to see disturbing information in which W&L KNOWINGLY, WILLINGLY and with MALICIOUS intent lied and/or falsified information provided to the Wage & Hour Division during its handling of Charge. See **EXHIBIT "137"** attached hereto and incorporated by reference as if set forth in full herein. Wood & Lamping engaging in criminal/civil wrongs because it did not want Newsome to have evidence of its EEO violations and EEOC policy statement which acknowledges Title VII violations for retaliation taken against employees who engage in protected activities. See **EXHIBIT "146"** attached hereto and incorporated by reference as if set forth in full herein which states in part:

> As the federal agency charged with the enforcement of this nation's employment discrimination laws, the EEOC has a unique and profoundly important role in the government's antidiscrimination efforts. Accordingly, it is the Commission's policy to ensure equal opportunity in all of its employment policies and practices and to prohibit discrimination in all aspects of the agency's operations. . .
>
> . . .***Acts of reprisal*** *against any employee who engages in protected activity* ***will NOT be tolerated.***
>
> EEOC managers and supervisors are reminded of their responsibility to prevent, document and promptly correct harassing conduct in the workplace. . .

90) The record evidence will further support the United States Department of Labor's/Wage & Hour Division's knowledge of W&L's violations under the RETALIATION laws. For instance see said Department's posting of "RETALIATION. . ." Press Release at **EXHIBIT "147"** which states in part:

> There are three main terms that are used to describe retaliation. Retaliation occurs when an employer. . .takes an ***adverse action*** against a ***covered individual*** because he or she engaged in ***protected activity***. These three terms are described below.
>
> **ADVERSE ACTION:** An adverse action is an action taken to try to keep someone from opposing a discriminatory practice, or from participating in an employment discrimination proceeding. Examples of adverse actions include:
>
> - Employment actions such as termination, refusal to hire, and denial of promotion

[100] **Ohio Revised Code §2921.12 Tampering with evidence.**

- Other actions affecting employment such as threats, unjustified negative evaluations, unjustified negative references, or increased surveillance, and
- any other action such as an assault or unfounded civil or criminal charges that are likely to deter reasonable people from pursuing their rights

Even if the prior protected activity alleged wrongdoing by a different employer, retaliatory adverse actions are unlawful. For example, it is unlawful for a worker's current employer to retaliate against him for pursuing an EEO charge against a former employer.

COVERED INDIVIDUALS: Covered individuals are people who have opposed unlawful practices, participated in proceedings, or requested accommodations related to employment discrimination. . . Individuals who have a close association with someone who has engaged in such protected activity also are covered individuals. For example, it is illegal to terminate an employee because his spouse participated in employment discrimination litigation.

PROTECTED ACTIVITY- ***Protected Activity Includes***:
Opposition to a practice believed to be unlawful discrimination: Opposition is informing an employer that you believe that he/she is engaging in prohibited discrimination. Opposition is protected from retaliation as long as it is based on a reasonable, good-faith belief that the complained of practice violates anti-discrimination law; and the manner of the opposition is reasonable.

Examples of protected opposition include:

- Complaining to anyone about alleged discrimination against oneself or others;
- Threatening to file a charge of discrimination. . .
- Refusing to obey and order reasonably believed to be discriminatory. . .

Participation in an employment discrimination proceeding: Participation means taking part in an employment discrimination proceeding. Participation is protected activity even if the proceeding involved claims that ultimately were found to be invalid. Examples of participation include:

- Filing a charge of employment discrimination;
- Cooperating with an internal investigation of alleged discriminatory practices; or
- Serving as a witness in an EEO investigation or litigation.

and EXHIBIT "150" attached hereto and incorporated by reference as if set forth in full herein - which states in part:

RETALIATION

> All of the laws we enforce make it illegal to fire, demote, harass, or otherwise "retaliate" against people (applicants or employees) because they filed a charge of discrimination, because they complained to their employer or other covered entity about discrimination proceeding (such as an investigation or lawsuit).
>
> For example, it is illegal for an employer to refuse to promote an employee because she filed a charge of discrimination with the EEOC, even if EEOC later determined no discrimination occurred.

As well as "GUIDELINES. . ." clarifying protection AGAINST Retaliation for participation in protected activities. See **EXHIBIT "148"** attached hereto and incorporated by reference as if set forth in full herein - which states in part:

> **EEOC ISSUES GUIDANCE CLARIFYING RIGHT TO PROTECTION AGAINST RETALIATION**
>
> The U.S. Equal Employment Opportunity Commission (EEOC) announced today the *release of comprehensive guidance on the prohibition against retaliation aimed at individuals who file charges of employment discrimination or who participate in the investigation of an EEO charge.*
>
> The Supreme Court addressed the issue of retaliation last year, in ***Robinson v. Shell Oil Company***. The Court **made it *clear*** *that* ***employers are prohibited*** *from* ***retaliating against*** *former* ***employees*** *as well as current employees* ***for engaging in activity protected under the employment discrimination laws***. The guidance explains that decision and also provides direction on what constitutes protected activity, what constitutes an adverse action that can be challenged as retaliatory, and what evidence is necessary to prove that an adverse action was caused by protected activity.
>
> *. . . "Few things are more fundamental to stopping discrimination than protecting a person's access to their rights without fear of retribution.*"

Moreover, what "ACT" are "PROHIBITED" under Title VII. See **EXHIBIT "149"** attached hereto and incorporated by reference as if set forth in full herein - which states in part:

> **PROHIBITED EMPLOYMENT POLICIES/PRACTICES**
>
> Under the laws enforced by EEOC, it is illegal to discriminate against someone (applicant or employee) because of that person's race. . . It is also illegal to retaliate against a person because he or she complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.
>
> *The law* ***forbids*** *discrimination in every aspect of employment. . .*
>
> **HARASSMENT:** It is illegal to harass an employee because of race. . .
>
> *It is also* ***illegal to harass*** *someone because* ***they have complained*** *about discrimination,* ***filed a charge*** *of discrimination, or* ***participated*** *in an employment discrimination* ***investigation*** *or* ***lawsuit***.

> Harassment can take the form of . . . other verbal or physical conduct. . . *harassment is illegal if it is so frequent or severe that it creates a hostile or offensive work environment or if it results in an adverse employment decision (such as the victim being fired or demoted).*
>
> The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer. . . .
>
> **CONSTRUCTIVE DISCHARGE/FORCED TO RESIGN:** *Discriminatory practices under **the laws EEOC enforces** also include constructive discharge or forcing an employee to resign by making the work environment so intolerable a reasonable person would not be able to stay*.

The United States Department of Labor bringing civil lawsuits on behalf of other citizens who were victims of similar employment violations that Newsome suffered REPEATEDLY from various employers. See **EXHIBIT "151"** attached hereto and incorporated by reference as if set forth in full herein. As well as Press Releases the EEOC provided to share its VICTORIES with the Public:

02/12/09	*J.C. Penny To Pay $50,000 To Settle EEOC Race Discrimination Suit*
03/19/08	*Washington Group International To Pay $1.5 Million To Black Workers Who Were Racially Harassed*
04/08/09	*Marjam Supply Company To Pay $495,000 To Settle EEOC Race Discrimination Suit*
02/25/04	*Federal Express To Pay Over $3.2 Million To Female Truck Driver For Sex Discrimination, Retaliation*
05/26/10	*Creative Networks Settles EEOC Retaliation Lawsuit For $110,000*
04/26/10	*MCEA To Pay $80,000 To Settle EEOC Retaliation Suit*
08/19/10	*Yates Construction To Pay $30,000 To Settle EEOC Racial Harassment And Retaliation Suit*
08/10/10	*Elmer W. Davis To Pay $1 Million To Settle EEOC Race Discrimination Lawsuit*
08/03/10	*Mobile Community Action Sued By EEOC For Retaliation*
07/19/10	*Mike Enyart & Sons Sued By EEOC For Racial Harassment And Retaliation*
07/02/10	*Silgan Containers Required To Pay $45,000 To Settle EEOC Race Discrimination Suit*
07/01/10	*Cullman Company To Pay $100,000 To Settle EEOC Race Discrimination Lawsuit*

See **EXHIBIT "108"** – ***EEOC Press Releases*** attached hereto and incorporated by reference as if set forth in full herein.

91) Wood & Lamping attempting to get Newsome to waive her rights under the FMLA and wanted her to execute a "Release Agreement" giving up her protections under the FMLA and/or any other statutes governing employers and/or employment practices. The record evidence will support that the Wage & Hour Division has brought legal action on behalf of others citizens who were subjected to such unlawful/illegal practices W&L attempted to subject Newsome in the waiving of rights. See **EXHIBIT "130"** attached hereto and incorporated by reference as if set forth in full herein.

92) The record evidence will support that Newsome timely, properly and adequately notified the Wage & Hour Division's Representative (Joan Petric) as well as the United States Department of Labor Secretary Hilda Solis of the unlawful/illegal practices of Wood & Lamping and its efforts to OBSTRUCT the administration of justice. To no avail. See **EXHIBIT "140"** attached hereto and incorporated by reference as if set forth in full herein. President Obama, Secretary Solis and/or the Obama Administration were determined on COVERING UP the employment violations of Wood & Lamping. In so do, deprived Newsome equal protection of the laws, equal privileges and immunities under the laws and due process of laws.

93) Newsome states the following (i.e. taken from the EEOC's Compliance Manual)[101] in further support thereof and can be sustained in the Charges that have been filed with Administrative Agencies:

I. PROTECTED ACTIVITY[102]

A. Did Newsome Oppose Discrimination?

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[101] See **EXHIBIT "145"** attached hereto and incorporated by reference as if set forth in full herein.

[102] *Hughes v. Miller*, 909 N.E.2d 642 (Ohio.App.8. 2009) - In order for a claimant worker to adequately set forth a prima facie case against a co-worker for retaliation *for **participation in a protected activity** under the Ohio Civil Rights* Act, his or her pleading must sufficiently set forth facts establishing the following four elements: (1) claimant engaged in a protected activity, (2) *claimant's engagement in the protected activity was known to the opposing party*, (3) the *opposing party thereafter took adverse action against the claimant*, and (4) there *exists a **causal** connection **between** the protected activity **and** the adverse action*. O.R.C. § 4112.02(I). See also, *Greer-Burger v. Temesi*, 879 N.E.2d 174 (Ohio,2007); *Clark v. City of Dublin*, 2002 -Ohio- 1440 (Ohio.App.10. 2002);

Hollingsworth v. Time Warner Cable, 812 N.E.2d 976 (Ohio.App.1.Dist.**Hamilton.**Co.,2004) - To prove a prima facie case of retaliation under Title VII or state employment discrimination statute, a plaintiff must demonstrate that (1) she ***engaged in a protected activity***, (2) her employer knew about the protected activity, (3) her employer took adverse employment action against the plaintiff, and (4) there was a causal connection between the protected activity and the adverse employment action. Civil Rights Act of 1964, § 704, as amended, 42 U.S.C.A. § 2000e-3; O.R.C. § 4112.02(I). See also, *Shepard v. Griffin Services, Inc.*, 2002 -Ohio- 2283 (Ohio.App.2. 2002).

1. Did Newsome ***explicitly*** or ***implicitly*** communicate to the Respondent/Employer or another covered entity a belief that its activity constituted unlawful discrimination under Title VII . . .

    - If the protest was broad or ambiguous, would Newsome's protest reasonably have been interpreted as opposition to such unlawful discrimination?

2. Did Newsome have a reasonable and good faith belief that the opposed practice violated the anti-discrimination laws?

    - If so, Newsome is protected against retaliation, even if she was mistaken about the unlawfulness of the challenged practices.

IMPORTANT TO NOTE: The supporting Exhibits to this instant pleading as well as lower court records, Government Agency(ies) records, employers' records as well as that of opposing parties will support:

a) Newsome timely, properly and adequately made known her opposition to discrimination – i.e. more importantly her opposition to the RETALIATION (which is discriminatorily based on race and her engagement in protected activities, etc.), Criminal Stalking and other criminal/civil wrongs leveled against her by Judge West and his Conspirators/Co-Conspirators (*i.e. which just happens to include the United States President Barack Obama, his Administration and others because of their as well as the personal/financial interest of their KEY/TOP Financial Campaign Contributors and/or Advisors/Counselors*).

b) The record evidence will support that Newsome ***explicitly*** and ***implicitly*** communicated (i.e. verbally and/or in writing) to Judge West/the lower courts, opposing counsel and others of her concerns of their engagement and/or participation in unlawful discrimination practices secured under Title VII. Moreover, that this instant lawsuit (while brought as a Forcible Entry/Detainer action) was brought in RETALIATION by Plaintiff (Stor-All) and *its knowledge of Newsome's engagement in PROTECTED ACTIVITIES*. See **EXHIBITS "13"** – February 6, 2009 Letter to David Meranus; **"60"** and **"62."**

c) Based upon the facts, evidence and legal conclusion presented in this instant pleading as well as the lower court records, Newsome believes that a reasonable mind may conclude, that she has a good faith belief that her opposition to the RETALIATION, criminal stalking and other criminal/civil wrongs leveled against her violated the ANTI-DISCRIMINATION laws – i.e. the record evidence will further support that said criminal/civil wrongs stems from Newsome's engagement involving Title VII actions (i.e. engagement in PROTECTED ACTIVITIES).

d) While President Obama and his LYNCH men-Administration, opposing parties to this lawsuit as well as other actions brought by Newsome have attempted to make it appear that she is PARANOID, CRAZY, a LUNATIC, the BOY WHO CRIED WOLF, etc., her patience, determination and perseverance has allowed her to PROVE from FACTUAL DOCUMENATION/EVIDENCE that Judge West, opposing parties (i.e. those with a personal/financial interest in the outcome of this lawsuit) have RETALIATED against Newsome *because of their knowledge of her participation* in PROTECTED ACTIVITIES. Furthermore, the lower court record will support and/or sustain opposing counsel's ADMISSION and/or KNOWLEDGE of Newsome's engagement in PROTECTED ACTIVITIES and efforts to use such knowledge to obtain and undue/unlawful/illegal advantage in this lawsuit – i.e. said actions which are clearly PROHIBIT by statutes/laws governing said matters.

e) PATTERN-OF-PRACTICE, PATTERN-OF-ABUSE, criminal stalking, harassment, threats, extortion, blackmail, coercion, etc. leveled against Newsome by Judge West, President Obama, his Administration as well as opposing parties to this action because of their knowledge of *her*

engagement in PROTECTED ACTIVITIES. The record evidence will support that Plaintiff's (Stor-All) insurance company (LIBERTY MUTUAL), its counsel/attorneys have left a trail of evidence (***the "proverbial smoking gun"***) to sustain that this instant lawsuit as well as other attacks (i.e. stalking Newsome and contacting her employer(s) for purposes of getting her fired/terminated and contacting her attorneys for purposes of getting them to withdraw representation) leveled against Newsome are a direct and proximate result of its knowledge of her engagement in protected activities and to provide them with an undue/unlawful/illegal advantage in legal matters; moreover, for purposes of depriving Newsome equal protection of the laws and due process of laws. Rights guaranteed/secured under the United States Constitution and/or laws of the United States.

B. Did Newsome participate in the statutory complaint process?

Did Newsome ***file a charge***, ***testify***, ***assist***, or ***participate in*** *any manner in* ***an investigation***, ***proceeding***, ***hearing***, or ***lawsuit*** under the statutes enforced by the EEOC?

- **If so**, Newsome ***is protected*** *against retaliation regardless of the validity or reasonableness of the original allegation of discrimination*.

- Newsome ***is protected against retaliation*** by a Respondent/Employer for participating in statutory complaint proceedings even if that complaint involved a ***different*** *covered entity*.

IMPORTANT TO NOTE: The record evidence will support and/or sustain that Newsome participated in the statutory complaint process. Moreover, *that the United States Government (i.e. courts, U.S. Department of Labor, etc.)* ***has RETALIATED*** and has gone to great lengths by POSTING ***false/malicious/misleading*** *information on the Internet* regarding Newsome that it knew and/or should have known was obtained through unlawful/illegal practices. Moreover, that said U.S. Government Agency(s) *was engaging in actions clearly PROHIBITED by law and clearly in violation of Newsome's Constitutional and Civil Rights* ***in RETALIATION*** *of her having engaged in* ***protected activities*** – i.e. bringing legal actions/lawsuit against the United States Department of Labor's Equal Employment Opportunity Commission ("EEOC") and others. Furthermore, exposing Government Agencies like the EEOC who BLATANTLY/DELIBERATELY covered up Civil Rights violations. The recent attacks leveled against Newsome by Judge West, President Obama, his Administration and opposing parties having a financial/personal interest, are a direct and proximate result of their knowledge of Newsome's engagement in PROTECTED ACTIVITIES – i.e. Title VII actions as well as bringing legal actions against the EEOC, her employers and others that are protected/secured under the United States Constitution, Civil Rights Act, Title VII and/or the applicable statutes/laws governing said matters brought.

PUBLIC EXPOSURE: *The unlawful/illegal actions taken by the United States Government in publishing/releasing false/malicious/misleading information on the Internet*[103] *regarding Newsome is of PUBLIC/NATIONAL importance and therefore, may be met by her with the filing of this instant pleading as well as with a counter response of Newsome's going PUBLIC/WORLDWIDE and releasing information to other citizens and/or PUBLIC/WORLD.*

II. ADVERSE ACTION

Did Respondent/Employer subject Newsome to any kind of adverse treatment?

- ***Significant retaliatory treatment*** *that is reasonably likely* ***to deter protected activity is unlawful***. There **is no** requirement that the adverse action materially affect the terms, conditions, or privileges of employment.

[103] One website link for example: http://www.scribd.com/doc/1815544/Department-of-Labor-04-082.

IMPORTANT TO NOTE: The record evidence of this instant action and the lower court records will support/sustain that in keeping with the CONSPIRACY leveled against Newsome, that Judge West, President Obama, his Administration, opposing parties with a financial/personal interest in the outcome of this lawsuit subjected Newsome to RETALIATION and/or adverse treatment because of their knowledge of her engagement in PROTECTED ACTIVITIES. Furthermore, that Judge West's actions in the lower court matter is now attempting to THROW the case in efforts of COVERING UP the criminal/civil wrongs leveled against Newsome that stemmed from RETALIATION of Newsome's engagement in PROTECTED ACTIVITIES. Criminal/Civil wrongs in which Newsome on or about September 24, 2009, reported to the FBI in her Criminal Complaint entitled, "*Criminal Complaint and Request for Investigation Filed by Vogel Denise Newsome With The Federal Bureau of Investigation – Cincinnati, Ohio*" which clearly supports that Judge West is to recuse himself from this lawsuit; moreover, the efforts taken by President Obama and his Administration's efforts to AID & ABET in the Conspiracy and COVER-UP of crimes timely, properly and adequately reported – i.e. however, to date, no ARRESTS, indictments nor prosecution has been initiated to Newsome's knowledge and, as a matter of law, remains pending. Thus, depriving Newsome equal protection of the laws and due process of laws – rights secured/guaranteed under the United States Constitution and/or other governing laws.

Newsome believes that a reasonable mind may conclude that RETALIATORY treatment was done to deter her from engaging in PROTECTED ACTIVITIES. Furthermore, the posting of *false/misleading/malicious* information on the Internet that was obtained through unlawful/illegal means and/or practices and was POSTED on the Internet for ***subliminal*** purposes to let other citizens know what will happen to them if they challenge the United States Government as well as DETER citizens from coming forth reporting/exposing Title VII violations and/or other criminal/civil wrongs as Newsome has done.

III. CAUSAL CONNECTION

A. Is there direct evidence that retaliation was a motive for the adverse action?

1. Did Respondent/Employer admit that it undertook the adverse action because of the protected activity?

2. Did Respondent/Employer express bias against Newsome based on the protected activity? If so, is there evidence linking that statement of bias to the adverse action?

- Such a link would be established if, for example, the statement was made by the decision-maker at the time of the challenged action.

If there is direct evidence that retaliation was a motive for the adverse action, "cause" should be found. Evidence as to any additional legitimate motive would be relevant only to relief, under a mixed-motives analysis.

IMPORTANT TO NOTE: The record evidence in this instant action as well as the lower court action, records of Government Agency(ies), opposing parties records, former employers, etc. will sustain/support that there is direct evidence that RETALIATION was a motive for the adverse action taken against Newsome because of knowledge of her engagement in protected activities. Moreover, that the lawsuit (while brought as a "Forcible Entry/Detainer Action"), out of which this instant action arises, *stems from RETALIATION as the motive for being filed* and opposing party and its counsel's knowledge of Newsome's engagement in PROTECTED ACTIVITIES. See **EXHIBIT "13"** – February 6, 2009 Letter to David Meranus attached hereto and incorporated by reference as if set forth in full herein. Furthermore:

a) The record evidence will support/sustain not only the ADMISSION of opposing party and/or its counsel's knowledge of Newsome's engagement in PROTECTED ACTIVITIES but that they undertook adverse action (i.e. in keeping of PATTERN-OF-PRACTICE, etc.) and contacted Newsome's employer (Wood & Lamping) to advise of Newsome's engagement in protected activities as well as its intent to bring lawsuit against Newsome; therefore, needing its termination

of her employment to provide it with an undue/unlawful/illegal advantage in lawsuit to be filed against her.

> Plaintiff (Stor-All) bringing Forcible Entry/Detainer Action with knowledge that it was **already** in *unlawful/illegal possession* of Newsome's storage unit and property ***WITHOUT legal authority/court order***. Stor-All *taking the laws into its own hands* and *unlawfully/illegally took possession* of Newsome's storage unit/property ***without*** *court order and/or legal authority*. The record evidence will support that Stor-All providing Newsome with "NOTICE TO LEAVE THE PREMISES" dated "January 9, 2009" which MATCHES the exact date that Newsome's employment with Wood & Lamping was terminated. Stor-All, its counsel/insurance company seeking Newsome's termination of employment with knowledge there was a CONFLICT-OF-INTEREST that arose due to the fact that Newsome provided legal support to an attorney by the name of Thomas J. Breed (*i.e. whose former employer was Schwartz Manes & Ruby – n/k/a Schwartz Manes Ruby & Slovin ["SMR&S"]*) – See **EXHIBIT "102"** – Letterhead of SMR&S bearing Breed's name. *Stor-All seeking Newsome's termination to keep her from seeking representation by Wood & Lamping because of the CONFLICT-OF-INTEREST*. Upon being successful in obtaining Newsome's termination of employment, Stor-All through its counsel (David Meranus of SMR&S) on or about January 21, 2009, filed its *Complaint for Forcible Entry and Detainer* – see **EXHIBIT "103"** attached hereto and incorporated by reference as if set forth in full herein. Said complaint was met with Newsome's *"Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim and Demand For Jury Trial"* – see **EXHIBIT "104"** (BRIEF Only) attached hereto and incorporated by reference as if set forth in full herein.
>
> **IMPORTANT TO NOTE:** To better understand the ***link/nexus*** between the Title VII violations and/or Constitutional/Civil Rights violations deprived Newsome because of Stor-All's, its counsel and her employer's (Wood & Lamping's) ***knowledge of her engagement in protected activities***, Newsome attaches a copy of the BRIEFS ONLY of the following complaints/charges filed with the United States Department of Labor:
>
> i) *Official Family and Medical Leave Act Complaint of and Against Wood & Lamping, LLP Filed With The United States Department of Labor Employment Standards Administration Wage and Hour Division – Cincinnati Area Office on January 16, 2009* - See **EXHIBIT "105"** (BRIEF and supporting Exhibits) attached hereto and incorporated by reference.[104]
>
> ii) *Official United States Government of Labor United States Equal Employment Opportunity Commission and Ohio Civil Rights Commission Charge of Discrimination of and Against Wood &*

[104] *Estrada v. Cypress Semiconductor (Minnesota) Inc.*, 16 Wage & Hour Cas.2d (BNA) 819 C.A.8. (2010) - There are **two** types of claims under the FMLA: ***interference*** *and* ***retaliation***. Family and Medical Leave Act of 1993, § 105(a)(1), 29 U.S.C.A. § 2615(a)(1).

Coffman v. Ford Motor Co., 159 Lab.Cas. P 35,769 (S.D.**Ohio.**W.Div.,2010) - In order to establish prima facie claim of retaliation under FMLA, plaintiff must show that: (1) she was engaged in an activity protected by FMLA; (2) her employer knew that she was exercising her rights under FMLA; (3) her employer took an employment action adverse to her; and (4) there was a causal connection between the protected FMLA activity and the adverse employment action. Family and Medical Leave Act of 1993, § 105(a)(2), 29 U.S.C.A. § 2615(a)(2). See also, *Bernhard v. Brown & Brown of Lehigh Valley, Inc.*, 2010 WL 2431821 (2010); *Brown v. Hartt Transp Systems, Inc.*, 2010 WL 2804134 (2010)

Lamping, LLP Filed Through Its Cincinnati Area Office- See **EXHIBIT "106"** (BRIEF Only) attached hereto and incorporated by reference.

b) The record evidence will further support the ***link/nexus between*** CRIMINAL STALKING of those Judge West is CONSPIRING with to THROW THIS LAWSUIT and efforts being taken to provide opposing party with an undue/unlawful/illegal advantage in this lawsuit because of his knowledge of Newsome's engagement in PROTECTED ACTIVITY. Furthermore, how opposing party's insurance company (LIBERTY MUTUAL) ***repeatedly*** retains counsel to come before the courts (i.e. as in this instant lawsuit) and use the *judicial arena as a circus* to **entice**, **coerce**, **bribe**, **extort**, **blackmail**, etc. judges/justices and other willing participants to engage in the ONGOING Conspiracy leveled against Newsome to deprive her rights secured under the Constitution, Civil Rights Act and other governing statutes/laws because of their knowledge of Newsome's engagement in PROTECTED ACTIVITIES secured/protected under Title VII and other laws.

c) The record evidence will support that opposing party (Plaintiff Stor-All) in lower court action, its counsel, its insurance carrier (LIBERTY MUTUAL), its attorneys and others have engaged in criminal/civil wrongs such as CRIMINAL STALKING and contacting Newsome's employers (i.e. as it did prior to bringing the lower court action) and notifying of her engagement in PROTECTED ACTIVITIES for purposes of getting her terminated and/or subjecting her to adverse action as well as purposes of obtaining an undue/unlawful/illegal advantage in legal actions.

B. Is there ***circumstantial evidence*** that retaliation was the true reason for the adverse action?

1. Is there *evidence raising an inference that retaliation was the cause of the adverse action*?

- Such an ***inference is raised*** if the adverse action *took place after the protected activity* and if the *decision-maker was aware of the protected activity before undertaking the adverse action*.

- If there was a long period of time between the protected activity and the adverse action, determine whether there is other evidence raising an inference that the cause of the adverse action was retaliation.

IMPORTANT TO NOTE: There is circumstantial evidence in this instant filing as well as in the lower court records, employers' records, opposing parties records and government records to support circumstantial evidence that retaliation was the true reason for the adverse action and the bringing of the lawsuit out of which this instant action arises.

The record evidence supports a PATTERN-OF-PRACTICE by Judge West and his Conspirators/Co-Conspirators. Moreover, there is circumstantial evidence to sustain/support that retaliation is the true reason that the lawsuit in which this instant action arises is a DIRECT and PROXIMATE result of knowledge of Newsome's engagement in protected activities and that Judge West is fully aware of the protected activities because opposing parties have made it SERIALLY/HABITUALLY a priority to make known their knowledge of Newsome's engagement in protected activities and providing Newsome with such INCRIMINATING circumstantial evidence to sustain/support the true reason for the DISCRIMINATORY/RETALIATORY and ADVERSE ACTIONS repeatedly leveled against Newsome. Therefore, there is evidence raising an inference that retaliation was the cause of the adverse action – i.e. filing of this lawsuit. Said knowledge was confirmed at the February 6, 2009 hearing on Newsome's ***Motion to Transfer*** when opposing counsel made known to her, during the execution of "MAGISTRATE ORDER" of his knowledge of her engagement in protected activity. See **EXHIBIT "13"** attached hereto and incorporated by

reference. Meranus making known this information to Newsome for purposes of bribery, extortion, coercion, blackmail, etc. to get Newsome to withdraw her Counterclaim; however, was disappointed when Newsome would not. Therefore, it led to Meranus ABANDONING his clients in that he did not want to defend against Newsome's Counterclaim and the need to engage Judge West in the CONSPIRACY and to get him to throw the lawsuit. Judge West whose Bailiff (Damon Riley) was indicted for:

(a) Theft in office;
(b) Bribery; and
(c) Attempted Bribery

and was found **"GUILTY"** by a jury of *Attempted Bribery*.

PERTINENT/RELEVENT information because from the ***Pattern-Of-Practice*** and ***History*** Newsome has with insurance company (LIBERTY MUTUAL) and its attorneys/counsel, they look to find dirt and/or incriminating information such as information on Damon Riley for purposes of blackmail, bribery, extortion, coercion, etc. as LEVERAGE against persons (i.e. such as Judge West) to engage them in criminal/civil wrongs leveled against Newsome for purposes of obtaining an undue/unlawful/illegal advantage over legal matters. Newsome believes that a reasonable mind may conclude that based upon the crimes that Judge West and others engaged in on or about September 24, 2009, against her, that Judge West may have known and/or should have known of the crimes that his Bailiff (Riley) was committing – *i.e. may have even gotten a piece of the action.*

> From such evidence, it will support the steps/procedures to be followed once a Criminal Complaint is filed. Bailiff Damon Riley has already been indicted, tried and convicted *within a YEARS time*. O.J. Simpson in the Las Vegas matter was arrested, indicted and tried *in about a year's time*. However, Judge West and his Conspirators/Co-Conspirators who committed similar crimes as that in which O.J. Simpson committed as well as that of Bailiff Riley still remain at large. Why? Because they associated with and/or have a personal/financial interest in the outcome of this lawsuit just as PRESIDENT OBAMA and his ADMINISTRATION'S Top/Key Financial Campaign Contributors and Advisors/Counselors do. Therefore, based upon such INCRIMINATING facts and evidence, Judge West and others involved in the crimes September 24, 2009 crimes reported remain at large. *President Obama and his Administration failing to prosecute the crimes reported because they need Judge West to fulfill his role in the CONSPIRACY leveled against Newsome on* ***October 22, 2010*** *– THROWING LAWSUIT and DISMISSING LAWSUIT for purposes of depriving Newsome equal protection of the laws and due process of laws in RETALIATION for her having engaged in protected activities and going PUBLIC in exposing such criminal/civil wrongs leveled against her.*
>
> 2. Has Respondent/Employer produced evidence of a legitimate, nondiscriminatory reason for the adverse action?

Important To Note: Newsome relies upon the EEOC's Compliance Manual in addressing this action in that the lawsuit in which this instant action arises is a DIRECT and PROXIMATE result of RETALIATION because of Newsome's engagement in protected activities. Newsome is CONFIDENT that the record of the lower court will support that while Plaintiff Stor-All brought MALICIOUS Forcible Entry/Detainer Action against Newsome that it was already in unlawful/illegal possession of Newsome's storage unit and property WITHOUT legal authority/court order. Furthermore, that while Stor-All brought this lawsuit against Newsome, once served with her Counterclaim, sought to ABANDON lawsuit and is now looking to Judge West and other Judges/Justices to AID & ABET in criminal/civil wrongs to keep from having to pay Newsome for the damages/injuries sustained. In fact, Stor-All allowed the time to lapse (i.e. even though the lower court advised of time within which to file an Answer to Counterclaim and Newsome in good faith advised that she would file a Motion for Default Judgment if Answer is not filed within time required by law) to file an Answer to Newsome's Answer and Counterclaim and *is now DEPENDING on Judge West to come through on his part in the CONSPIRACY on* ***October 22, 2010,*** *and throw the lawsuit and deprive Newsome the relief to which she is entitled*. Moreover, deprive Newsome JURY trial as well as

other relief secured under the United States Constitution and Ohio Constitution.

3. Is Respondent's/Employer's explanation a pretext designed to hide retaliation?

   - Did Respondent/Employer treat similarly situated employees who did not engage in protected activity differently from Newsome?

   - Did Respondent/Employer subject Newsome to heightened scrutiny after she engaged in protected activity?

   If, on the basis of all the evidence, the investigator is persuaded that retaliation was the true reason for the adverse action, then "cause" should be found.

Important To Note: This information is PERTINENT/RELEVANT in that it will support that the lawsuit out of which this instant action arises resulted as a DIRECT and PROXIMATE result of the role Plaintiff Stor-All, its insurance company (LIBERTY MUTUAL), and its attorneys played in succeeding in getting Newsome's employment terminated so they could bring the MALICOIUS lawsuit against her.

Not only is Plaintiff Stor-All's inability to defend against Newsome's Answer and Counterclaim further evidence of its inability to defend against lawsuit but the DECISION set to be rendered on or about **Friday, October 22, 2010**, is PRETEXTUALLY designed to hide/shield an illegal animus and a PATTERN-OF-PRACTICE of RETALIATION leveled against Newsome because the facts and evidence will support/sustain that LIBERTY MUTUAL, its clients and attorneys have a WELL-ESTABLISHED record of knowingly/willingly engaging in criminal/civil wrongs leveled against Newsome and relying upon CORRUPT JUDGES and/or CORRUPT PUBLIC OFFICIALS to get them off.

Record evidence will support how Plaintiff Stor-All, its insurance company (LIBERTY MUTUAL) and its counsel/attorneys relied upon Newsome's employer to fulfill its role in the conspiracy (i.e. terminating Newsome's employment) for purposes of providing them with an undue/unlawful/illegal advantage in lawsuit that would be brought against her. The record evidence will support that a reasonable mind may conclude that based upon the PATTERN-OF-PRACTICE of Plaintiff's insurance company (LIBERTY MUTUAL), its attorneys and others in contacting Newsome's employer(s) and advising of her engagement in protected activities, that it did the same with Wood & Lamping; however, Wood & Lamping was already aware of Newsome's engagement in protected activities and knew that based on such information that it could not terminate her. Nevertheless, for purposes of fulfilling its role in the **ongoing** CONSPIRACY leveled against Newsome and to provide Stor-All, its insurance company (LIBRETY MUTUAL), and its counsel with an undue/unlawful/illegal advantage in the lawsuit to brought against Newsome, W&L terminated her employment with knowledge that it was violating the laws – i.e. moreover, its own POLICIES and PROCEDURES:

> **EQUAL OPPORTUNITY**
> The firm is an equal opportunity employer, and as such, is firmly committed to treating **all** employees and applicants **equally** without regard to race, color, sex, religion, national origin, age, disability, marital status, veteran status, or other protected classes. We will endeavor to make reasonable accommodations for known physical or mental limitations of otherwise qualified employees and applicants with disabilities unless the accommodation would impose an undue hardship on the operation of or business. Our employment decisions, including, but not limited to, hiring, compensation, benefits, training, and promotions are based on the principles of **equal** employment opportunity. *Discrimination by any member of the firm **will not** be tolerated.* Suspected violations of this policy must be reported promptly to a member of management or to a partner. Violators will receive discipline appropriate to the offense, up to an including termination. *This policy also **prohibits retaliation** against anyone who has filed a complaint of **discrimination** or **harassment**.* – See excerpt of Wood & Lamping LLP Policies and Procedures Manual @ p. 11 at **EXHIBIT "107"**

attached hereto and incorporated by reference as if set forth in full herein.

Said knowledge of criminal/civil wrongs was the DIRECT and PROXIMATE result of W&L breaking into Newsome's desk and removing Employee Handbook/Manual and/or evidence that it knew would be incriminating and for purposes of OBSTRUCTING JUSTICE. However, W&L was disappointed to find that Newsome retained another copy of said Handbook/Manual.

Ohio Revised Code §2921.12 Tampering with evidence.

(A) **No person**, ***knowing*** *that an official proceeding or investigation* is in progress, or is *about to be or likely to be instituted*, shall do any of the following:

(1) ***Alter***, **destroy**, *conceal*, or ***remove*** *any record*, *document*, *or thing*, ***with purpose to impair*** *its value or availability as evidence* ***in*** *such* ***proceeding*** *or* ***investigation***;

(2) *Make, present, or use any record, document, or thing, knowing it to be false and with purpose to mislead a public official who is or may be engaged in such proceeding or investigation, or with purpose to corrupt the outcome of any such proceeding or investigation.*

(B) Whoever violates this section is ***guilty*** *of* ***tampering*** *with* ***evidence***, a felony of the **third degree**.

IV. SPECIAL REMEDIES ISSUES

A. Is it appropriate to seek temporary or preliminary relief pending final disposition of the charge?

1. Is there a substantial likelihood that the challenged action will be found to constitute unlawful retaliation?

IMPORTANT TO NOTE: This information is RELEVANT and/or PERTINENT in that this instant action has been brought to preserve the rights of Newsome secured under the United States Constitution and to assure that she obtains equal protection of the laws and due process of laws. Newsome seeks the United States Supreme Court to exercise JURISDICTION over this matter and to take the MANDATORY steps to assure that Newsome receives any and all applicable relief she is entitled. The record evidence clearly supports that Newsome has filed the required Charges/Complaints with the United States Department of Labor:

i) *Official Family and Medical Leave Act Complaint of and Against Wood & Lamping, LLP Filed With The United States Department of Labor Employment Standards Administration Wage and Hour Division – Cincinnati Area Office on January 16, 2009* - See **EXHIBIT "105"** (BRIEF and supporting Exhibits) attached hereto and incorporated by reference.[105]

ii) *Official United States Government of Labor United States Equal Employment*

[105] *Estrada v. Cypress Semiconductor (Minnesota) Inc.*, 16 Wage & Hour Cas.2d (BNA) 819 C.A.8. (2010) - There are **two** types of claims under the FMLA: ***interference*** *and* ***retaliation***. Family and Medical Leave Act of 1993, § 105(a)(1), 29 U.S.C.A. § 2615(a)(1).

Coffman v. Ford Motor Co., 159 Lab.Cas. P 35,769 (S.D.**Ohio.**W.Div.,2010) - In order to establish prima facie claim of retaliation under FMLA, plaintiff must show that: (1) she was engaged in an activity protected by FMLA; (2) her employer knew that she was exercising her rights under FMLA; (3) her employer took an employment action adverse to her; and (4) there was a causal connection between the protected FMLA activity and the adverse employment action. Family and Medical Leave Act of 1993, § 105(a)(2), 29 U.S.C.A. § 2615(a)(2). See also, *Bernhard v. Brown & Brown of Lehigh Valley, Inc.*, 2010 WL 2431821 (2010); *Brown v. Hartt Transp Systems, Inc.*, 2010 WL 2804134 (2010)

Opportunity Commission and Ohio Civil Rights Commission Charge of Discrimination of and Against Wood & Lamping, LLP Filed Through Its Cincinnati Area Office- See **EXHIBIT "106"** (BRIEF Only) attached hereto and incorporated by reference.

as well as the proper CRIMINAL COMPLAINTS with the United States Department of Justice:

i) June 26, 2006 - - Complaint and Request for Investigation To The United States Department of Justice and Federal Bureau of Investigations Filed by Vogel D. Newsome. See **EXHIBIT "45"** (BRIEF Only) attached hereto and incorporated by reference.

ii) October 13, 2008 - - Complaint and Request For Investigation Filed by Denise Newsome With The Federal Bureau Of Investigation - Louisville, Kentucky See **EXHIBIT "46"** (BRIEF Only) attached hereto and incorporated by reference.

iii) September 24, 2009 - - Criminal Complaint And Request For Investigation Filed By Vogel Denise Newsome With the Federal Bureau of Investigation - Cincinnati, Ohio. See **EXHIBIT "30"** (BRIEF Only) attached hereto and incorporated by reference.

iv) December 28, 2009 - - Complaint And Request For Investigation Filed By Vogel Denise Newsome With The Federal Bureau Of Investigation - Cincinnati, Ohio; and REQUEST FOR UNITED STATES PRESIDENTIAL EXECUTIVE ORDER(S). See **EXHIBIT "16"** (BRIEF Only) attached hereto and incorporated by reference.

Therefore, Newsome is seeking the intervention of the United States Supreme Court to exercise Jurisdiction and take any and all appropriate actions to CORRECT the criminal/civil wrongs that have been brought to its attention through this instant pleading and to be brought through the Certiorari action to be filed (if necessary).

Newsome believes that the record evidence, facts and legal conclusions provided herein will support/sustain that there is substantial likelihood that the challenged actions by Judge West and others will be found to be constitute unlawful retaliation and clearly PUBLIC CORRUPTION. Moreover, that the integrity of the lower court and/or judicial system has been heavily compromised by Judge West and his CONSPIRATORS/CO-CONSPIRATORS. Furthermore, that this case is of PUBLIC/WORLDWIDE interest.

2. Will the retaliation cause irreparable harm to Newsome and/or the EEOC?

   - Will Newsome likely incur irreparable harm beyond financial hardship because of retaliation?

   - If the retaliation appears to be based on Newsome's filing of a prior EEOC charge, will that retaliation likely cause irreparable harm to EEOC's ability to investigate Newsome's original charge of discrimination?

   If there is a substantial likelihood that the challenged action will constitute retaliation and that retaliation will cause irreparable harm to Newsome and/or the EEOC, contact the Regional Attorney about pursuing temporary or preliminary relief.

IMPORTANT TO NOTE: This information is PERTINENT and/or RELEVANT in that it will support that the Newsome has suffered and will continue to suffer irreparable harm from the ongoing RETALIATION if the United States Supreme Court does not intervene. Moreover, that the next scheduled attack leveled against Newsome has been formally set for **Friday, October 22, 2010,** with Judge West presiding. Furthermore:

i) Newsome will likely and has incurred irreparable harm beyond financial hardship because of RETALIATION leveled against her – i.e. in fact, the most recent attacks include:

a) The unlawful/illegal EMBEZZLEMENT of her 2009 Federal Income Tax Return by the United States Department of Treasury – Leading the Charge was President Obama and Secretary Timothy Geithner - i.e. who himself has been reported to receiving his position although he owed approximately $43,000 in back taxes. See **EXHIBIT "79."**

b) The unlawful/illegal EMBEZZLEMENT of monies in Newsome's Bank Account(s) through the use of SHAM Legal Process (i.e. Notice of Levy) wherein the Commonwealth of Kentucky Department of Revenue ***FALSIFIED*** *and* ***REWROTE/COMPROMISED*** legal statute to AID in committal of crimes. See Paragraph F(i)/Page 50 of this instant pleading and **EXHIBIT "27."**

ii) The record evidence will support that the RETALIATION leveled against Newsome is based on her filing of prior EEOC charges. In fact, the lower court record will support that on or about March 13, 2009, in Stor-All's request for Protective/Restraining Order it makes known said acts when it alleges its involvement in a "multi-state" conspiracy. Such attacks on Newsome is further evidenced in Mississippi action as well and will support that the KEY PLAYERS being Stor-All's insurance company (LIBERTY MUTUAL) and its and/or legal representatives. Thus, supporting/sustaining a PATTERN-OF-PRACTICE, criminal stalking, harassment, threats, etc. as evidenced in this lawsuit from the pleadings filed and the criminal/civil violations carried out on or about September 24, 2009.

B. Are compensatory and punitive damages available and appropriate?

Compensatory and punitive damages are available for retaliation claims under all of the statutes enforced by the EEOC.

Punitive damages often are appropriate in retaliation claims under any of the statutes enforced by the EEOC.

IMPORTANT TO NOTE: Newsome believes that based upon the facts, evidence and legal conclusions contained herein and in the record of the lower courts, she is entitled to compensatory damages, punitive damages and any and all other relief afforded to her under the Constitution and laws of the United States to correct the legal wrongs complained of.

Newsome believes that the record evidence supports/sustains the PATTERN-OF-PRACTICE of RETALIATION leveled against that arises under all of the statutes enforced by the EEOC as well as other government agency(s) giving rise to compensatory damages and punitive damages sought.

Title VII of the Civil Rights Act of 1964 [Section 704[a] of Title VII, 42 USC §2000e-3(a)] – PROHIBIT retaliation by an employer, employment agency, or labor organization because an individual has engaged in PROTECTED ACTIVITY. Protected activity consists of the following:

(1) Opposing a practice made unlawful by one of the employment discrimination statutes (the "opposition" clause); or

(2) Filing a charge, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under the applicable statute (the "participation" clause).

This chapter reaffirms the Commission's policy of ensuring that individuals who oppose unlawful employment discrimination, participate in employment discrimination proceedings, or otherwise assert their rights under the laws enforced by the Commission are protected against retaliation. - - *If retaliation for such activities were permitted to go unremedied, it would have a chilling effect upon the willingness of individuals to speak out against employment discrimination or to participate in EEOC's administrative process or other employment discrimination proceedings.*

The Commission can sue for temporary or preliminary relief before completing its processing of a retaliation charge if the charging party or the Commission will likely suffer irreparable harm because of the retaliation.

A charging party can challenge retaliation by a respondent even if the retaliation occurred after their employment relationship ended – See Section 8-II D of EEOC COMPLIANCE MANUAL – ***A charging party can also challenge retaliation by a respondent based on her protected activity involving a different employer, or based on protected activity by someone closely related to or associated with the charging party.*** See Sections 8-II B.3.c. and d. and 8-II C.3. and 4 of EEOC COMPLIANCE MANUAL.

IMPORTANT TO NOTE: This information is PERTINENT and RELEVANT in that Newsome has provided this Court with a copy of the following Charges/Complaints filed to support her opposition to unlawful practices leveled against her:

i) *Official Family and Medical Leave Act Complaint of and Against Wood & Lamping, LLP Filed With The United States Department of Labor Employment Standards Administration Wage and Hour Division – Cincinnati Area Office on January 16, 2009* - See **EXHIBIT "105"** attached hereto and incorporated by reference.[106]

ii) *Official United States Government of Labor United States Equal Employment Opportunity Commission and Ohio Civil Rights Commission Charge of Discrimination of and Against Wood & Lamping, LLP Filed Through Its Cincinnati Area Office*- See **EXHIBIT "106"** attached hereto and incorporated by reference.

to expose PUBLIC CORRUPTION in the United States Department of Labor; moreover, how the EEOC, WAGE & HOUR Division and other branches of the Government (i.e. Courts) have RETALIATED against Newsome and has gone PUBLIC by placing false/misleading/malicious information on the internet to DETER and PUNISH Newsome for OPPOSING discriminatory treatment and handling of charges/complaints. Furthermore, Newsome presents information to support her ability to get employer (Mitchell McNutt & Sams) to ADMIT to discriminatory and hostile treatment of Newsome during her employment – See **EXHIBIT "83"** - attached hereto and incorporated by reference. Nevertheless, when the EEOC was provided with Newsome's Charge/Complaint it KNOWINGLY and WILLINGLY failed to perform MANDATORY duties afforded to other citizens – for example see the following cases/matters the "Equal Employment Opportunity Commission" has brought on behalf of other citizens similarly situated:

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[106] *Estrada v. Cypress Semiconductor (Minnesota) Inc.*, 16 Wage & Hour Cas.2d (BNA) 819 C.A.8. (2010) - There are **two** types of claims under the FMLA: ***interference*** *and* ***retaliation***. Family and Medical Leave Act of 1993, § 105(a)(1), 29 U.S.C.A. § 2615(a)(1).

Coffman v. Ford Motor Co., 159 Lab.Cas. P 35,769 (S.D.**Ohio.**W.Div.,2010) - In order to establish prima facie claim of retaliation under FMLA, plaintiff must show that: (1) she was engaged in an activity protected by FMLA; (2) her employer knew that she was exercising her rights under FMLA; (3) her employer took an employment action adverse to her; and (4) there was a causal connection between the protected FMLA activity and the adverse employment action. Family and Medical Leave Act of 1993, § 105(a)(2), 29 U.S.C.A. § 2615(a)(2). See also, *Bernhard v. Brown & Brown of Lehigh Valley, Inc.*, 2010 WL 2431821 (2010); *Brown v. Hartt Transp Systems, Inc.*, 2010 WL 2804134 (2010)

i) *EEOC vs. COGNIS CORP.*, U.S. District Court/Central District of Illinois (Urbana Division), Case No. 2:10-cv-02182-MPM-DGB

ii) *EEOC vs. ELMER W. DAVIS INC.*, U.S. District Court/Western District of New York, Case No. 6:07-cv-06434-CJS-JWF

iii) *EEOC vs. FED EX CORPORATION*, U.S. District Court/Eastern District of Pennsylvania, Case No. 1:CV-02-1194

iv) *EEOC vs. CREATIVE NETWORKS LLC*, U.S. District Court/District of Arizona, Case No. 2:05-cv-03032-SMM

v) *EEOC vs. MARYLAND CLASSIFIED EMPLOYEES ASSOCIATION INC*, U.S. District Court/District of Maryland, Case No. 1:10-cv-00762-WDQ

See **EXHIBIT "151"** attached hereto and incorporated by reference as if set forth in full herein. The EEOC failing to do so in RETALIATION to Newsome having engaged in protected activities and bringing legal actions against the United States Department of Labor – EEOC, its officials and others. The record evidence will support the EEOC's DISCRIMINATORY and PREJUDICAL practices leveled against Newsome – i.e failing to provide Newsome with EQUAL protection of the laws, EQUAL privileges and immunities and DUE PROCESS of laws afforded to other similarly situated citizens who were deprived rights under Title VII and/or the Civil Rights Act, etc. The record evidence will support that Newsome requested the firing/termination of Department of Labor Officials/Employees engaging in criminal/civil wrongs leveled against her – See verification of submittal of document entitled, *"PATTERN OF DISCRIMINATION: COVER-UP OF DISCRIMINATION/CONSTITUTIONAL/ CIVIL RIGHTS VIOLATIONS - Requests for Investigation; Request for Termination/Firings (Of Secretary Hilda L. Solis; District Director Karen R. Chaikin and Investigator Joan M. Petric) If Violations are Found in the Handling of Wage and Hour Division Charge no. 1537034; Request for Documentation Regarding Administrative Appeal Process; and DEMAND/RELIEF REQUESTED"* at **EXHIBIT "141"** attached hereto and incorporated by reference.

When Newsome reported ***"Fair Labor and Standard Act"*** violations the United States Department of Labor RETALIATED against Newsome and COVERED UP said violations of Mitchell McNutt & Sams because of Newsome's engagement in protected activities and for filing lawsuit(s) against the United States Department of Labor. The record evidence will support DISCRIMINATORY and PREJUDICAL practices leveled against Newsome – i.e failing to provide Newsome with EQUAL protection of the laws, EQUAL privileges and immunities and DUE PROCESS of laws afforded to other similarly situated citizens who were deprived rights under the Fair Labor Standard Act ("FLSA"). See the following evidence at **EXHIBIT "112"** attached hereto and incorporated by reference as if set forth in full herein. Nevertheless, it brought legal action on behalf of other citizens for the same and/similar violations (i.e. FLSA) Newsome brought.

When Newsome reported ***"Family & Medical Leave Act"*** violations the United States Department of Labor RETALIATED against Newsome and COVERED UP said violations of Wood & Lamping because of Newsome's engagement in protected activities and for filing lawsuit(s) against the United States Department of Labor. The record evidence will support DISCRIMINATORY and PREJUDICAL practices leveled against Newsome – i.e failing to provide Newsome with EQUAL protection of the laws, EQUAL privileges and immunities and DUE PROCESS of laws afforded to other similarly situated citizens who were deprived rights under the Fair Labor Standard Act ("FLSA"). See the following evidence:

i) *EEOC vs. COGNIS CORP.*, U.S. District Court/Central District of Illinois (Urbana Division), Case No. 2:10-cv-02182-MPM-DGB

ii) *DOUGHERTY vs. TEVA PHARMACEUTICALS USA, INC.*, U.S. Districct Court/Eastern District of Pennsylvania, Case No. 05-02336

See **EXHIBIT "113"** attached hereto and incorporated by reference as if set forth in full herein. Nevertheless, it brought legal action on behalf of other citizens for the same and/similar violations (i.e. FLSA) Newsome brought.

The record evidence will support that Plaintiff (Stor-All) brought this lawsuit in RETALIATION and its knowledge of Newsome's engagement in protected activities. Stor-All prior to bringing this lawsuit PREMEDITATED on a defense to paint Newsome as a "serial litigator" based on its knowledge her engagement in protected activities. Stor-All failing to mention that it, its insurance provider (LIBERTY MUTUAL), its attorneys and others are engaging in criminal/civil wrongs – i.e. CRIMINAL STALKING, HARASSMENT, THREATS, etc. of Newsome because of her engagement in protected activities and contacting Newsome's employer(s) for purposes of getting her terminated.

The record evidence will support that the EEOC is involved in the CONSPIRACY and COVER-UP of Title VII violations and other criminal/civil wrongs leveled against Newsome. Moreover, that in RETALIATION of Newsome having sued it EXPOSING Public Corruption and its refusal to perform MANDATORY ministerial duties, has REPEATEDLY allowed Newsome's employers to go unpunished. Moreover, has placed what it knows to be FALSE/MISLEADING/MALICIOUS information on the Internet in regards to its investigations – i.e. for example see **EXHIBIT "87"** information posted on the INTERNET by the Review Board that it knew was false, misleading and malicious for purposes of COVERING-UP the criminal/civil wrongs of Mitchell McNutt & Sams attached hereto and incorporated by reference as if set forth in full herein. Such acts which are clearly DISCRIMINATORY and deprives Newsome equal protection of the laws and due process of laws afforded to other citizens. Unlawful/Illegal practices which infringes upon rights secured/guaranteed under the United States Constitution, Civil Rights Act and other laws of the United States.

When Newsome brought her charges/complaints, the United States Department of Labor RETALIATED and failed to investigate, prosecute, deter unlawful practices, report violations, etc. of employers and allowed its employees to COVER-UP said violations. Therefore, based upon the facts, evidence and legal conclusions provided herein, Newsome believes a reasonable mind may conclude that Department of Labor Officials/Employees assigned her matter have knowingly, willingly and deliberately engaged in conspiracy with those (i.e. Newsome's former employers, Liberty Mutual, Baker Donelson, Schwartz Manes Ruby & Slovin, Markesbery & Richardson Co, United States President Barack Obama and his Administration and other conspirators/co-conspirators):

> *U.S. v. Johnson*, 86 S.Ct. 749 (1966) - Statute making it unlawful for two or more persons to conspire to commit any offense against United States or to defraud the United States or any agents encompasses . . . *any conspiracy for* ***purpose of*** ***impairing***, ***obstructing*** *or* ***defeating the lawful function*** *of* ***any*** *department of government*. 18 U.S.C.A. § 371.
>
> *Ingram v. U.S.*, 79 S.Ct. 1314 (1959) - Conspiracy to commit particular substantive offense cannot exist without at least the degree of criminal intent necessary for substantive offense itself. 18 U.S.C.A. § 371.
>
> *U.S. v. Bayer*, 67 S.Ct. 1394 (1947) - An agreement or confederation to commit a crime is punishable as a "conspiracy," if any overt act is taken in pursuit of it, and the agreement is punishable regardless of whether the contemplated crime is consummated.

ELEMENTS OF RETALIATION:

(1) Opposition to discrimination or participation in covered proceedings;

(2) Adverse action;

(3) Causal connection between the protected activity and the adverse action

IMPORTANT TO NOTE: This information is PERTINENT and RELEVANT to this lawsuit and this instant action in that it will support that Plaintiff Stor-All brought this action in keeping with a PATTERN-OF-PRACTICE of RETALIATION against Newsome for her opposing the discriminatory practices of Stor-All, its insurance company (LIBERTY MUTUAL)/its clients, their attorneys and others and their knowledge of Newsome's participation in protected activities/covered proceedings.

This lawsuit is an ADVERSE ACTION brought by Plaintiff Stor-All based on its knowledge of Newsome's engagement in protected activities.

The record evidenced will support that there is causal connection between Newsome's engagement in protected activity and Plaintiff Stor-All bringing a MALICIOUS Forcible Entry/Detainer Action. Moreover, *a causal connection in which Judge West is now attempting to commit further CRIMINAL/CIVIL wrongs against Newsome* ***on or about October 22, 2010,*** *in keeping with CONSPIRACY and the COVER-UP of unlawful/illegal actions that have been timely, properly and adequately reported by Newsome.*

> **PROTECTED ACTIVITY – OPPOSITION:**
> The anti-retaliation provisions make it unlawful to discriminate against Newsome because she has opposed any practice made unlawful under the employment discrimination statutes:
>
> > The anti-retaliation provision of the Fair Labor Standards Act, which applies to the Equal Pay Act, does not contain a specific "opposition" clause. However, courts have recognized that the statute prohibits retaliation based on opposition to allegedly unlawful practices. See, e.g., *EEOC v. Romeo Community Sch.*, 976 F.2d 985, 989-90 (6th Cir. 1992); *EEOC v. White & Son Enterprises*, 881 F.2d 1006, 1011 (11th Cir. 1989). Contra *Lambert v. Genessee Hospital*, 10 F.3d 46, 55 (2d Cir. 1993), cert. denied, 511 U.S. 1052 (1994).
>
> This protection applies if Newsome explicitly or implicitly communicates to her employer or other covered entity a belief that its activity constitutes a form of employment discrimination that is covered by any of the statutes enforced by the EEOC.

IMPORTANT TO NOTE: This information is PERTINENT and RELEVANT in that the record evidence will support that this lawsuit is a MALICIOUS action brought against Newsome in RETALIATION of Plaintiff Stor-All's knowledge of Newsome's engagement in protected activity. Moreover, evidencing discriminatory and retaliatory actions by Plaintiff Stor-All against Newsome because she has opposed practices made unlawful under the employment discrimination statutes.

The record evidence clearly supports a PATTERN-OF-PRACTICE with Plaintiff Stor-All's insurance company (LIBERTY MUTUAL) and its attorneys STALKING Newsome and contacting her employers and others and making known Newsome's engagement in protected activities.

The record evidence in the lower courts will support/sustain that Plaintiff Stor-All and its counsel are attempting to use knowledge of Newsome's engagement in protected activities as a defense in this lawsuit. Not only that, that Stor-All's insurance company (LIBERTY MUTUAL), its attorneys and others have established a PATTERN-OF-PRACTICE to support CRIMINAL STALKING, HARASSMENT, THREATS, etc. of Newsome and contacting her employers and her attorneys for purposes CONSPIRACY in ***Obstructing the Administration of Justice*** and COVERING UP the criminal/civil wrongs leveled against Newsome.

The record evidence will support that LIBERTY MUTUAL ***encourages its clients to engage in employment violations as well as criminal/civil wrongs*** because of its attorneys' ties to TOP/KEY Government Officials – i.e. BIG MONEY and CORRUPT PUBLIC OFFICIALS. Then when lawsuits are brought against Newsome (as this instant lawsuit) and/or involving Newsome, LIBERTY MUTUAL and its attorneys rely upon SPECIAL ties/relationships to BIG MONEY/CORRUPT OFFICIALS to provide them with special favors as it is attempting to do in this instant lawsuit. LIBERTY MUTUAL and its attorneys' ability to get Justices/Judges to engage in criminal/civil wrongs as a part of the CONSPIRACY and COVER-UP of criminal/civil wrongs leveled against Newsome because of her engagement in protected activities is further evidenced in this instant lawsuit. *Now they are attempting to get Judge West to fulfill additional role in CONSPIRACY and the COVER-UP of criminal/civil wrongs on or about* ***Friday, October 22, 2010.*** Doing so because they have obtained PARTICIPATION by President Barack Obama and his Administration to COVER-UP the criminal/civil wrongs that have been reported

by Newsome in her September 24, 2009 *Criminal Complaint and Request for Investigation Filed by Vogel Denise Newsome With The Federal Bureau of Investigation – Cincinnati, Ohio* and December 28, 2009 *Criminal Complaint and Request for Investigation with the Federal Bureau of Investigation and Request for United States Presidential Executive Order(s).*

EXAMPLES OF OPPOSITION:

- Threatening to file a charge or other formal complaint alleging discrimination

  Threatening to file a complaint with the Commission, a state fair employment practices agency, court or any other entity that receives complaints relating to discrimination is a form of opposition.

- Complaining to anyone about alleged discrimination against oneself or others

  A complaint or protest about alleged employment discrimination *to a manager, co-worker, company EEO official, attorney,* ***newspaper reporter****,* ***CONGRESSPERSON,*** *or anyone else constitutes opposition.*

  A complaint about an employment practice constitutes protected opposition only if the individual explicitly or implicitly communicates a belief that the practice constitutes unlawful employment discrimination.

- Refusing to obey an order because of a reasonable belief that it is discriminatory

  Refusal to obey an order constitutes protected opposition if Newsome reasonably believes that the order requires her to carry out unlawful employment discrimination.

  Refusal to obey an order also constitutes protected opposition if Newsome reasonably believes that the order make discrimination a term or condition of employment. *– Moyo v. Gomez,* 40 F.3d 982 (9th Cir. 1994), cert. denied, 513 U.S. 1081 (1995).

IMPORTANT TO NOTE: This information is PERTINENT and RELEVANT to this instant lawsuit and instant pleading in that it will support a PATTERN-OF-PRACTICE as well as the evidence of Newsome's OPPOSITION to the RETALIATION and unlawful/illegal actions against her. Moreover, that:

i) Newsome has ***repeatedly*** made known OPPOSITION(s) and intent to bring a charge/lawsuit for discriminatory practices and/or unlawful/illegal behavior – i.e. as she did with Stor-All.

ii) Newsome believes that her OPPOSITION to the discriminatory and/or unlawful/illegal practices of Stor-All, led to Stor-All and its attorneys/representatives to contact Newsome's employers and notify employer of her engagement in protected activities.

iii) The record evidence will support that while opposing parties attempt to paint Newsome as a "serial litigator," one that paranoid, crazy, boy who cried wolf, etc. that Newsome has repeatedly been blessed to use attorneys as sounding boards and/or retain attorneys to represent her in legal matters. Furthermore, the record evidence will even support that in Mississippi matter, Newsome moved swiftly to protect her rights and filed a FORMAL Complaint:

> *Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Finding* - See **EXHIBIT "16"** (BRIEF Only) attached hereto and incorporated by reference - to preserve her rights. While the record evidence will support mailing and receipt of Newsome's Emergency Complaint submitted to the following persons:

a) Senator Patrick Leahy
b) Representative John Conyers
c) President Barack Obama (i.e. then Senator)
d) Senator John McCain
e) Representative Debbie Wasserman-Schultz

See **EXHIBIT "109"** attached hereto and incorporated by reference as if set forth in full herein, TO DATE, Newsome has NOT received a STATUS of filing and has reasonable concerns that those receiving Emergency Complaint have engaged in CONSPIRACY leveled against Newsome and may have engaged in CRIMINAL/CIVIL wrongs in the destruction of Complaint – FAILING to report CRIMINAL/CIVIL wrongs timely, properly reported by Newsome. A reasonable mind may conclude, based upon such information provided regarding *Branton S. Clanton*[107] and his employment with Baker Donelson as well as Baker Donelson's relationships to TOP/KEY Government Officials – i.e. White House, Senate, House of Representatives, Justices/Judges and other PUBLIC Officials (See **EXHIBIT "22"**) – this is a classic example of the ***"FOX GUARDING THE HEN HOUSE;"*** moreover, the MAGNITUDE of the Conspiracies leveled against Newsome and the role each and every conspirator played in OBSTRUCTING JUSTICE and depriving Newsome protected rights and/or rights secured under the United States Constitution.

This information ***is of PUBLIC/WORLDWIDE importance*** because record evidence will **support the SPECIAL RELATIONSHIPS and TIES of United State Government Agency(s)/Official(s) with LIBERTY MUTUAL and/or its attorneys/counsel**. *Moreover, the* ***FINANCIAL/PERSONAL interest*** *of Liberty Mutual and its attorneys (i.e. Baker Donelson) in legal matters involving Newsome because* ***they involve INSUREDS of Liberty Mutual***.

iv) The record evidence will further support that Newsome was **REPEATEDLY** subjected to discriminatory and "HOSTILE" work environments in RETALIATION to her OPPOSITION to discrimination practices by her employers or others. The record evidence will support that as a DIRECT and PROXIMATE result of the United States Department of Labor's NEGLIGENCE and REFUSAL to perform MANDATORY ministerial duties owed Newsome, *Newsome has suffered IRREPARABLE injury/harm; moreover, has REPEATEDLY been deprived* ***EQUAL PROTECTION*** *of the laws and due process of laws that the United States Department of Labor* ***has afforded to others citizens*** ***for the same and/or similar violations*** *as that reported by Newsome.*

[107] For instance:

> Mr. Clanton, *a* ***shareholder*** *in Baker Donelson's* ***Jackson*** *and* ***Washington, D.C.*** *offices,* ***concentrates*** *his practice in* ***government*** *litigation,* securities and *other* ***fraud*** *investigations,* and litigation, ***election*** *law and appeals. His appellate practice has included matters before the* ***U.S. Supreme Court****, U.S.* ***Courts of Appeals****, the Mississippi Supreme Court and Court of Appeals, and various other state appellate courts*. His internal investigations and government litigation practice has included matters related to ***Securities and Exchange*** *Commission investigations,* health care fraud investigations, *federal* ***campaign*** *finance investigations,* and *state and federal* ***securities*** *fraud* class action litigation and arbitration proceedings. Previously, *Mr. Clanton served as* ***Chief Counsel*** *to the U.S. House Judiciary Committee's Subcommittee on the Constitution,* ***where his responsibilities included advising the Chairman and Republican Members of the Judiciary Committee on legislation and Congressional oversight implicating civil and constitutional rights****,* Congressional authority, separation of powers, proposed constitutional amendments and ***oversight*** *of the Civil Rights Division of the* ***Department of Justice*** *and the* ***U.S. Commission on Civil Rights****.*

See **EXHIBIT "59"** attached hereto and incorporated herein by reference as if set forth in full herein.

MANNER OF OPPOSITION MUST BE REASONABLE

The manner in which Newsome protests perceived employment discrimination must be reasonable in order for the anti-retaliation provisions to apply. In applying a "reasonableness" standard, courts and the Commission balance the *right of individuals to oppose employment discrimination and* ***the public's interest*** *in enforcement of the EEO laws against an employer's need for a stable and productive work environment*.

Public criticism *of alleged discrimination may be a reasonable form of opposition. Courts have protected an employee's right to inform an employer's customers about the employer's alleged discrimination, as well as the right to engage in peaceful picketing to oppose allegedly discriminatory employment practices.* - ***Sumner v. United States Postal Service***, 899 F.2d 203 (2d Cir. 1990) (practices protected by opposition clause include writing letters to customers criticizing employer's alleged discrimination).

IMPORTANT TO NOTE: This information is PERTINENT and RELEVANT to this lawsuit and instant filing in that Newsome believes it is of PUBLIC/WORLDWIDE interest and there is a need to go PUBLIC in exposing such criminal/civil wrongs as that addressed herein.

The record evidence will support how the United States Government (i.e. Government Agencies, courts, etc.) will go as far as posting FALSE/MISLEADING/MALICIOUS information on the Internet regarding citizens that it knew and/or should have known was obtained through unlawful/illegal practices and has been posted for purposes of destroying a person's life (i.e. as it did with Newsome) and for purposes of depriving citizens life, liberties and pursuit of happiness. Actions clearly in violation of the United States Constitution, Civil Rights Act and other laws of the United States.

Newsome believes that there is sufficient evidence to support that the most recent attacks on her as well as other African-Americans (i.e such as Shirley Sherrod) may be a DIRECT and PROXIMATE result of her having gone PUBLIC and EXPOSING the criminal/civil wrongs leveled against her. Moreover, revealing how she has REPEATEDLY brought matters through the proper and required legal channels; however, has been DISCRIMINATED against and DEPRIVED justice because those with BIG MONEY are REPEATEDLY allowed to buy, bribe, purchase, blackmail, coerce, etc. Government Officials/Judges/Justices for rulings and decisions in their favor.

OPPOSITION NEED ONLY BE BASED ON REASONABLE AND GOOD FAITH BELIEF

Newsome is protected against retaliation for opposing perceived discrimination if she had reasonable and good faith belief that the opposed practices were unlawful. Thus, it is well settled that a violation of the retaliation provision can be found whether or not the challenged practice ultimately is found to be unlawful.

> [This standard has been adopted by every circuit that has considered the issue. See, e.g., *Little v. United Technologies*, 103 F.3d 956, 960 (11th Cir. 1997), and *Trent v. Valley Electric Association, Inc.*, 41 F.3d 524, 526 (9th Cir. 1994)]

As one court has stated, requiring a finding of actual illegality would "undermine Title VII's central purpose, the elimination of employment discrimination by informal means; destroy one of the chief means of achieving that purpose, the frank and non-disruptive exchange of ideas between employers and employees; and serve no redeeming statutory or policy purposes of its own.

[*Berg v. La Crosse Cooler Co.*, 612 F.2d 1041, 1045 (7th Cir. 1980)]

PARTICIPATION IS PROTECTED REGARDLESS OF WHETHER THE

ALLEGATIONS IN THE ORIGINAL CHARGE WERE VALID OR REASONABLE

The anti-discrimination statutes do not limit or condition in any way the protection against retaliation for participating in the charge process. While the opposition clause applies only to those who protest practices that they reasonably and in good faith believe are unlawful, the participation clause applies to all individuals who participate in the statutory complaint process. *Thus, **courts have consistently held that a respondent is liable for retaliating against an individual for filing an EEOC charge regardless of the validity or reasonableness of the charge.***

[*Wyatt v. Boston, 35* F.3d 13, 15 (1st Cir. 1994).]

To permit an employer to retaliate against a charging party based on its unilateral determination that the charge was unreasonable or otherwise unjustified would chill the rights of all individuals protected by the anti-discrimination statutes.

ADVERSE ACTIONS CAN OCCUR AFTER THE EMPLOYMENT RELATIONSHIP BETWEEN NEWSOME AND RESPONDENT/EMPLOYER HAS ENDED

In *Robinson v. Shell Oil Company*, 519 U.S. 337, 117 S. Ct. 843 (1997), the ***Supreme Court unanimously held*** that Title VII prohibits respondents from retaliating against former employees as well as current employees for participating in any proceeding under Title VII or opposing any practice made unlawful by that Act. Some courts previously had held that former employees could not challenge retaliation that occurred after their employment had ended because Title VII prohibits retaliation against "any employee." However, *the **Supreme Court stated** that coverage of **post-employment is more consistent** with the broader context of the statute and with the statutory purpose of maintaining unfettered access to the statute's remedial mechanisms*. The Court's holding applies to each of the statutes enforced by the EEOC because of the similar language and common purpose of the anti-retaliation provisions.

Examples of post-employment retaliation include actions that are designed to interfere with Newsome's prospects for employment, such as giving an unjustified negative job reference, refusing to provide a job reference, and informing Newsome's prospective employer about her protected activity.

[*EEOC v. L. B. Foster*, 123 F.3d 746 (3d Cir. 1997), cert. denied, 66 U.S. L.W. 3388 (U.S. March 2, 1998); *Ruedlinger v. Jarrett*, 106 F.3d 212 (7th Cir. 1997)]

Retaliatory acts designed to interfere with Newsome's prospects for employment are unlawful regardless of whether they cause a prospective employer to refrain from hiring her.

[*Hashimoto v. Dalton*, 118 F.3d 671, 676 (9th Cir. 1997)]

Third Circuit stated, "an employer who retaliates cannot escape liability merely because the retaliation falls short of its intended result."

[*EEOC v. L. B. Foster*, 123 F.3d at 754]

ADVERSE ACTIONS NEED NOT QUALIFY AS "ULTIMATE EMPLOYMENT ACTIONS" OR MATERIALLY AFFECT THE TERMS OR CONDITIONS OF EMPLOYMENT TO CONSTITUTE RETALIATION:

The Commission has found that the statutory retaliation clauses prohibit any adverse treatment that is based on a retaliatory motive and ***is reasonably likely to deter the charging***

party or others from engaging in protected activity. Significant retaliatory treatment, however, can be challenged regardless of the level of harm. As the Ninth Circuit has stated, the degree of harm suffered by the individual "goes to the issue of damages, not liability."

> [*Hashimoto,* 118 F.3d at 676. See also *EEOC v. L. B. Foster,* 123 F.3d at 754 n.4 (plaintiff need not prove that retaliatory denial of job reference caused prospective employer to reject her; such a showing is relevant only to damages, not liability); *Smith v. Secretary of Navy,* 659 F.2d 1113, 1120 (D.C. Cir. 1981) ("the questions of statutory violation and appropriate statutory remedy are conceptually distinct. An illegal act of discrimination -- whether based on race or some other factor such as a motive of reprisal -- is a wrong in itself under Title VII, regardless of whether that wrong would warrant an award of [damages]").

The Commission's position is based on statutory language and policy considerations. The anti-retaliation provisions are exceptionally broad. They ***make it unlawful "to discriminate" against Newsome because of her protected activity***. This is in contrast to the general anti-discrimination provisions make it unlawful to discriminate with respect to Newsome's "terms, conditions, or privileges of employment." *The retaliation provisions set* ***no*** *qualifiers on the term "****to discriminate****," and therefore* ***prohibit any*** *discrimination that is reasonably* ***likely to deter protected activity***.

> [*Knox v. State of Indiana,* 93 F.3d 1327, 1334 (7th Cir. 1996) ("***[t]here is nothing in the law of retaliation that restricts the type of retaliatory act that might be visited*** upon an employee who seeks to invoke her rights by filing a complaint"); *Passer v. American Chemical Society,* 935 F.2d 322, 331 (D.C. Cir. 1991) (Section 704(a) **broadly prohibits** an employer from discriminating against its employees **in any way** *for engaging in protected activity* and **does not** "*limit its reach only to acts of retaliation that take the form of cognizable employment actions such as discharge, transfer or demotion*")]

They do not restrict the actions that can be challenged to those that affect the terms and conditions of employment.

> [Even if there were a requirement that the challenged action affect the terms or conditions of employment, retaliatory acts that create a hostile work environment would meet that standard since, as the Supreme Court has made clear, the terms and condition of employment include the intangible work environment. *Meritor Savings Bank v. Vinson,* 477 U.S. 57, 64-67 (1986). For examples of cases recognizing that retaliatory harassment is unlawful, see *DeAngelis v. El Paso Municipal Police Officers Ass'n.,* 51 F.3d 591 (5th Cir.), cert. denied, 116 S. Ct. 473 (1995); *Davis v. Tri-State Mack Distributor,* 981 F.2d 340 (8th Cir. 1992)]

Thus, a violation will be found if an employer retaliates against Newsome for engaging in protected activity through threats –

> [*McKnight v. General Motors Corp.,* 908 F.2d 104, 111 (7th Cir. 1990) ("[r]etaliation or a threat of retaliation is a common method of deterrence"), cert. denied, 499 U.S. 919 (1991);

Garcia v. Lawn, 805 F.2d 1400, 1401-02 (9th Cir. 1986) (threatened transfer to undesirable location); *Atkinson v. Oliver T. Carr Co.*, 40 FEP Cases (BNA) 1041, 1043-44 (D.D.C. 1986) (threat to press criminal complaint)]

- harassment in or out of the workplace, or any other adverse treatment that *is reasonably likely to deter protected activity by Newsome or other employees*.

[For examples of cases finding unlawful retaliation based on adverse actions that did not affect the terms or conditions of employment, see *Hashimoto*, 118 F.3d at 675-76 (retaliatory job reference violated Title VII even though it did not cause failure to hire); *Berry v. Stevinson Chevrolet*, 74 F.3d 980, 986 (10th Cir. 1996) (instigating criminal theft and forgery charges against former employee who filed EEOC charge found retaliatory)]

This broad view of coverage accords the **primary purpose** of the anti-retaliation provisions, which is to "[m]aintain ***unfettered access*** *to statutory remedial mechanisms* -

[*Robinson v. Shell Oil Co.*, 117 S. Ct. 843, 848 (1997)]

- Regardless of the degree or quality of harm to Newsome, **retaliation harms the public interest** *by deterring others from filing a charge*.

[Garcia, 805 F.2d at 1405]

IMPORTANT TO NOTE: This information is PERTINENT and RELEVANT in that this lawsuit was brought in RETALIATION of Plaintiff Stor-All's knowledge of Newsome's engagement in protected activities. Moreover, for purpose of PATTERN-OF-PRACTICE involving the Criminal Stalking, Harassment, Threats, Discrimination, etc. leveled against Newsome.

It is of PUBLIC/WORLDWIDE importance that citizens and others know how the United States Government CONSPIRES with EMPLOYERS and OTHERS and post False/Misleading/Malicious information on the INTERNET in RETALIATION to citizens (i.e. such as Newsome) who bring lawsuits against it Agency(s) /Officials/Employees for failure to perform ministerial duties MANDATORILY required under the law. The good thing about Newsome's situation, Newsome was able to obtain facts, evidence and legal conclusions to support DEPRIVATION of equal protection of the laws and due process of laws as well as her ability to obtain information from employer(s) ADMITTING and/or SUPPORTING DISCRIMINATION, etc.

PROOF OF CAUSAL CONNECTION:

In order to establish unlawful retaliation, there must be *proof* that Respondent/Employer took an adverse action *because Newsome engaged in* ***protected activity****. Proof of this retaliatory motive can be through direct or circumstantial evidence.* **The evidentiary framework** *that applies to* ***other types*** *of discrimination claims* ***also applies to*** *retaliation claims.*

If there is credible direct evidence that retaliation was a motive for the challenged action, "**cause**" should be found.

[The basis for finding "cause" whenever there is credible direct evidence of a retaliatory motive is Section 107 of the 1991 Civil Rights Act, 42 U.S.C. §§ 2000e-2(m) and 2000e-5(g)(2)(B). Section 107 provides that an unlawful employment

> practice is established whenever race, color, religion, sex, or national origin was a motivating factor, even though other factors also motivated the practice. It further provides that a complainant who makes such a showing can obtain declaratory relief, injunctive relief, and attorneys fees but no damages or reinstatement if the respondent proves that it would have taken the same action even absent the discrimination. Section 107 partially overrules *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989), which held that a respondent can avoid liability for intentional discrimination in mixed-motives cases if it can prove that it would have made the same decision in the absence of the discrimination.
>
> Some courts have ruled that Section 107 does not apply to retaliation claims. See, e.g., *Woodson v. Scott Paper*, 109 F.3d 913 (3d Cir.), cert. denied, 118 S. Ct. 299 (1997). Those courts apply *Price Waterhouse v. Hopkins*, and therefore absolve the employer of liability for proven retaliation if the establishes that it would have made the same decision in the absence of retaliation. ***Other courts have applied*** Section 107 to retaliation claims. See, e.g., *Merritt v. Dillard Paper Co.*, 120 F.3d 1181, 1191 (11th Cir. 1997).]

Direct evidence: *Is* **any written or verbal statement** by Respondent that he/she undertook the challenged action because Newsome engaged in protected activity. Such evidence includes a written or oral statement by Respondent that on its face demonstrates a ***bias toward*** *Newsome* ***based on her protected activity****, along with evidence linking that bias to the adverse action. Such a link could be shown if the statement was made by the decision-maker at the time of the adverse action.* ***Direct evidence of retaliation is rare****.*

> [In *Merritt v. Dillard Paper Company*, 120 F.3d 1181 (11th Cir. 1997), the plaintiff testified in a co-worker's Title VII action about sexual harassment in the workplace. Shortly after the case was settled, the president of the company fired the plaintiff. The court found direct evidence of retaliation based on the president's statement to the plaintiff, "[y]our deposition was the most damning to Dillard's case, and you no longer have a place here at Dillard Paper Company."]

IMPORTANT TO NOTE: This information is PERTINENT and RELEVANT in this instant lawsuit because the record evidence supports that this lawsuit was brought in RETALIATION to Newsome's engagement in protected activities. Moreover, that Plaintiff Stor-All did not bring the lawsuit until it secured Newsome's TERMINATION of EMPLOYMENT based on her engagement in protected activities and the need to see that Newsome was irreparably injured/harmed financially to prevent her from defending against this lawsuit and for purposes of obtaining an undue/unlawful/illegal advantage in lawsuit.

In fact, Newsome's employer (Wood & Lamping) knew that it was engaging in criminal/civil violations against her. Therefore, in an effort to obstruct justice, Wood & Lamping's representative(s) broke into Newsome's desk and removed evidence (i.e. Employee Handbook/Manual) that it knew would be incriminating for purposes of OBSTRUCTING the administration of justice and then proceeded to provide FALSE/MISLEADING information for purposes of IMPEDING/OBSTRUCTING/HINDERING a federal investigation. It is a good thing Newsome extra retained copy(s) of documents. Wood & Lamping fulfilling its role in CONSPIRACY orchestrated and carried out by Plaintiff Stor-All (i.e. its insurance company and attorneys).

The record evidence clearly supports a PATTERN-OF-PRACTICE by Plaintiff Stor-All, its insurance company (LIBERTY MUTUAL) and their attorneys. Unlawful/Illegal practices of Criminal Stalking, Harassment, Threats,

Discrimination, etc. leveled against Newsome.

Circumstantial Evidence: The most common method of proving that retaliation was the reason for an adverse action is through circumstantial evidence. A violation is established if there is circumstantial evidence raising an inference of retaliation and if the Respondent fails to produce evidence of a legitimate, non-retaliatory reason for the challenged action, or if the reason advanced by the Respondent is a pretext to hide the retaliatory motive.

Circumstantial Evidence of Retaliation:

(1) Evidence raises inference that retaliation was the cause of the challenged action;

(2) Respondent/Employer produces evidence of a legitimate, non-retaliatory reason for the challenged action; and

(3) Newsome proves that the reason advanced by the Respondent/Employer is a pretext to hide the retaliatory motive.

An initial inference of retaliation arises where there is proof that the protected activity and the adverse action were related.

[*Simmons v. Camden County Bd. of Educ.*, 757 F.2d 1187, 1189 (11th Cir.), cert. denied, 474 U.S. 981 (1985)]

Typically, the link is demonstrated by evidence that:

(a) the adverse action occurred shortly after the protected activity, and

(b) the person who undertook the adverse action was aware of the complainant's protected activity before taking the action.

An inference of retaliation may arise even if the time period between the protected activity and the adverse action was long, if there is other evidence that raises an inference of retaliation. For example, in *Shirley v. Chrysler First, Inc.*, 970 F.2d 39 (5th Cir. 1992), a 14-month interval between the plaintiff's filing of an EEOC charge and her termination did not conclusively disprove retaliation where the plaintiff's manager mentioned the EEOC charge at least twice a week during the interim and termination occurred just two months after the EEOC dismissed her charge.

[*Kachmar v. Sunguard Data Systems*, 109 F.3d 173 (3d Cir. 1997) (district court erroneously dismissed plaintiff's retaliation claim because termination occurred nearly one year after her protected activity; when there may be reasons why adverse action was not taken immediately, absence of immediacy does not disprove causation)]

IMPORTANT TO NOTE: This information is RELEVANT and PERTINENT in that it will support this lawsuit was brought in RETALIATION of Plaintiff Stor-All's knowledge of Newsome's engagement in protected activities. Furthermore, just as this instant lawsuit, a PATTERN-OF-PRACTICE involving the Criminal Stalking, Harassment, Threats, Discrimination, RETALIATION, etc. leveled against Newsome, which **REPEATEDLY** results in criminal/civil violations by Plaintiff Stor-All, its insurance company (LIBERTY MUTUAL) and their attorneys against Newsome because of their knowledge of her engagement in protected activities.

The record evidence will further support a CONSPIRACY and PATTERN-OF-PRACTICE by LIBERTY MUTUAL, its clients and attorneys to engage in criminal/civil wrongs leveled against Newsome and when legal actions are brought, their reliance on SPECIAL FAVORS/RELATIONSHIPS with Judges/Justices and/or Government Agency(s)/Officials to obtain rulings in their favor.

The record evidence will support that Judge West and/or lower courts were timely, properly and adequately notified of the PATTERN-OF-PRACTICE and PATTERN-OF-ABUSE of the judicial/legal process of Plaintiff Stor-All, its insurance carrier (LIBERTY MUTUAL) and their attorneys leveled against Newsome because of knowledge of her engagement in protected activities. Thus, supporting the PRIMA FACIE requirements that Circumstantial Evidence of Retaliation can be sustained. Moreover, Plaintiff Stor-All's ***inability to defend*** *against Newsome's Answer/Counterclaim filed in this lawsuit, resulted in its engagement and ability to BRIBE, COERCE, BLACKMAIL, etc. Judges/Justices and Government Agency(s)/Officials to engage in criminal/civil wrongs leveled against Newsome and fulfill their role in CONSPIRACY to deprive her EQUAL protection of the laws and due process of laws. Rights secured/guaranteed under the United States Constitution and/or other laws of the United States*.

> Even if the Respondent/Employer produces evidence of a legitimate, nondiscriminatory reason for the challenged action, a violation will still be found if this explanation is a pretext designed to hide the true retaliatory motive. Typically, pretext is proved through evidence that the Respondent/Employer treated Newsome differently from similarly situated employees or that Respondent's/Employer's explanation for the adverse action is not believable. Pretext can also be shown if Respondent/Employer subjected Newsome's work performance to heightened scrutiny after she engaged in protected activity.
>
> > [*Hossaini v. Western Missouri Medical Center*, 97 F.3d 1085 (8th Cir. 1996) (reasonable person could infer that defendant's explanation for plaintiff's discharge was pretextual where defendant launched investigation into allegedly improper conduct by plaintiff shortly after she engaged in protected activity)]

IMPORTANT TO NOTE: This information is PERTINENT and RELEVANT in to this lawsuit and instant filing in that Newsome is confident that the record evidence will support the PATTERN-OF-PRACTICE and PATTERN-OF-JUDICIAL ABUSE, etc. by Plaintiff Stor-All, its insurance carrier (LIBERTY MUTUAL)/its attorney and their inability to defend against legal matters involving Newsome that they have REPEATEDLY resorted to criminal/civil wrongs for purposes of obtaining an undue/illegal/unlawful advantage – i.e. acts clearly PROHIBITED by laws of the United States. Moreover, the record evidence will support that, like this instant lawsuit brought by Stor-All, actions are PRETEXTUAL to COVER-UP/MASK an illegal animus – i.e. the unlawful/illegal seizure of Newsome's storage unit and property without legal authority and Newsome's being subjected to discriminatory treatment and being treated differently from similarly situated employees/persons and that the reasons set forth by Plaintiff Stor-All, its representatives and others is **NOT** BELIEVABLE and **cannot** *be sustained by any FACTUAL evidence and legal findings.*

Furthermore, the record evidence will support efforts by President Barack Obama and his Administration's efforts to fulfill their role in CONSPIRACY and COVER-UP the criminal/civil wrongs of Judge West, Plaintiff Stor-All, opposing parties and others in this instant lawsuit and the role played in the termination of Newsome's employment with Wood & Lamping and other employers because of her engagement in protected activities. This instant pleading is being filed to EXPOSE such CORRUPTION and how ELABORATE the scheme is to destroy the lives of citizens that OPPOSE discrimination and engage in the legal process to address such matters.

SPECIAL REMEDIES ISSUES

A. Temporary or Preliminary Relief

Section 706(f)(2) of Title VII ***authorizes*** *the Commission to seek temporary injunctive relief* ***before*** *final disposition of a charge when a preliminary investigation indicates that* ***prompt*** *judicial action is necessary to carry out the purposes of Title VII.*

Temporary or preliminary relief ***allows a court*** *to stop retaliation before it occurs or* ***continues****.* ***Such relief is appropriate if there is a substantial likelihood that the challenged action will be found to constitute unlawful retaliation, and if the charging party*** and/or EEOC ***will likely suffer irreparable harm because of retaliation***. Although courts have ruled that financial hardships are not irreparable, other **harms that accompany loss of a job may be irreparable**. - - For example, in one case forced retirees showed irreparable harm and qualified for a preliminary injunction *where they lost work and future prospects for work consequently suffering emotional distress, depression, a contracted social life, and other related harms*.

> [*EEOC v. Chrysler Corp.,* 733 F.2d 1183, 1186 (6th Cir.), reh'g denied, 738 F.2d 167 (1984). See also *EEOC v. City of Bowling Green, Kentucky,* 607 F. Supp. 524 (D. Ky. 1985) (granting preliminary injunction preventing defendant from mandatorily retiring policy department employee because of his age; although plaintiff could have collected back pay and been reinstated at later time, he would have suffered from inability to keep up with current matters in police department and would have suffered anxiety or emotional problems due to compulsory retirement)]

A temporary injunction also is appropriate if the Respondent's/Employer's retaliation will likely cause irreparable harm to the Commission's ability to investigate Newsome's original charge of discrimination. - - For example, the retaliation may discourage others from providing testimony or from filing additional charges based on the same or other alleged unlawful acts.

> [*Garcia v. Lawn,* 805 F.2d 1400, 1405-06 (9th Cir. 1986) (chilling effect of retaliation on other employee's willingness to exercise their rights or testify for plaintiff constitutes irreparable harm)]

IMPORTANT TO NOTE: This information is PERTINENT and RELEVANT in that it will support that the United States Department of Labor *was* ***REPEATEDLY*** timely, properly and adequately notified of Title VII violations as well as other employment violations by Newsome; however, in RETALIATION to Newsome having brought legal actions against the Commission, it made CONSCIOUS and DELIBERATE decision to COVER-UP violations of employers *and POST* ***False/Misleading/Malicious*** *information on the Internet in regards to Newsome for purposes of deterring her from exercising rights secured under the United States Constitution, Civil Rights Act and other laws of the United States*. The Department of Labor (Wage & Hour and EEOC) ***should have sought the court(s) for temporary injunctive relief on behalf of Newsome until matters were resolved***.

B. Compensatory and Punitive Damages:

A 1977 amendment to the Fair Labor Standards Act authorizes both legal and equitable relief for retaliation claims under the Act. - 29 U.S.C. § 216(b).

Compensatory and punitive damages therefore are available for retaliation claims brought under Title VII.

> [*Moskowitz v. Trustees of Purdue University,* 5 F.3d 279 (7th

Cir. 1993); *Soto v. Adams Elevator Equip. Co.*, 941 F.2d 543 (7th Cir. 1991)]

APPROPRIATENESS OF PUNITIVE DAMAGES:

Proven retaliation frequently constitutes a practice undertaken "with malice or with reckless indifference to the federally protected rights of an aggrieved individual." Therefore, punitive damages often will be appropriate in retaliation claims brought under any of the statutes enforced by the EEOC.

[*Kim v. Nash Finch Co.*, 123 F.3d 1046 (8th Cir. 1997) (evidence of retaliation supported jury finding of reckless indifference to plaintiff's rights; although $7 million award for punitive damages was excessive, district court's lowered award of $300,000 was not)]

IMPORTANT TO NOTE: This information is PERTINENT and RELEVANT in that this lawsuit was brought in RETALIATION of Plaintiff Stor-All's knowledge of Newsome's engagement in protected activities.

The record evidence will support that the lower court and Newsome advised Plaintiff Stor-All of the importance of filing a timely Answer to Counterclaim; however, Stor-All knowingly and willingly elected to ignore notifications and allowed time to respond to elapse.

The record evidence will support that Newsome moved within the time allowed and filed her Motion for Default Judgment. Now in keeping with CONSPIRACY leveled against Newsome, Judge West and/or lower court on or about ***Friday, October 22, 2020,*** is attempting to render a DECISION to deprive Newsome of relief she is entitled to through her Counterclaim which includes:

a) ***General Damages*** in an amount of no less than $150,000;

b) ***Special Damages*** in an amount of no less than $550,000;

c) ***Compensatory Damages*** in an amount no less than $1,000,000;

d) ***Punitive Damages*** in an amount no less than $2,500,000; and

e) Attorney/***Litigation Fees***; and

f) Any/All other relief that the laws allow.

Moreover, most likely than not to be awarded to Newsome by a JURY based on the facts, evidence and legal conclusion and the IRREPARABLE injury/harm Newsome has sustained as a DIRECT and PROXIMATE result of the Malicious lawsuit brought against her.

94) Wood & Lamping attempted to get Newsome to waive her rights to bring legal action against her and required that she agree to not bring legal actions against it to which she is entitled in exchange for benefits to which Newsome is entitled to by law. Newsome declined such offer(s) made by Wood & Lamping. See **EXHIBIT "130"** attached hereto and incorporated by reference as if set forth in full herein.

95) Newsome further seeks the United States Supreme Court through this instant *Motion to Stay* and/or *EMTS & MFEOTWOC* for said relief in that it appears that the lower Ohio Courts *are attempting to throw the lawsuit in favor*

of Plaintiff Stor-All, without legal authority and *is attempting to deprive Newsome a* ***right to a JURY TRIAL*** *secured under the Seventh Amendment of the United States Constitution along with other rights secured under the United States Constitution*. **With plans to dismiss this action on or about Friday, October 22, 2010*, if the United States Supreme Court do not intervene and exercise its jurisdiction over this matter and put an end* to the RACIAL injustices, RACIAL bias, CONSPIRACY and COVER-UP of *criminal/civil wrongs leveled against Newsome and other citizens* of the United States.**

96) The record evidence will also support that Plaintiff Stor-All's CREDIBILITY is lacking, WILLINGNESS to provide witnesses who will PERJURE themselves. For instance, providing perjured/false testimony (See **EXHIBIT "156"** attached hereto) *for purposes of OBSTRUCTING the Administration of JUSTICE and IMPEDING judicial proceedings*, and other reasons known to it such as:

PARAGRAPH	TESTIMONY
3.	**Prior** to Stor-All Alfred's purchase of the property on January 18, 2008, I had never had any communication with Denise Newsome *or knowledge* concerning her.
4.	To my knowledge, none of the employees at Stor-All had any **prior** communication with or *knowledge* of Denise Newsome prior to Stor All Alfred's purchase of the property on January 18, 2008.
	RESPONSE: A reasonable person/mind may conclude that Whiteside's selective use of "prior" and "knowledge" that Stor-All, its employees and/or representatives "**AFTER**" purchase of property proceeded to obtain information and knowledge as to who Newsome was. Moreover, may have relied upon information received from its insurance provider (LIBERTY MUTUAL) and others.
6.	Between approximately December 8, 2008 and January 9, 2009, I personally communicated ***multiple*** times with Denise Newsome in an attempt to either have her vacate the premises and/or become current on her past-due payments.
	RESPONSE: The record evidence in the lower court records will support that Plaintiff Stor-All and its employees/representatives (i.e. Whiteside) communicated with Newsome on multiple occasions. Furthermore, that in efforts of COVERING UP the unlawful/illegal seizure of her storage unit and property attempted to COERCE, BRIBE, MANIPULATE,

BLACKMAIL, etc. Newsome into forgoing protected rights. Under Ohio law, since Plaintiff Stor-All was already in unlawful/illegal possession of Newsome's property WITHOUT legal authority and/or WITHOUT a legal court order, then legal action to resolve this matter was inevitable. Had Newsome moved without legal authority, Plaintiff Stor-All, its employees/representatives and counsel may have set her up to be SHOT and KILLED and then moved to COVER-UP their crimes – i.e. role in CONSPIRACIES leveled against Newsome. The record evidence supports a PATTERN-OF-CRIMINAL STALKING of Newsome and PATTERN-OF-CRIMINAL ABUSE by Landlords leveled against Newsome. Therefore, a reasonable person/mind may conclude based upon the *criminal acts carried out on or about September 9/10, 2009* as well as the *murder of Sabrina Smith* (See **EXHIBIT "129"** of this instant pleading); that actions of Plaintiff Stor-All was in furtherance of Conspiracies leveled against Newsome and similar to crimes carried out in Mississippi (See **EXHIBIT "45"**) and Kentucky (See **EXHIBIT "46"**).

> 65 Ohio Jur.3d § 164 – ***Notice to vacate; bringing possessory action*:**
>
> A notice by the landlord that the tenancy is being terminated, combined with a demand by him or her for possession of the premises, and voluntary compliance therewith by the tenant without protest, *is not an* eviction for which damages may be recovered. (*Greenberg v. Murphy*, 16 Ohio C.D. 359, 1904 WL 1147 (Ohio Cir. Ct. 1904)). [Practice Guide: If the tenant is ***rightfully*** *in possession and entitled to remain*, **the tenant should await legal proceedings** that are threatened, and make *defense* thereto, *rather than comply with the demand*, and then bring an action for alleged damages that perhaps never would have resulted. (*Greenberg)*]
>
> Where a tenant, upon request or notice to vacate, voluntarily abandons the premises without protest, no action for damages against the landlord, based on fraud or misrepresentations as to the reasons for such request can be maintained under rights recognized by the common law, or any statute of Ohio. (*Ferguson v. Buddenberg*, 87 Ohio App. 326, 42 Ohio Op. 488, 57 Ohio L. Abs. 473, 94 N.E.2d 568 (1st Dist. Hamilton County 1950)).

The record evidence will support that Newsome was in rightful possession of her storage unit and property. Nevertheless, Plaintiff Stor-All resorted to criminal acts and "Abuse of Legal Process" for purposes of unlawfully/illegally forcing Newsome from her unit/property. When Newsome objected and/or voiced her opposition, Plaintiff Stor-All moved forward and filed a MALICIOUS *Forcible Entry and Detainer Complaint*. See **EXHIBIT "103"** which was met with Newsome's *Answer and Counterclaim*. See **EXHIBIT "104."** As a matter of law, had Newsome voluntarily vacated her unit/property, she would have lost rights to recover damages/liability sustained and Plaintiff Stor-All would have succeeded in the COVER-UP of the unlawful/illegal seizure of Newsome's storage unit/property.

7. On December 8, 2008 I had a telephone conversation with Newsome while I was working from my home, attempting to resolve this matter. At that time I told Ms. Newsome I would fax a letter confirming our conversation when I arrived at the office on December 9, 2008.

RESPONSE: The record evidence will support that Whiteside was successful in contacting Newsome at home/residence number provided and, therefore, had no need to make direct contact with Newsome's employer as later asserted by her.

8. On December 9, 2008, *after* I had prepared the letter to fax to Newsome, I realized I did not have her fax number with me. ***I called*** *Ms. Newsome's* ***work number*** *which was listed as a contact when we bought out Crown Self-Storage, and called that number*. **When the *receptionist* answered**, *I requested a fax number for Denise Newsome*. The **receptionist provided me with a fax number** and *I then faxed my correspondence to Ms. Newsome*. My only intention in sending this fax was to follow through on my promise to Newsome by faxing a letter confirming our telephone conversation the previous evening.

RESPONSE: The record evidence will support that the testimony provided by Whiteside is FALSE and PERJURED! Whiteside states that *"I called Ms. Newsome's work number which was listed as a contact when we bought out Crown Self-Storage, and called that number."* See **EXHIBIT "156"** Whiteside Affidavit.

According to record evidence (i.e. Ledger History of Stor-All Alfred dated May 1, 2008 [See **EXHIBIT "157"** attached hereto and incorporated by reference as if set forth in full herein] – approximately **seven [7] months** prior to the December 9, 2008 facsimile from Whiteside) the contact information clearly reflects the following:

Phone: (513) 680-2922
Alternate Phone: **(513) 852-6053**

Nevertheless, Whiteside testifies that, "*When the receptionist **answered**, I requested a fax number for Denise Newsome. The receptionist provided me with a fax number and I then faxed my correspondence to Ms. Newsome.*"

The testimony provided by Whiteside is FALSE/PERJURED! The alternate phone number provided by Newsome is not one for the Receptionist but was Newsome's DIRECT Dial Number. See **EXHIBIT "158"** – *Wood & Lamping Phone Directory* attached hereto and incorporated by reference as if set forth in full herein.

Whiteside's own admission is that she called the Receptionist. This statement/information is DISCOVERABLE material to determine whether or not Whiteside actually called the Receptionist as testified to. Whiteside's employer's (Plaintiff Stor-All) office is located in Grayson, Kentucky – i.e. **(606)** Area Code. Therefore, this was a LONG DISTANCE phone call which should be evidenced in phone records. Furthermore, Receptionist now becomes a viable witness to any testimony that Whiteside provided. The record evidence will support that the *Main Telephone* Number for Newsome's employer (Wood & Lamping) being **(513) 852-6000**. The record evidence will support that Whiteside sent facsimile to Wood & Lamping's Main Facsimile Number at **(513) 852-6087** – See **EXHIBIT "160"** 12/09/08 Fax Cover Page attached hereto and incorporated herein by reference – and not to Newsome's DIRECT DIAL Facsimile **(513) 419-6453** which she later did. See **EXHIBIT "160"** at Page 2.

9. On December 19, 2008, Stor-All offered to provide transportation to Denise Newsome so that she may remove her property from Stor-All's premises. Stor-All also offered to waive late fees and reduce the amount of past due rent. Newsome rejected these offers.

RESPONSE: The record evidence will support **NEXUS** between the "*Amnesty Weekend*" to be held January **9,** 10, 11, 2009 [See **EXHIBIT "161"** *December 19, 2008 Facsimile from Whiteside to Newsome* attached hereto and incorporated by reference as if set forth in full herein], Newsome's termination of employment which occurred on January **9**, 2009, and Plaintiff Stor-All's *NOTICE TO LEAVE THE PREMISES* dated January **9**, 2009 – See **EXHIBIT "63."**

Therefore, Newsome believes a reasonable

person/mind may conclude that Stor-All, its employees/representatives resorted to criminal/civil wrongs for purposes of COERCING, BLACKMAILING, BRIBING, etc. Newsome release her unit/property.

10. With Newsome refusing to negotiate her past-due rent and/or vacate the storage unit, Stor-All initiated a forcible entry and detainer action, pursuant to R.C. §1923

RESPONSE: The record evidence will support that Plaintiff Stor-All REPEATEDLY engaged in criminal/civil wrongs in the unlawful/illegal seizure of Newsome's storage unit/property. Moreover, REPEATEDLY served Newsome with Sham Legal Process[108] – i.e. the issuance of *NOTICE OF INTENT*

[108] **O.R.C. § 2921.52 USING SHAM LEGAL PROCESS.**

(A) As used in this section:

(1) "Lawfully issued" means adopted, issued, or rendered in accordance with the United States constitution, the constitution of a state, and the applicable statutes, rules, regulations, and ordinances of the United States, a state, and the political subdivisions of a state.

(2) "State" means a state of the United States, including without limitation, the state legislature, the highest court of the state that has statewide jurisdiction, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state. "State" does not include the political subdivisions of the state.. . .

(4) "Sham legal process" means an instrument that meets all of the following conditions:

(a) ***It is not lawfully issued***.

(b) It purports to do any of the following:

(i) *To be a summons, subpoena, judgment, or order of a court, a law enforcement officer, or a legislative, executive, or administrative body.*

(ii) *To assert jurisdiction over or determine the legal or equitable status, rights, duties, powers, or privileges of any person or property.*

(iii) *To require or authorize the search, seizure, indictment, arrest, trial, or sentencing of any person or property.*

(c) ***It is designed to make another person believe that it is lawfully issued***.

(B) No person shall, knowing the sham legal process to be sham legal process, do any of the following:

(1) ***Knowingly issue, display, deliver, distribute, or otherwise use sham legal process***;

(2) ***Knowingly use sham legal process to arrest, detain, search, or seize any person or the property of another person***;

(3) ***Knowingly commit or facilitate the commission of an offense, using sham legal process***;

(4) ***Knowingly commit a felony by using sham legal process***.

(C) It is an affirmative defense to a charge under division (B)(1) or (2) of this section that the use of sham legal process was for a lawful purpose.

(D) Whoever violates this section is guilty of using sham legal process. A violation of division (B)(1) of this section is a misdemeanor of the fourth degree. A violation of division (B)(2) or (3) of this section is a misdemeanor of the first degree, except that, if the purpose of a violation of division (B)(3) of this section is to commit or facilitate the commission of a felony, a violation of division (B)(3) of this section is a felony of the fourth degree. A violation of division (B)(4) of this section is a felony of the third degree.

TO ENFORCE LIEN ON STORED PROPERTY PURSUANT TO RC §5322.01, ET SEQ. [See for example **EXHIBIT "162"** NOTICE attached hereto and incorporated by reference as if set forth in full herein] with knowledge that under Ohio laws that it MUST comply with the provisions of the LANDLORD & TENANT Act and was to bring a Forcible Entry and Detainer Action against Newsome rather than "placing the cart before the horse" – i.e. unlawfully/illegally seizing unit and property *WITHOUT* ***first*** obtaining legal authority (Court Order)].

11. In order ***to comply with*** R.C. §1923, I served Denise Newsome with written **notice to leave the premises** via first class mail, certified mail, and posting of the notice on Unit #173 at Stor All Alfred.

> **RESPONSE:** Plaintiff Stor-All failed to comply with the statutes/laws governing Landlord & Tenant matters. The record evidence further supports that as early as April 2008, Plaintiff Stor-All unlawfully/illegally seized Newsome's storage unit/property without legal authority (court order) and denied her access. See **EXHIBIT "157."** Then in efforts of covering up its criminal/civil wrongs, brought the MALICIOUS Forcible Entry and Detainer action against Newsome upon being successful in getting her employment with Wood & Lamping terminated.

12. The ***only*** *motivation for initiating the forcible entry and detainer action* against Denise Newsome was *so that Stor-All may* ***re****-acquire its property*. After several attempts to negotiate with Ms. Newsome, including offering the free use of Stor All Alfred's moving truck, driver, and gas, and reducing her balance due to $0.00, there was ***no other way for us to re-acquire*** Unit #173 from Ms. Newsome but court intervention. *There was* ***no*** ***ulterior motive*** *or* ***purpose*** *for the forcible entry and detainer action.*

> **RESPONSE:** Newsome believes that a reasonable person/mind may conclude from the statements of Whiteside alleging, "*so that Stor-All may* ***re****-acquire*," and "*no other way for us to* ***re****-acquire*" that she is asserting Stor-All [who **was** *already* **in** possession] was not in possession and/or had not already **ACQUIRED** of Newsome's storage unit/property when in fact it had. See **EXHIBIT "157" –** ***"4/4/2008 Overlock Fee"*** entry.
>
> Furthermore, the record evidence supports Stor-All and Wood & Lamping's ULTERIOR motive or purpose for the forcible entry

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(E) *A person who violates this section* ***is liable in a civil action to any person harmed*** *by the violation for injury*, death, or ***loss to person or property*** *incurred as a result of the commission of the offense and for reasonable attorney's fees*, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this division. A civil action under this division is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.

and detainer action being:

a) Knowledge of Newsome's participation in protected activities and its unlawful/illegal acts taken to deter, interfere and deprive her equal protection of the laws, equal privileges and immunities and due process of laws.

b) To have Wood & Lamping terminate Newsome's employment on January 9, 2009 [i.e. on date that Stor-All's "Amnesty Weekend" that Newsome declined began and to provide Stor-All *with an undue and unlawful/illegal* FINANCIAL and LEGAL advantage in the MALICICIOUS forcible entry and detainer action brought against Newsome on or about January 20, 2009.

c) To have Wood & Lamping terminate Newsome's employment for purposes of eliminating the CONFLICT of INTEREST that existed because of her employment with Wood & Lamping and Newsome's working with Thomas J. Breed (See **EXHIBITS "158"** and **"159"**) who is a former attorney of Schwartz Manes & Ruby (n/k/a Schwartz Manes Ruby & Slovin – Plaintiff Stor-All's legal firm/counsel) – See Letterhead at **EXHIBIT "102."**

d) To have Wood & Lamping terminate Newsome's employment in FURTHERANCE of Conspiracies leveled against Newsome and the PATTERN-OF-CRIMINAL acts by landlords leveled against Newsome. See Mississippi FBI Criminal Complaint at **EXHIBIT "45,"** Kentucky FBI Criminal Complaint at **EXHIBIT "46"** and Ohio Criminal Complaint at **EXHIBIT "30."**

Furthermore, the record evidence will support that prior to Plaintiff Stor-All's bringing of malicious forcible entry and detainer action it was already in possession of Newsome's storage unit and property as well as that of other citizens and relied upon SHAM LEGAL PROCESS (i.e. establishing a pattern-of-practice) *in the committal of criminal/civil wrongs leveled* ***against other citizens***:

Linda S. Smith	1627 Sutler Avenue, Cincinnati, Ohio 45225 (Personal Property)?

Rhonda D. Lowe	1730 Blue Rock Road, Cincinnati, Ohio 45223 (Personal Property)?
Tammy Johnson	664 Dorby Avenue, Cincinnati, Ohio 45232 (Personal Property)?
Tonia Blunt	4814 Winn____ Avenue, Cincinnati, Ohio 45232 (Personal Property)?
Darleen Lewis	849 West Liberty Street – Apt A, Cincinnati, Ohio 45214 (Personal Property)?
Samuel Colbert ?	3311 Bowling Green, Cincinnati, Ohio 45225 (Personal Property)?
Robert L. Nutt?	____ Cabot, Cincinnati, Ohio 45231 (Personal Property)?
Lee Hughes	1322 E. McMillan, Cincinnati, Ohio 45206 (Personal Property)?
Tamisha A. Dickerson?	508 E. 12th Street -#4, Cincinnati, Ohio 45202 (Personal Property)?
Derry L. Hooks?	2220 Westward Northern Boulevard __, Cincinnati, Ohio 45225 (Personal Property)?
Denice V. Newsome	**P.O. Box 14731, Cincinnati, Ohio 45250 (Personal Property)?**
Ken Koesters?	6599 Tall Timbers, Mason, Ohio 45040 (Personal Property)?

See **EXHIBIT "163"** attached hereto and incorporated by reference as if set forth in full herein. Further evidence to support how Plaintiff Stor-All will continue to engage in such criminal acts if not stopped – i.e. going on to become CAREER CRIMINALS.[109] Thus, requiring the intervention of the United States Supreme Court and reporting of said criminal acts.

RESPONSE: The record evidence will support that counsel/attorney(s) for Plaintiff Stor-All encourage criminal/civil wrongs by its client(s); moreover, engage in criminal/civil wrongs themselves in accomplishing the termination of Newsome's employment with Wood & Lamping because of the *CONFLICT OF INTEREST* that existed. Acts clearly in violation of the Ohio Rules of Professional Conduct –

[109] *U.S. v. Jimenez Recio,* 123 S.Ct. 819 (2003) - Essence of a conspiracy is an agreement to commit an unlawful act.

Agreement to commit an unlawful act, which constitutes the essence of a conspiracy, *is a* ***distinct evil*** that may exist and be punished whether or not the substantive crime ensues. *Id.*

Conspiracy ***poses a threat to the public*** over and above the threat of the commission of the relevant substantive crime, both because *the combination in crime* ***makes more likely*** *the commission* ***of other*** *crimes* and because it **decreases the probability** that *the individuals involved* ***will depart from their path of criminality***. *Id.*

See **EXHIBIT "164"** *Rules 1.7, 1.9* and *1.10* attached hereto and incorporated by reference as if set forth in full herein.

Then in attempts to COVER-UP unlawful/illegal wrongs leveled against Newsome, Plaintiff Stor-All and its attorney(s)/counsel engage in criminal/civil violations to obtain an undue advantage in lawsuit. Newsome believes a reasonable person/mind may conclude that Plaintiff Stor-All, its counsel and/or representatives knew they were engaging in criminal acts clearly in violation of the laws as well as the Ohio Rules of Professional Conduct – i.e. Rules 1.2 and 1.16 (See **EXHIBIT "165"** attached hereto and incorporated by reference as if set forth in full herein).

The record evidence will further support that Plaintiff Stor-All's counsel's (Michael Lively) willfully and maliciously encourage and EMBELLISH the criminal acts of his/firm's client(s):

> There is no evidence that Stor-All's forcible entry and detainer action was 'perverted in any way to accomplish an ulterior purpose for which it was not designed. . . Newsome failed to make payments owed to Stor-All for use of a storage facility. Because of Newsome's refusal to pay the rent or vacate the premises, Stor-All properly set in motion a forcible entry and detainer action *so that it may* ***legally re****acquire the storage facility and begin leasing it out to other potential customers*. . . . There is no evidence that ***the eviction action was initiated*** *for any purpose other than* ***to legally re-acquire its property***.
>
> Stor-All properly filed its motion for summary judgment in the Municipal Court. Presumably satisfied that all procedural and legal requirements had been met, Judge Allen ruled in Stor-All's favor on the forcible entry and detainer action, and entered a Writ of Possession September 9, 2009. . .
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> Because Stor-All's forcible entry and detainer action was properly initiated, it was not pursued with an ulterior purpose other than to **re-acquire** rental property for which Newsome was not paying in violation of contract, and it was carried out to its authorized conclusion, Newsome's abuse of process claim is not appropriate and must fail as a matter of law.. . .
>
> It should also be observed that Stor All never "obtained" Ms. Newsome's property. *On September 10, 2009, Ms. Newsome's property was removed and set out of the storage facility in the course of the eviction of the same date, said eviction being attended by members of the Hamilton County Sheriff's Department. Ms. Newsome is free to recover her property, as she was invited to do previously*."*. . . .*

> "Newsome's only basis for her IIED[110] claim is that a representative from Stor-All, Lori Whiteside, sent a facsimile transmission on December 9, 2008 regarding Newsome's default on the storage unit to Newsome's place of employment, the law firm of Wood & Lamping.. . . Certainly, sending a fax is not 'extreme and outrageous' conduct, such that would give rise to an IIED claim."

97) Newsome further seeks the United States Supreme Court through this instant Motion to Stay and/or *EMTS & MFEOTWOC* for said relief in that she believes the facts, evidence and legal conclusions provided herein will sustain that the lower Ohio Courts *are attempting to "CLOSE THE DOORS OF THE COURTS" to her* ***which clearly are in violation of Newsome's Constitutional Rights****, Civil Rights and other rights secured under the laws of the United States.*

98) Record evidence will support that the lower Ohio Court action *was initiated by Plaintiff (Stor-All)* ***who is an insured by one of*** President Barack Obama's ***Top/Key Financial Contributors*** ***(Liberty Mutual)*** *who are represented by lawyers/law firms who are Top/Key Financial* ***Contributors/Advisors*** (i.e. Baker Donelson, etc.) of President Barack Obama. Said ***law firms who may have had a role in the filling of VACANCIES in the Obama Administration*** – being **sure to place their people in said positions** *so that if their clients are sued it will have a BARGAINING CHIP to use to obtain and/or INFLUENCE decisions* in their and/or their clients' favor (i.e. that is in their PERSONAL/FINANCIAL interest).

XV. MOTION FOR ENLARGEMENT OF TIME

> Notices of appeal filed May 3 and May 7 from decision announced February 17 but not formally entered until April 9 were timely whether judged by date of entry or by fact that order incorporated in February 17 decision was not finally made effective until decision of April 28. *Burns v. Richardson* (1966), 86 S.Ct. 1286, 384 U.S. 73, 16 L.Ed.2d 376.
>
> Ninety-day limit for filing petition for certiorari in civil case is mandatory and jurisdictional. *Federal Election Com'n v. NRA Political Victory Fund* (1994), 115 s.Ct. 537, 513 U.S. 88, 130 L.Ed.2d 439.

[110]Intentional Infliction of Emotional Distress.

> Where ninetieth day within which appeal could be taken from judgment of Missouri Supreme Court to United States Supreme Court fell on Sunday, an appeal taken on the following day was timely. *Union Nat. Bank of Wichita, Kan. V. Lamb* (1949), 69 S.Ct. 911, 337 U.S. 38, 93 L.Ed. 1190, 69 S.Ct. 1492, 337 U.S. 928, 93 L.Ed. 1736.

Newsome believes that based upon the fact, evidence and legal conclusions contained herein as well as the EXCEPTIONAL and EXTREME circumstances involved in the lower court lawsuit that the United States Supreme Court will grant Certiorari. Therefore, Newsome is requesting an Enlargement of Time to bring her Certiorari action. In further support of this instant request and ***EMTS & MFEOTWOC***, Newsome states the following:

99) This instant ***"Motion for Enlargement of Time"*** is submitted in good faith and is not submitted for purposes of delay, harassment, hindering proceedings, embarrassment, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, etc. and is **filed to protect and preserve the rights of Newsome secured/guaranteed under the United States Constitution and other laws of the United States**.

100) Newsome believes this instant filing sustains just how EXCEPTIONAL and COMPLEX this lawsuit has become and because of the role of a sitting United States President (Barack Obama) and his Administration to protect his personal/financial interest as well as those of his TOP/KEY Financial Contributors and Advisors, additional time is to be granted for GOOD cause shown.

101) The record evidence will support that Newsome has exhausted ALL available remedies known to her and because of the REPEAT attacks on her life as well as any attorney she retains, the EXPERTISE the United States Supreme Court is needed to assist in the taking down of such GIANTS who are pitted against indigent citizens/litigants as Newsome.

102) Newsome, at this time, further seeks an ***"Extension of Time to File Writ of Certiorari"*** in that she will be requesting that the following lower courts ***"CERTIFY"*** their records for this Appeal process in the below referenced cases should she and/or the United States Supreme Court require records contained in said files to determine Writ of Certiorari ("WOC") matter to be brought:

a) Ohio Supreme Court Case Numbers: 10-AP-069 and **09-1690;**

b) Hamilton County Court of Common Pleas (Cincinnati, Ohio) – Case No. **A0901302;**

c) Hamilton County Municipal Court (Cincinnati, Ohio) – Case No. **09CV01690**

in that said cases are important and CRITICAL to establish a PATTERN-OF-ABUSE/JUDICIAL ABUSE/ABUSE-OF-POWER which will also support and/or sustain relief Newsome will seek through "Certiorari" action. Moreover, the ***Application for Disqualification*** evolves from longstanding CONSPIRACY and PATTERN-OF-PRACTICE engaged in by Plaintiff Stor-All (in lower court action) and initiated by its insurance company (Liberty Mutual Insurance Company) and/or its law firm(s) – i.e. Baker Donelson and others.

103) Newsome further requests additional time in that it is necessary to assure that she obtain additional documentation she believes is pertinent/relevant to sustain the Certiorari action to be brought.

104) The record evidence will support that Newsome has requested access to records pertaining to her Charges/Complaints filed with the United States Department of Labor (i.e. Wage & Hour Division and Equal Employment Opportunity Commission); however, believes that in furtherance of said Agencies/Officials role in the CONSPIRACY surrounding the UNLAWFUL/ILLEGAL termination of Newsome's employment with Wood & Lamping, said Government Agencies/Officials are attempting to OBSTRUCT Justice and/or the OBSTRUCT the Administration of Justice. Newsome provides the following COVER PAGES and SIGNATURE PAGES and United States Postal Service PROOF-OF-MAILINGS/RECEIPTS to support timely demands made by Newsome; however, President Obama and his Administration because of his and his Administration's PERSONAL and FINANCIAL interest as well as the PERSONAL and FINANCIAL interest of his TOP/KEY Financial Contributors/Supporters is attempting to keep Newsome out of the records of Government Agency(s) for purposes of shielding/masking PUBLIC CORRUPTION by him and his Staff.

105) Newsome's request for additional time will be used to conduct further legal research into matters in that the criminal/civil attacks are NUMEROUS and will require additional time to determine on how she wants to proceed and/or how such matters may be presented in the PATTERN-OF-PRACTICE out of which this instant lawsuit arose and under the GUIDELINES and RULES of the United States Supreme Court.

106) Newsome further request an Enlargement of Time so that she can obtain the status and request the "*Finding of Facts and Conclusion of Law*" from Complaints/Charges filed in the following cases:

June 26, 2006 — *Complaint and Request for Investigation to the United States Department of Justice and Federal Bureau of*

Investigations Filed by Vogel D. Newsome

July 14, 2008	*Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Findings*
October 13, 2008	*Complaint and Request for Investigation Filed by Denise Newsome with the Federal Bureau of Investigation – Louisville, Kentucky*
September 24, 2009	*Criminal Complaint and Request for Investigation Filed by Vogel Denise Newsome With The Federal Bureau of Investigation – Cincinnati, Ohio*
December 28, 2009	*Criminal Complaint and Request for Investigation with the Federal Bureau of Investigation and Request for United States Presidential Executive Order(s)*
June 8, 2010	*"Requests for Response & Affidavits By June 23, 2010" (faxed to Obama)*
June 24, 2009	*REQUEST FOR FEDERAL INVESTIGATION INTO Henley Young Juvenile Detention Center (a/k/a Hinds County Youth Detention Center); Update on Additional Matters; Second Request For Return of Monies Embezzled; and Request For Status*[111]
July 9, 2009	*Status Request of Complaints Filed By July 23, 2009*
July 24, 2009	*PATTERN OF DISCRIMINATION: COVER-UP OF DISCRIMINATION/CONSTITUTIONAL/CIVIL RIGHTS VIOLATIONS - Requests for Investigation; Request for Termination/Firings (Of Secretary Hilda L. Solis; District Director Karen R. Chaikin and Investigator Joan M. Petric) If Violations are Found in the Handling of Wage and Hour Division Charge no. 1537034; Request for Documentation Regarding Administrative Appeal Process; and DEMAND/RELIEF REQUESTED*
December 10, 2009	*UNITED STATES PRESIDENT BARACK OBAMA - CORRUPTION: PERSECUTION OF A CHRISTIAN and COVER-UP OF HUMAN RIGHTS VIOLATIONS/DISCRIMINATION/PREJUDICIAL PRACTICES AGAINST AFRICAN-AMERICANS; Request for IMMEDIATE Firing/Termination of U.S. Secretary of Labor Hilda L. Solis and Applicable Department of Labor Officials/Employees; Request for Status of July 14, 2008 Complaint; Request for Findings in FMLA Complaint of January 16, 2009, and EEOC Complaint of July 7, 2009; IF APPLICABLE EXECUTION OF APPROPRIATE EXECUTIVE ORDER(S) and* ***REQUEST DELIVERANCE OF***

[111] See **EXHIBIT "115"** – Excerpt and PROOF of Mailing attached hereto and incorporated by reference as if set forth in full herein.

FILES FOR REVIEW & COPYING IN THE CINCINNATI, OHIO WAGE & HOUR OFFICE AND EEOC OFFICE ON DECEMBER 22, 2009 *- HEALTH CARE REFORM: See How The Obama Administration Has Interfered/Blocked Newsome's Health Care Options and Denied Her Medical Attention Sought Under The FMLA - - What to Expect Under A Government-Runned Health Care Program*

IMPORTANT TO NOTE: *President Obama and his Administration are attempting to keep Newsome out of the United States Department of Labor's records because of their knowledge and role in DISCRIMINATORY practices and the BLACKLISTNG of Newsome to preclude and/or deprive her of Equal Employment Opportunities.* **Newsome has been denied rights not only secured under the Constitution but that of the Freedom of Information Act**. Acts in furtherance of the CONSPIRACIES leveled against Newsome and efforts to COVER-UP corruption by government officials/employees. Newsome believes that the record evidence will support that government agencies/officials RETALIATION practices leveled against her is due to Newsome's involvement in protected activities as well as her OPPOSING such discriminatory practices in the handling of her cases that she sought legal recourse to address such unlawful/illegal practices by government officials/employees. Moreover, the evidence to support that the very agencies that are supposed to be enforcing Title VII, FMLA, FLSA, etc. are the very ones that are involved in CONSPIRACIES leveled against Newsome and efforts taken to BLACKLIST her and deprive her EQUAL protection of the laws, EQUAL privileges and immunities of the laws and DUE PROCESS of laws.

See also **EXHIBIT "141"** attached hereto and incorporated by reference as if set forth in full herein. The record evidence will support that Newsome has requested under the *Freedom of Information Act* access to the records involving her with the United States Department of Labor - moreover, has timely requested the termination/firings of officials who have engaged in the COVER-UP of criminal/civil wrongs in the W&L matter – just to be met with DILATORY and further unlawful/illegal actions by President Obama and members of his Administration.

107) The record evidence will further support GOOD-FAITH efforts to follow up on her July 14, 2008 Emergency Complaint filed with the United States Congress/Legislature in December 2008. Furthermore, after Newsome's trip to Washington, D.C. in December 2008, said trip was met with RETALIATION and the firing of Newsome. Newsome memorialized said trip in faxes to Senator Patrick Leahy, Congressman John Conyers and then Senator (know United States Vice President) Joseph Biden. See **EXHIBIT "135"** attached hereto and incorporated by reference as if set forth in full herein.

108) The record evidence will sustain that there are still ***outstanding*** Motions before the Hamilton County Court of Common Pleas (see **EXHIBIT "51"**

attached hereto and incorporated by reference as if set forth in full herein) out of which this instant appeal arises that requires the United States Supreme Court's IMMEDIATE intervention to protect the Constitutional rights of Newsome that affects those of other citizens of the United States as well.

109) Newsome believes that "EMERGENCY Injunctions and/or Restraining Orders" as well as preparation of other legal documents known to the United States Supreme Court will need to be issued to assure that Newsome is provided information governed under the "Freedom Of Information Act" that President Obama, his Administration and other Conspirators/Co-Conspirators are involved in for purposes of OBSTRUCTING justices and/or OBSTRUCTING the Administration of Justice.

XVI. RELIEF SOUGHT

WHEREFORE, PREMISES CONSIDERED, for the above and forgoing reasons, Newsome prays that the United States Supreme Court exercise jurisdiction and GRANTS the staying of the Hamilton County Court of Common Pleas proceedings and afford Newsome justice under the laws. Newsome further prays that the United States Supreme Court grants an ENLARGMENT OF TIME to be determined by it due to the EXTREME and EXCEPTIONAL circumstances which exists in this matter. Newsome is further requesting Motion to Stay and Enlargement of Time for the following reasons and those known to the United States Supreme Court (which Newsome may not be aware of) which will aid in the EQUAL protection of the laws, EQUAL privileges and immunities of the law and DUE PROCESS of laws:

i) In the interest of justice, grant a permanent injunction enjoining the following government agency(s); persons, businesses, law firms:

a) The United States Executive Office (White House)/President Barack H. Obama;
b) United States Senate;
c) United States House of Representatives;
d) United States Department of Justice;

e) United States Department of Labor;

f) United States Department of Treasury;

g) United States Department of Education;

h) Ohio Supreme Court;

i) Hamilton County Court of Common Pleas;

j) Hamilton County Municipal Court;

k) State of Louisiana;

l) State of Mississippi

m) Commonwealth of Kentucky;

n) State of Ohio;

o) United States District Court/Eastern Division (New Orleans Division);

p) United States District Court/Southern Division (Jackson, Mississippi);

q) United States District Court/Eastern Division (Covington, Kentucky);

r) United States District Court/Northern Division (Dallas, Texas);

s) Kenton County Circuit Court (Kenton County, Kentucky);

t) United States Fifth Circuit Court of Appeals;

u) Commonwealth of Kentucky Department of Revenue;

v) GMM Properties;

w) Spring Lake Apartments LLC;

x) Stor-All Alfred, LLC;

y) Floyd West & Company;

z) Louisiana State University Medical Center (a/k/a Louisiana State University Health Science Center);

aa) Christian Health Ministries;

bb) Entergy Corporation/Entergy New Orleans, Inc.;

cc) Wood & Lamping, LLP;

dd) Page Kruger & Holland;

ee) Mitchell McNutt & Sams;

ff) Liberty Mutual Insurance Company;

gg) Schwartz, Manes Ruby & Slovin, LPA;

hh) Markesbery & Richardson Co., LPA;

ii) Baker Donelson Bearman Caldwell & Berkowitz;

jj) Brunini Grantham Grower & Hewes;

kk) Baria Fyke Hawkins & Stracener (a/k/a Hawkins Stracener & Gibson PLLC);

ll) JP Morgan Chase Bank NA;

mm) PNC Bank NA;

nn) and others that the United States Supreme Court may be aware of that Newsome may have missed – i.e. based on the facts and evidence contained in this instant filing and/or record of those listed herein.

their subdivisions/departments/branches, their officers, agents, servants, employees, attorneys, successors, assigns, and all persons in active concert or participation with them, from engaging in any further employment violations and criminal/civil wrongs addressed of herein and/or known to them that is prohibited by Title VII.

ii) In the interest of justice, that the United States Supreme Court enter EMERGENCY Order(s)/Judgment(s) for permanent injunction enjoining the following government agency(s); persons, businesses, law firms:

a) Baker Donelson Bearman Caldwell & Berkowitz PC
165 Madison Avenue – 20th Floor
Memphis, Tennessee 38103
Managing Shareholder: Robert Mark Glover

b) Liberty Mutual Group, Inc.
175 Berkeley Street
Boston, Massachusetts 02116
Chairman Emeritus: Gary L. Countryman

c) Entergy Corporation
639 Loyola Avenue – 26th Floor
New Orleans, Louisiana 70113
Chairman: J. Wayne Leonard

d) Louisiana State University Medical Center (a/k/a Louisiana State University Health Science Center)
2020 Gravier Street – 5th Floor
New Orleans, Louisiana 70112
Officer: Mark Juneau, MD

e) Christian Health Ministries
400 Poydras Street – Suite 2950
New Orleans, Louisiana 70130
Chairperson: John D. Decker

f) Floyd West & Company and/or Burns & Wilcox LTD
30833 Northwestern Highway – Suite 220
Farmington Hills, Michigan 48334
Director: Alan J. kaufman

g) Public Storage
701 Western Avenue
Glendale, California 91201
Vice President: B. Wayne Hughes, Jr.

h) Stor-All Alfred LLC
253 Womstead Drive
Grayson, Kentucky 41143
President/Director: Steve Womack

i) JP Morgan Chase Bank NA
270 Park Avenue
New York, New York 10017
President: David Jackson

j) PNC Bank NA
249 5th Avenue – P1-POPP-21-1
Pittsburgh, Pennsylvania 15222
Chairman/Chief Executive Officer: James E. Rohr

k) Mitchell McNutt & Sams PA
105 South Front Street
Tupelo, Mississippi 38804
Shareholder: L.F. Sams, Jr.

l) Hawkins Stracener & Gibson PLLC
129B South President Street
Jackson, Mississippi 39201
Member: W. Eric Stracener

m) Baria Law Firm
544 Main Street
Bay St. Louis, Mississippi 39520
Member: David Baria

n) Butler Snow O'Mara Stevens & Cannada PLLC
Renaissance at Colony Park
1020 Highland Colony Parkway – Suite 1400
Ridgeland, Mississippi 39157
Firm Chair: Donald Clark, Jr.

o) Wood & Lamping LLP
600 Vine Street – Suite 2500
Cincinnati, Ohio 45202
Partner: C. J. Schmidt III

p) Liberty Mutual Insurance Group Law Offices
36 East Seventh – Suite 2420
Cincinnati, Ohio 45202
Attorneys: Molly G. Vance and Raymond Henry Decker, Jr.

q) Schwartz Manes Ruby & Slovin
2900 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202
Member: Debbe A. Levin

r) Markesbery & Richardson Co. LPA
2368 Victory Parkway, Suite 200
Cincinnati, Ohio 45206
Member: Glen A. Markesbery

s) Jones Walker Waechter Poitevent Carrére & Denégre LLP
201 St. Charles Avenue
New Orleans, Louisiana 70170

t) Locke Liddell & Sapp LLP
2200 Ross Avenue – Suite 2200
Dallas, Texas 75201
Chair: Jerry K. Clements

u) Justice For All Law Center LLC
1500 Lafayette Street – Suite 140-A
Gretna, Louisiana 70053
Member: Michelle E. Scott-Bennett

v) Abioto Law Center PLLC
70 South 4th Street
Memphis, Tennessee 38103
Member: Wanda Abioto

w) Brandon Isaac Dorsey
Attorney At law PLLC
11 Northtown Drive – Suite 125
Jackson, Mississippi 39211

x) Richard Allen Rehfeldt
Attorney at Law
460 Briarwood Drive – Suite 500
Jackson, Mississippi 39206

y) Page Kruger & Holland PA
10 Canebrake Boulevard – Suite 200
Jackson, Mississippi 39215
Shareholder: Thomas Y. Page

z) Brunini Grantham Grower & Hewes PLLC
The Pinnacle Building – Suite 100
190 East Capitol Street
Jackson, Mississippi 39201
Member/Partner: Charles L. McBride, Jr.

aa) DunbarMonroe PA
270 Trace Colony Park – Suite A
Ridgeland, Mississippi 39157
Member/Partner: G. Clark Monroe II

bb) Steen Dalehite & Pace LLP
401 East Capitol Street – Suite 415
Jackson, Mississippi 39201
Member/Partner: Lanny R. Pace

cc) Wyatt Tarrant & Combs LLP
PNC Plaza
500 West Jefferson Street – Suite 2800
Louisville, Kentucky 40202
Managing Partner: William H. Hollander

dd) Brian Neal Bishop
Wallace Boggs PLLC
300 Buttermilk Parkway – Suite 100
Fort Mitchell, Kentucky 41017

ee) James Moberly West
Martin & West PLLC
157 Barnwood Drive

Edgewood, Kentucky 41017

ff) Gailen Wayne Bridges, Jr.
Attorney-At-Law
732 Scott Street
Covington, Kentucky 41011

gg) Hinds County (Mississippi) Board of Supervisors
316 South President Street
Jackson, Mississippi 39286
Attention: Clerk of Hinds County Board of Supervisors

hh) Commonwealth of Kentucky Department of Revenue
501 High Street
Frankfort, Kentucky 40620
Commissioner: Thomas B. Miller

ii) Commonwealth of Kentucky
c/o Governor's Office
700 Capitol Avenue – Suite 100
Frankfort, Kentucky 40601
Governor: Steve Beshear

jj) State of Ohio
c/o Governor's Office
Riffe Center, 30th Floor
77 South High Street
Columbus, Ohio 43215
Governor: Ted Strickland

kk) State of Mississippi
c/o Governor's Office
400 High Street
Jackson, Mississippi 39201
Governor: Haley Barbour

their subdivisions/departments/branches, their officers, agents, servants, employees, attorneys, successors, assigns, and all persons in active concert or participation with them, from engaging in any further conspiracies and/or criminal/civil wrongs leveled against Newsome addressed herein and/or known to them that is prohibited by statutes and laws of the United States and the States in which they reside and/or conduct business.

iii) In the interest of justice, Newsome request the United States Supreme Court issue the proper Order(s)/Judgment(s) and take the proper action to have the cases regarding Newsome in the following Courts "REOPENED" (if closed) and the record(s) "CERTIFIED:"

a) Ohio Supreme Court;

b) Hamilton County Court of Common Pleas;

c) Hamilton County Municipal Court;

d) United States District Court/Eastern Division (New Orleans Division);

e) United States District Court/Southern Division (Jackson, Mississippi);

f) United States District Court/Northern Division (Dallas, Texas);

g) United States District Court/Eastern Division (Covington, Kentucky);

h) Kenton County Circuit Court (Kenton County, Kentucky); and

i) United States Fifth Circuit Court of Appeals.

iv) In the interest of justice, Newsome request the United States Supreme Court issue the proper Order(s)/Judgment(s) and take the proper action to have the cases/charges brought by Newsome in the following Government/Administrative Agencies "REOPENED" (if closed) and the record(s) "CERTIFIED:"

a) Executive Office of the United States/White House;

b) United Stated Department of Justice;

c) United States Department of Labor;

d) United States Department of Treasury;

e) United States Department of Education; and

f) United States Legislature/Congress.

v) In the interest of justice, issue the proper Order(s)/Judgment to have the United States Department of Labor make available to Newsome ALL records regarding charges/cases brought by Newsome filed against:

a) Floyd West & Company;

b) Louisiana State University Medical Center (a/k/a Louisiana State University Health Science Center);

c) Christian Health Ministries;

d) Entergy Services, Inc./Entergy New Orleans;

e) Mitchell McNutt & Sams; and

f) Wood & Lamping.

vi) That the United States Supreme Court issue the applicable Order(s)/Judgment(s) for purposes of DETERRING and PREVENTING further conspiracies leveled against Newsome and the ***birthing/breeding*** of more CAREER CRIMINALS (i.e. CRIMINAL BULLIES) for purposes of mitigating damages and pursuant to 42 U.S.C. § 1986.

> *U.S. v. Jimenez Recio,* 123 S.Ct. 819 (2003) - Essence of a conspiracy is an agreement to commit an unlawful act.
>
> Agreement to commit an unlawful act, which constitutes the essence of a conspiracy, *is a* ***distinct evil*** that may exist and be punished whether or not the substantive crime ensues. *Id.*
>
> Conspiracy ***poses a threat to the public*** over and above the threat of the commission of the relevant substantive crime, both because *the combination in crime* ***makes more likely*** *the commission* ***of other*** *crimes*

> and because it **decreases the probability** that *the individuals involved* ***will depart from their path of criminality***. *Id.*

vii) Based upon the United States Department of Labor's failure to follow rules governing charges filed, Newsome is requesting that, in the interest of justice and under the laws governing jurisdiction to CORRECT legal wrongs made know, that the United States Supreme Court issue the proper Order(s)/Judgment(s) to the following former employers requiring the "OPENING" (if closed) and "CERTIFICATION" of employment records regarding Newsome. This request is made in good faith in that Newsome is entitled to said relief for purposes of mitigating damages until legal actions are resolved for the following employers and those this Court has become aware of through this instant filing:

a) Floyd West & Company;

b) Louisiana State University Medical Center (a/k/a Louisiana State University Health Science Center);

c) Christian Health Ministries;

d) Entergy Services, Inc/Entergy New Orleans;

e) Mitchell McNutt & Sams;

f) Page Kruger & Holland; and

g) Wood & Lamping.

viii) That the United States Supreme Court issue Order(s) to ***Wood & Lamping LLP*** to reinstate Newsome's employment *for purposes of mitigating damages* until legal matters are resolved; however, instructing that in the interest, safety and wellbeing of Newsome she is not required to return to place of employment – i.e just returned to receipt of payroll and benefits restored to which she is entitled. *Newsome presently seeks back pay/front pay in the amount in the amount of approximately* ***$88,888.53***[112] ***by November 5, 2010***. Newsome request that Wood & Lamping be required to continue to pay her BI-WEEKLY from November 5, 2010, ***in the amount of $1,882.85*** (i.e. to be adjusted according to annual pay raises on anniversary date of employment) forward until legal matters are resolved. Newsome further seeks this Court's intervention in that the injunctive relief sought herein is that in which she was entitled to; however, was deprived of by the United States Department of Labor's Wage and Hour Division's and EEOC's efforts to COVER-UP employment violations in its role in CONSPIRACIES leveled against Newsome – See Page 263 above and **EXHIBIT "145"** at Page 18 attached hereto.

> *Section 706(f)(2) of Title VII* ***authorizes*** *the Commission to seek temporary injunctive relief* ***before*** *final disposition of a charge*

[112] Pay is calculated up until October 5, 2010, to allow restoration of pay and employee benefits.

> *when a preliminary investigation indicates that* ***prompt*** *judicial action is necessary to carry out the purposes of Title VII.*
>
> *Temporary or preliminary relief* ***allows a court*** *to stop retaliation before it occurs* ***or continues***. ***Such relief is appropriate if there is a substantial likelihood that the challenged action will be found to constitute unlawful retaliation, and if the charging party*** and/or EEOC ***will likely suffer irreparable harm because of retaliation***. Although courts have ruled that financial hardships are not irreparable, other **harms that accompany loss of a job may be irreparable**. - - For example, in one case forced retirees showed irreparable harm and qualified for a preliminary injunction *where they lost work and future prospects for work consequently suffering emotional distress, depression, a contracted social life, and other related harms.*

Newsome believes that the record evidence as well as the FALSE/MALICIOUS information posted on the INTERNET by the United States Government Agencies will support unlawful/illegal acts infringing upon her Constitutional Rights, Civil Rights and other protected rights for purposes of BLACKLISTING her and to see that Newsome ***is NOT*** employable. Thus, supporting the immediate relief sought herein.

ix) That the United States Supreme Court issue Order(s)/Judgment(s) to ***Mitchell McNutt & Sams*** to pay Newsome *back pay and front pay in the amount of* ***$182,101.34***[113] *by November 5, 2010, for purposes of mitigating damages until legal matters are.* Newsome request that MM&S be required to continue to pay her BI-WEEKLY from November 5, 2010, ***in the amount of $1,515.53*** (i.e. to be adjusted according to annual pay raises on anniversary date of employment) forward until legal matters are resolved. The record evidence supports MM&S admission of subjecting Newsome to ***Discriminatory*** practices and a ***Hostile Work Environment***. See **EXHIBIT "83"** attached hereto and incorporated by reference as if set forth in full herein. Newsome further seeks this Court's intervention in that the injunctive relief sought herein is that in which she was entitled to; however, was deprived of by the United States Department of Labor's Wage and Hour Division's, EEOC's and OSHA's efforts to COVER-UP employment violations in its role in CONSPIRACIES leveled against Newsome – See Page 263 above and **EXHIBIT "145"** at Page 18 attached hereto.

> *Section 706(f)(2) of Title VII* ***authorizes*** *the Commission to seek temporary injunctive relief* ***before*** *final disposition of a charge when a preliminary investigation indicates that* ***prompt*** *judicial action is necessary to carry out the purposes of Title VII.*

[113] Pay is calculated up until October 5, 2010.

> *Temporary or preliminary relief* ***allows a court*** *to stop retaliation before it occurs* ***or continues***. ***Such relief is appropriate if there is a substantial likelihood that the challenged action will be found to constitute unlawful retaliation, and if the charging party*** and/or EEOC ***will likely suffer irreparable harm because of retaliation***. Although courts have ruled that financial hardships are not irreparable, other **harms that accompany loss of a job may be irreparable**. - - For example, in one case forced retirees showed irreparable harm and qualified for a preliminary injunction *where they lost work and future prospects for work consequently suffering emotional distress, depression, a contracted social life, and other related harms*.

Newsome believes that the record evidence as well as the FALSE/MALICIOUS information posted on the INTERNET by the United States Government Agencies will support unlawful/illegal acts infringing upon her Constitutional Rights, Civil Rights and other protected rights for purposes of BLACKLISTING her and to see that Newsome ***is NOT*** employable. Thus, supporting the immediate relief sought herein.

x) That the United States Supreme Court issue Order(s)/Judgment(s) to ***Page Kruger & Holland*** to pay Newsome *back pay and front pay in the amount of* ***$168,321.38***[114] *by November 5, 2010, for purposes of mitigating damages until legal matters are resolved.* Newsome request that PKH be required to continue to pay her BI-WEEKLY from November 5, 2010, ***in the amount of $1,560.99*** (i.e. to be adjusted according to annual pay raises on anniversary date of employment) forward until legal matters are resolved. The record evidence supports PKH's admission of subjecting Newsome to ***Discriminatory*** practices and ***Retaliation*** *because of its learning of lawsuit filed by her and knowledge of Newsome's engagement in PROTECTED activities.* See **EXHIBIT "61"**attached hereto and incorporated by reference as if set forth in full herein. PKH terminating Newsome's employment upon learning of her engagement in protected activities and for purposes of providing opposing counsel and their clients with an undue and unlawful/illegal advantage. ***NEXUS can be established*** *between PKH being contacted, Newsome's termination of employment and her attorney's (Brandon Dorsey) request to withdraw. Newsome's termination occurring on or about May 15, 2006* (See **EXHIBIT "61"**), *and withdrawal of counsel set for May 18, 2006* (See **EXHIBIT "131"**). Newsome further seeks this Court's intervention in that the injunctive relief sought herein is that in which she is entitled to as a matter of law.

xi) That the United States Supreme Court issue Order(s)/Judgment to Kenton County Circuit Court to return monies **by November 5, 2010,** *in the amount of approximately* ***$16,250.00*** *for monies embezzled and unlawfully/illegally released to opposing parties (GMM*

[114] Pay is calculated up until October 5, 2010.

Properties and its counsel Gailen Bridges) in or about October 2008. Returning of monies is sought in good faith for purposes of mitigating damages/injuries that Newsome has already sustained and continues to suffer.

xii) That the United States Supreme Court issue Order(s)/Judgment to GMM Properties awarding Newsome monies **by November 5, 2010,** *in the amount of* ***$18,480.00*** *(i.e. which encompasses the amount of rent and storage from October 2008 to present/October 2010*. Furthermore, ordering that GMM Properties *is to continue to pay Newsome the* ***amount of $770.00*** *until the conclusion of all legal matters pending and/or to be brought for good-faith purposes and the mitigating of damages/injuries and irreparable harm sustained*.

xiii) That the United States Supreme Court issue Order(s)/Judgment to Spring Lake Apartments LLC awarding Newsome monies **by November 5, 2010,** *in the amount of* ***$40,320.00*** *(i.e. which encompasses the amount of rent and storage from February 2006 to present/October 2010*. Furthermore, ordering that Spring Lake Apartments LLC *is to continue to pay Newsome the* ***amount of $720.00*** *until the conclusion of all legal matters pending and/or to be brought for good-faith purposes and the mitigating of damages/injuries and irreparable harm sustained*.

xiv) That the United States Supreme Court issue Order(s)/Judgment to Wanda Abioto to return monies owed Newsome **by November 5, 2010,** *in the amount of* ***$4,000.00*** *for monies embezzled and unlawfully/illegally retained*. Returning of monies is sought in good faith for purposes of mitigating damages/injuries that Newsome has already sustained and continues to suffer.

xv) That the United States Supreme Court issue Order(s)/Judgment to Richard Allen Rehfeldt to return monies owed Newsome **by November 5, 2010,** *in the amount of* ***$700.00*** *for monies embezzled and unlawfully/illegally retained*. Returning of monies is sought in good faith for purposes of mitigating damages/injuries that Newsome has already sustained and continues to suffer.

xvi) That the United States Supreme Court issue Order(s)/Judgment to Brian Bishop to return monies owed Newsome **by November 5, 2010,** *in the amount of* ***$1,500.00*** *for monies embezzled and unlawfully/illegally*

retained. Returning of monies is sought in good faith for purposes of mitigating damages/injuries that Newsome has already sustained and continues to suffer.

xvii) That the United States Supreme Court issue Order(s)/Judgment to Commonwealth of Kentucky Department of Revenue to return monies owed Newsome **by November 5, 2010,** *in the amount of **$600.00** for monies embezzled and unlawfully/illegally retained through the use of SHAM LEGAL PROCESS*. Returning of monies is sought in good faith for purposes of mitigating damages/injuries that Newsome has already sustained and continues to suffer. The record evidence supports that on or about July 17, 2010, said Agency executed process for purposes of FRAUD and obtaining monies from Newsome's bank account(s) to which it was not entitled. Moreover, that said Agency did KNOWINGLY, WILLINGLY and MALICIOUSLY rewrite, tamper and compromise the Kentucky Revised Statute 131. 130(11) for the purposes of fulfilling role in conspiracies leveled against Newsome, FRAUD and other reasons known to it. See **EXHIBITS "27"** and **"28"** respectively attached hereto and incorporated by reference as if set forth in full herein. The record evidence will further support that the Commonwealth of Kentucky Department of Revenue KNEW that it was engaging in criminal acts in that Newsome timely, properly and adequately notified it of violations and her right to sue said Agency through her August 12, 2008 Complaint submitted to the attention of Commissioner Thomas Miller and United States Attorney General Eric Holder – with a copy to United States President Barack Obama. See **EXHIBIT "26"** attached hereto and incorporated by reference as if set forth in full herein.

xviii) That the United States Supreme Court issue Order(s)/Judgment to United States Department of the Treasury to return monies owed Newsome **by November 5, 2010,** *in the amount of **$1,800.00** for monies embezzled and unlawfully/illegally retained through the use of ABUSE OF POWER and Sham Legal Process*. Returning of monies is sought in good faith for purposes of mitigating damages/injuries that Newsome has already sustained and continues to suffer. The record evidence supports a NEXUS between the unlawful/illegal acts of said Agency and the CONSPIRACIES that have been leveled against Newsome. Moreover, that said Agency embezzled said monies on behalf of the United States Department of Education ***WITHOUT*** *legal authority and/or just cause*.

xix) That the United States Supreme Court issue Order(s)/Judgment to Stor-All Alfred LLC to pay monies to Newsome **by November 5, 2010,** *in the amount of **$5,500.00** for costs associated with replacing property unlawfully/illegally stolen through the use of SHAM LEGAL PROCESS, ABUSE OF POWER, OBSTRUCTION OF JUSTICE and other reasons known to it*. Reward of monies is sought in good faith for

purposes of ***mitigating*** damages/injuries that Newsome has already sustained and continues to suffer. The record evidence supports a NEXUS between the unlawful/illegal acts of Plaintiff Stor-All, its counsel and/or representatives and the CONSPIRACIES that have been leveled against Newsome. The record evidence supports that there is sufficient facts, evidence and legal conclusions to support that Plaintiff Stor-All and other Conspirators/Co-Conspirators knew and/or should have known that they were engaging in criminal/civil wrongs; nevertheless, KNOWINGLY and WILLINGLY with MALICIOUS intent proceeded to engage in unlawful/illegal acts.

xx) That the United States Supreme Court request the United States Congress to create a "SPECIAL/INFERIOR Court" to handle ALL of the pending lawsuits and/or lawsuits filed on behalf of Newsome in the following Courts:

a) Ohio Supreme Court;
b) Hamilton County (Ohio) Court of Common Pleas;
c) United States District Court/Eastern Division (New Orleans Division);
d) United States District Court/Southern Division (Jackson, Mississippi);
e) United States District Court/Northern Division (Dallas, Texas);
f) United States District Court/Eastern Division (Covington, Kentucky);
g) Kenton County Circuit Court (Kenton County, Kentucky)
h) United States Fifth Circuit Court of Appeals; and
i) Commonwealth of Kentucky Department of Revenue.

xxi) That the United States Supreme Court issue the applicable Order(s)/Judgment(s) requiring that the following Government Agencies/Courts **"CERTIFY"** record(s) regarding Complaints/Charges filed by Newsome – i.e. *providing a DEADLINE of* ***November 23, 2010*** *and to make the record available for review in the Cincinnati, Ohio Offices of the*:

a) United States Department of Justice; and
b) United States Department of Labor.

Said Government Agencies/Courts are to also provide this Court and Newsome with their *Findings of Fact* and *Conclusion of Laws* regarding the Complaints/Charges filed by Newsome **by November 23, 2010**.

xxii) That the United States Supreme Court issue the applicable Order(s)/Judgment(s) requiring the United States Legislature and/or United States Congress to **"CERTIFY"** records regarding July 14, 2008 *"Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Findings"* submitted by Newsome and to provide this Court and Newsome with the status of said Complaint and the *Findings of Fact* and *Conclusion of Laws* of said Complaint ***on November 30, 2010***.

See **EXHIBIT "38"** (BRIEF Only and supporting "PROOF OF MAILING/RECEIPTS") attached hereto. *Emergency Complaint* was submitted to the attention of the following for handling:

<u>Original</u> To:

a) Senator Patrick Leahy;

<u>Copies</u> To:

b) Representative John Conyers;

c) President Barack Obama (i.e. then United States Senator);

d) Senator John McCain; and

e) Representative Debbie Wasserman-Schultz.

xxiii) In the interest of justice, that the United States Supreme Court based upon the facts, evidence and legal conclusions contained herein REPORT and/or INITIATE the appropriate actions (i.e. IMPEACHMENT, REMOVAL, SUSPENSION and/or DISBARMENT) against any/all of the following members of a Legal Bar for violations of ***CANON***, ***Rules of Professional Conduct***, ***Rules of Judicial Conduct*** and/or applicable Statutes/Rules:

a) United States President Barack Obama;

b) United States Vice President Joseph Biden;

c) United States Attorney General Eric Holder;

d) United States Senator Patrick Leahy;

e) United States Representative John Conyers Jr.;

f) United States Senator William Thad Cochran;

g)

h) Judge John Andrew West;

i) Judge Nadine L. Allen;

j) Judge Gregory M. Bartlett;

k) Judge Ann Ruttle;

l) Justice Thomas J. Moyer;

m) Justice Robert R. Cupp;

n) Justice Judith Ann Lanzinger;

o) Justice Maureen O'Connor;

p) Justice Terrence O'Donnell;

q) Justice Paul E. Pfeifer;

r) Justice Evelyn Lunberg Stratton;

s) Justice W. Eugene Davis;

t) Justice John D. Minton, Jr.;

u) Judge William Barnett;

v) Judge Tom S. Lee;

w) Magistrate Judge Linda R. Anderson;

x) Judge G. Thomas Porteous, Jr. (i.e. presently involved in IMPEACHMENT proceedings before the United States Senate – See **EXHIBIT "12"** attached hereto);

y) Magistrate Judge Sally Shushan;

z) Judge Morey L. Sear;

aa) Prosecuting Attorney Joseph T. Deters;

bb) Assistant Prosecuting Attorney Christian J. Schaefer;

cc) Attorney General Jack Conway;

dd) James Moberly West, Esq.;

ee) Gailen Wayne Bridges, Jr., Esq.;

ff) Brian Neal Bishop, Esq.;

gg) David M. Meranus, Esq.;

hh) Michael E. Lively, Esq.;

ii) Patrick B. Healy, Esq.;

jj) Molly G. Vance, Esq.;

kk) Raymond H. Decker, Jr., Esq.;

ll) C. J. Schmidt, Esq.;

mm) Thomas J. Breed, Esq.;

nn) Grover Clark Monroe II, Esq.;

oo) Benny McCalip May, Esq.;

pp) Lanny R. Pace, Esq.;

qq) Clifford Allen McDaniel II, Esq.;

rr) J. Lawson Hester, Esq.;

ss) Wanda Abioto, Esq.;

tt) Brandon Isaac Dorsey, Esq.;

uu) Richard Allen Rehfeldt, Esq.;

vv) Michelle Ebony Scott-Bennett, Esq.;

ww) Allyson Kessler Howie, Esq.;

xx) Renee Williams Masinter, Esq.;

yy) Amelia Williams Koch, Esq.;

zz) Jennifer F. Kogos, Esq.;

aaa) L. F. Sams Jr., Esq.;

bbb) Thomas Y. Page, Esq.;

ccc) Louis J. Baine, Esq.; and

ddd) Attorneys/Judges/Justices who become known to the United States Supreme Court through the handling of this matter.

xxiv) In the interest of justice and if the laws permit, Newsome requests the ***Granting*** *of Motion to Stay* and ***Granting*** *Enlargement of Time* to prepare to bring the appropriate action in the United States Supreme Court's ***"ORIGINAL"*** jurisdiction if permissible by law due to the EXCEPTIONAL and EXTREME circumstances addressed in this instant filing – i.e. ***Granting*** *Stay of the Hamilton County Court of Common Pleas lawsuit (Case No. A0901302) out of which this instant filing arises.*

xxv) ALL costs associated, expended and/or to be expended in the litigation of this action;

xxvi) Any and all applicable relief known to the United States Supreme Court to correct legal wrongs and injustices complained of herein;

Respectfully submitted this **9th** day of **October, 2010**.

Vogel Newsome

Vogel Denise Newsome

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the forgoing pleading was MAILED via U.S. Mail first-class to:

Schwartz Manes Ruby & Slovin, LPA
Attn: David Meranus, Esq.
2900 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202

Markesbery & Richardson Co., LPA
Attn: Michael E. Lively, Esq.
Attn: Patrick B. Healy, Esq.
Post Office Box 6491
Cincinnati, Ohio 45206

VIA E-MAIL & PRIORITY MAIL – **2306 1570 0001 0443 6275**
ATTN: Barack H. Obama – U.S. President
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500-0005

Dated this **9TH** day of **October, 2010.**

Vogel Newsome

Vogel Denise Newsome

Common Pleas Assgn Comm. CH481
1000 Main St. Ham Co Courthouse
Cincinnati OH 45202
08/13/2010

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On 09/28/2010 At 2:15 pm In
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Judge JOHN ANDREW WEST

****
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* PO BOX 14731
* CINCINNATI, OH
* 45250
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*
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*

EXHIBIT 1

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INVESTIGATIONS OF PUBLIC CORRUPTION: Rooting Crookedness Out of Government

03/15/04



Today marks an important anniversary in the annals of public corruption investigations in the U.S.

Twenty years ago today, in a federal courtroom in Chicago, a jury found Harold Conn (top center in photo) guilty on all 4 counts of accepting bribes to be passed on to Cook County judges as payment for fixing tickets. The evidence? He had been caught live on FBI tapes.

This "bagman" had been Deputy Traffic Court Clerk in the Cook County judicial system, and he was the first defendant to be found guilty in a mammoth sting investigation of crooked officials in the Cook County courts.

It was called OPERATION GREYLORD, named after the curly wigs worn by British judges. And in the end -- through undercover operations that used honest and very courageous judges and lawyers posing as crooked ones... and with the strong assistance of the Cook County court and local police -- 92 officials had been indicted, including 17 judges, 48 lawyers, 8 policemen, 10 deputy sheriffs, 8 court officials, and 1 state legislator. Nearly all were convicted, most of them pleading guilty (just a few are shown in our photo). It was an important first step to cleaning up the administration of justice in Cook County.

That's really the whole point. Abuse of the public trust cannot and must not be tolerated. Corrupt practices in government strike at the heart of social order and justice. And that's why the FBI has the ticket on investigations of public corruption as a top priority.

How'd that happen? Historically, of course, these cases were considered local matters. A county court clerk taking bribes? Let the county handle it.

But in the 1970s, state and local officials asked for help. They didn't have the resources to handle such intense cases, and they valued the authority and credibility that outside investigators brought to the table. By 1976, the Department of Justice had created a Public Integrity Section, and the FBI was tasked with the investigations, focusing on major, systemic corruption in the body politic.

Who's investigated? Public servants: members of Congress and state legislatures; members of the Administration and governors' offices; judges and court staffs; all of law enforcement; all government agencies. Plus everyone who works with government and is willing to pay for "special favors": lobbyists, contractors, consultants, lawyers, U.S. businesses in foreign countries, you name it.

What kind of crimes? Bribery, kickbacks, and fraud. Vote buying, voter intimidation, impersonation. Political coercion. Racketeering and obstruction of justice. Trafficking of illegal drugs.

How serious of a problem is it? Last year the FBI investigated 850 cases; brought in 655 indictments/informations; and got 525 who were either convicted or chose to plead.

Last words: Straight from Teddy Roosevelt: "Unless a man is honest we have no right to keep

EXHIBIT 2

him in public life, it matters not how brilliant his capacity, it hardly matters how great his power of doing good service on certain lines may be... No man who is corrupt, no man who condones corruption in others, can possibly do his duty by the community."

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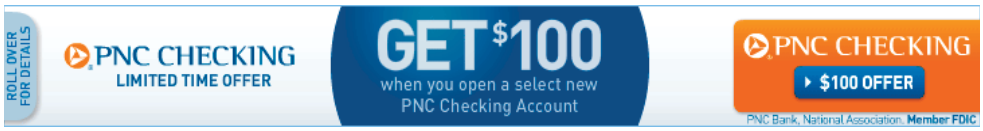



Shirley Sherrod, ex-USDA worker: White House forced me to resign over fabricated racial controversy

BY ALIYAH SHAHID
DAILY NEWS STAFF WRITER

Tuesday, July 20th 2010, 2:46 PM

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One strike and she was out.

A black employee who resigned from the Agriculture Department on Monday said the White House forced her out after remarks that she says have sparked a fabricated racial controversy.

Shirley Sherrod, the former Georgia director of Rural Development, said she received a phone call from the USDA's deputy undersecretary Cheryl Cook on Monday while she was in a car. Cook told her that the White House wanted her to call it quits.

"They called me twice," Sherrod told the Associated Press. "The last time they asked me to pull over the side of the road and submit my resignation on my Blackberry, and that's what I did."

The controversy began after several media organizations posted a 38-second video clip of Sherrod speaking to a local Georgia chapter of the NAACP. She tells the group that she did not give a white farmer "the full force of what I could do" after he asked for assistance.

The video surfaced days after the NAACP quarreled with Tea Party members over allegations of racism.

Sherrod said her statements were taken out of context.

"My point in telling that story is that working with him helped me to see that it wasn't a black and white issue," she said. Sherrod added that the episode took place in 1986 before she worked for the Agriculture Department.

Sherrod said that she eventually became friends with the farmer and worked with him for two years to help him avoid foreclosure.

The woman who says she is the wife of the farmer referenced in the clip told CNN Sherrod helped her family save their farm. Eloise Spooner described Sherrod as "getting in there and doing all she could do to help us."

President of the national NAACP, Benjamin Todd Jealous, supported the resignation, saying the organization has a zero-tolerance



USDA

Shirley Sherrod, the former Georgia State Director of Rural Development for the USDA, resigned on Monday after making racial remarks.

TAKE OUR POLL

Shirley's slip-up

Do you think Shirley Sherrod should have resigned following her comments?

- Yes. I'm outraged.
- No. Her remarks were taken out of context.
- I'm not sure.

VOTE

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Tea Party leader expelled over 'Colored People' letter

EXHIBIT 4

policy.

"According to her remarks, she mistreated a white farmer in need of assistance because of his race," he said in a statement before Sherrod's explanation.

"We are appalled by her actions, just as we are with abuses of power against farmers of color and female farmers."

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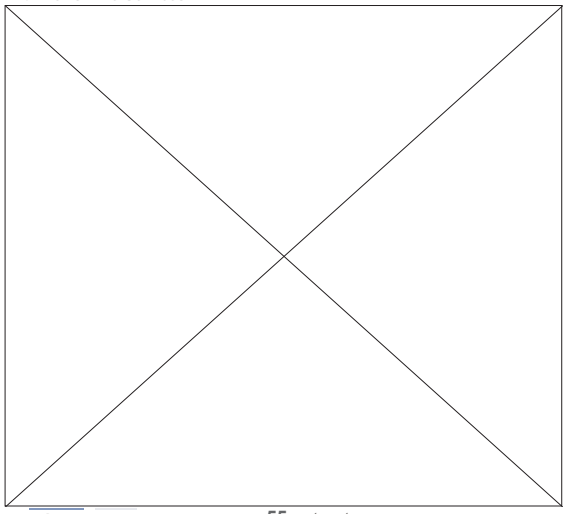

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OneZ

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Correction: ....and DESTRUCTION of the environment.

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5:13:38 AM Jul 21, 2010

RonMar: Your inability to understand the correlation between white owned corporations in this century and white greed in the earlier centuries in not my problem. The proof is left in the ripples of history where ever the Europeans went.

CBSNEWS

Political Hotsheet July 20, 2010 3:31 PM

Shirley Sherrod: White House Forced My Resignation

Posted by Stephanie Condon

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Updated at 6:11 p.m. ET

The Department of Agriculture employee who resigned after a controversy erupted over recent

remarks she made is now saying that the White House forced her resignation.

Agriculture Secretary Tom Vilsack, however, is taking responsibility for the resignation, and the White House reportedly says it had no part in his decision.

Shirley Sherrod, the USDA's former director of rural development in Georgia, said USDA deputy undersecretary Cheryl Cook called her Monday and said the White House wanted her to resign, the Associated Press reports.

"They called me twice," Sherrod told the AP, noting that she was driving when she received the calls. "The last time they asked me to pull over the side of the road and submit my resignation on my Blackberry, and that's what I did."

Sherrod submitted her resignation after she became the focus of scrutiny from Fox News and conservative blogs over remarks she gave at an NAACP Freedom Fund Banquet on March 27. A video of a portion of her remarks were posted on a conservative blog, giving the impression that Sherrod admitted to discriminating against a white farmer as an employee of the USDA.

The comments were taken out of context, however. In her remarks that day, Sherrod was recounting a story that pre-dates her tenure at the USDA by more than two decades. Sherrod says in her story that Chapter 12 bankruptcy had just been enacted; Chapter 12 was instituted for family farmers in 1986, while Sherrod was appointed to head the USDA's Rural Development office in Georgia just last July. Furthermore, the point of Sherrod's story is that race is not an issue.

Sherrod has said the video excerpt did not include the full story of her relationship with the farmer, with whom she says she became friends after helping him avoid foreclosure.

Nevertheless, Sherrod says the White House pressed for her resignation.

Earlier today, Vilsack released a statement saying he had accepted Sherrod's resignation, and added that the department has no tolerance for discrimination.

This afternoon, Vilsack released another statement saying he asked for Sherrod's resignation.

"First, for the past 18 months, we have been working to turn the page on the sordid civil rights record at USDA and this controversy could make it more difficult to move forward on correcting injustices," Vilsack said. "Second, state rural development directors make many decisions and are often called to use their discretion. The controversy surrounding her comments would create situations where her decisions, rightly or wrongly, would be called into question making it

difficult for her to bring jobs to Georgia."

A White House official told **CBS News** that the White House did not pressure Sherrod or the Department, contrary to Sherrod's claims.

The NAACP on Monday released a statement condemning Sherrod's statements and saying the organization supported the USDA's position. The group said late Tuesday, however, that "We have come to the conclusion we were snookered by Fox News and Tea Party Activist Andrew Breitbart."

Shirley Sherrod Resigns from USDA over Race Remark Furor

What's Your Take? Awesome1Shocking2Infuriating5Important6

Best of 60 Minutes

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CNN.com

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Sherrod's steadfast motto: 'Let's work together'

By **Jim Kavanagh**, CNN

STORY HIGHLIGHTS

- Shirley Sherrod forced out of USDA after excerpted speech posted on internet
- Sherrod, raised on Georgia farm, has 45-year civil rights record
- White man killed father; white sheriff stopped husband-to-be from registering to vote
- "If I tried to hate all the time, I wouldn't be able to see clearly," she says

Atlanta, Georgia (CNN) -- Shirley Miller Sherrod has spent most of her life fighting injustice.

On the Baker County, Georgia, farm where the Miller family grew corn, peanuts, cotton and cucumbers and raised hogs, cows and goats, oldest daughter Shirley despised the work.

"I swore I would never have anything to do with a farm past high school," she said Wednesday with an easy chuckle. "I would talk to the sun as I picked cotton and picked cucumbers and worked out there in that hot field, and [say], 'This is not the life for me.' I didn't want to have anything to do with agriculture ever again."

On the night in 1965 when her father, Hosie Miller, a black man and a deacon at Thankful Baptist Church, was shot to death by a white farmer in what ostensibly was a dispute over a few cows, Sherrod -- then 17 years old -- changed her mind.

"I decided to stay in the South and work for change," said Sherrod, now 62, who believes her father's killing was more about a Southern black man speaking up to a white man than about who owned which animals. The all-white grand jury didn't bring charges against the shooter.

That summer, when she and several other blacks went to the county courthouse to register to vote, the county sheriff blocked the door and even pushed her husband-to-be, Lester Sherrod, down the stairs, she said. Activists used that incident to get a restraining order against the sheriff so blacks could register to vote, she said.

Sherrod worked for civil rights with the Student Nonviolent Coordinating Committee while studying sociology at Albany State University in Georgia. She later earned her master's degree in community development from Antioch University in Yellow Springs, Ohio.

Sherrod returned to rural Georgia to help minority farmers keep their land in a place where history is against them. She has often gone toe to toe with the local offices of government agencies, including the U.S. Department of Agriculture before she worked there, she said.

Sherrod was forced out of her job with the USDA this week after a video emerged in which she seemingly admitted to failing to try to help a white farmer save his land from foreclosure in 1986. She has since said her words, recorded in March at a Douglas County, Georgia, NAACP meeting, were deliberately taken out of context. The story, she said, was part of a broader message she has given many times about the need to move beyond race.

White House spokesman Robert Gibbs said Wednesday afternoon that Sherrod is "owed an apology. I would do that on behalf of this administration."

Agriculture Secretary Tom Vilsack said Wednesday that he offered his "personal and profound apology for the pain and discomfort" caused to Sherrod and her family.

"It makes me feel better," she said in response on CNN. "It took too long, but it makes me feel better that the apology's coming."

"... Why did they hire me in the first place if they didn't believe in what I had done up to this point?"

What she had done is work tirelessly for minority farmers for four decades.

Because of discriminatory lending practices, black farmers were losing their farms in the late 1960s and '70s. After college, Sherrod co-founded New Communities Inc., a black communal farm project in Lee County, Georgia, that was modeled on kibbutzim in Israel. Local white farmers viciously opposed the 6,000-acre operation, accusing participants of being communists and occasionally firing shots at their buildings, Sherrod said.

"They did everything they could to fight us," she said.

When drought struck the South in the 1970s, the federal government promised to help New Communities through the Office of Economic Opportunity. But the money was routed through the state, led by segregationist Gov. Lester Maddox, and the local office of the Farmers Home Administration, whose white agent was in no hurry to write the checks, she said.

It took three years for New Communities to get an "emergency" loan, she said.

"By the time we got it, it was much too late," Sherrod said.

The operation hobbled along for a few years with other financing, but creditors ultimately foreclosed on the property in 1985, she said.

Getting money for any minority farmer out of that FmHA office "was always a fight," Sherrod said. But she made a point of learning the regulations so thoroughly that she understood them better than the bureau agent, she said.

"I was such a thorn in his side," she said, that the agent eventually left the bureau for good.

Using that experience, Sherrod worked with the Federation of Southern Cooperatives to help black farmers keep their land. The group worked with U.S. Rep. Mike Espy, D-Mississippi (who later became agriculture secretary), and Sen. Wyche Fowler, D-Georgia, to pass the Minority Farmers Rights Act in 1990. The measure, known as Section 2501, authorized $10 million a year in technical assistance to black farmers, but only $2 million to $3 million a year has been distributed.

With black-owned farms heading toward extinction, Sherrod and other activists sued the USDA. In a consent decree, the USDA agreed to compensate black farmers who were victims of discrimination between January 1, 1981, and December 31, 1999. It was the largest civil rights settlement in history, with nearly $1 billion being paid to more than 16,000 victims. Legislation passed in 2008 will allow nearly 70,000 more potential claimants to qualify.

"I was deeply involved in all of that work and in the settlement, and in helping farmers to file their claims," she said. "So I was having to fight USDA just for the services, for the loans for farmers, for some of the programs that should have been automatic, that others were getting."

USDA hired Sherrod as its Georgia director of rural development in August 2009. She was the first black person in that position; of 129 USDA employees in Georgia, only 20 are black, she said.

Her family still owns the farm in Baker County, plus an additional 30 acres she bought from a cousin. She hasn't had time to work the land yet.

"I'd like to try some of the things I've taught others," she said, again laughing.

Sherrod emphasizes that the speech that caused all the controversy was about embracing diversity and using the strengths of every culture.

"We've got to get beyond this [racial division]," she said. "... My message has been, 'Let's work together.' That's what my message has always been."

Despite her father's killing and the injustices that followed, the racial hatred she has fought all her life, and now her quick exit from the USDA, Sherrod refuses to become bitter.

"I can't hold a grudge. I can't even stay mad for long," she said. "I just try to work to make things different. If I stayed mad, if I tried to hate all the time, I wouldn't be able to see clearly in order to do some of the things that I've been able to do.

"Even with this, I'm not angry. I'm not angry. I'm out of a job today, but I'm not angry. I will survive. I have. I can't dwell on that. I just feel there's a need to go forward."

Find this article at:
http://www.cnn.com/2010/POLITICS/07/21/sherrod.profile/index.html?hpt=C1

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The Willie Lynch Letter: The Making Of A Slave!

This speech was delivered by Willie Lynch on the bank of the James River in the colony of Virginia in 1712. Lynch was a British slave owner in the West Indies. He was invited to the colony of Virginia in 1712 to teach his methods to slave owners there. The term "lynching" is derived from his last name.

December 25, 1712

Gentlemen:

I greet you here on the bank of the James River in the year of our Lord one thousand seven hundred and twelve. First, I shall thank you, the gentlemen of the Colony of Virginia, for bringing me here. I am here to help you solve some of your problems with slaves. Your invitation reached me on my modest plantation in the West Indies, where I have experimented with some of the newest and still the oldest methods for control of slaves. Ancient Rome's would envy us if my program is implemented.

As our boat sailed south on the James River, named for our illustrious King, whose version of the Bible we cherish, I saw enough to know that your problem is not unique. While Rome used cords of wood as crosses for standing human bodies along its highways in great numbers, you are here using the tree and the rope on occasions. I caught the whiff of a dead slave hanging from a tree, a couple miles back. You are not only losing valuable stock by hangings, you are having uprisings, slaves are running away, your crops are sometimes left in the fields too long for maximum profit, You suffer occasional fires, your animals are killed.

Gentlemen, you know what your problems are; I do not need to elaborate. I am not here to enumerate your problems, I am here to introduce you to a method of solving them. In my bag here, I have a foolproof method for controlling your black slaves. I guarantee every one of you that if installed correctly it will control the slaves for at least 300 years [2012]. My method is simple. Any member of your family or your overseer can use it. I have outlined a number of differences among the slaves and make the differences bigger. I use fear, distrust and envy for control.

These methods have worked on my modest plantation in the West Indies and it will work throughout the South. Take this simple little list of differences and think about them. On top of my list is "age" but it's there only because it starts with an "A." The second is "COLOR" or shade, there is intelligence, size, sex, size of plantations and status on plantations, attitude of owners, whether the slaves live in the valley, on a hill, East, West, North, South, have fine hair, course hair, or is tall or short. Now that you have a list of differences, I shall give you an outline of action, but before that, I shall assure you that distrust is stronger than trust and envy stronger than adulation, respect or admiration. The Black slaves after receiving this indoctrination shall carry on and will become self refueling and self generating for hundreds of years, maybe thousands. Don't forget you must pitch the old black Male vs. the young black Male, and the young black Male against the old black male. You must use the dark skin slaves vs. the light skin slaves, and the light skin slaves vs. the dark skin slaves. You must use the female vs. the male. And the male vs. the female. You must also have you white servants and overseers distrust all Blacks. It is necessary that your slaves trust and depend on us. They must love, respect and trust only us. Gentlemen, these kits are your keys to control. Use them. Have your wives and children use them, never miss an opportunity. If used intensely for one year, the slaves themselves will remain perpetually distrustful of each other.

Thank you gentlemen

Lets Make a Slave

It was the interest and business of slave holders to study human nature, and the slave nature in particular, with a view to practical results. I and many of them attained astonishing proficiency in this direction. They had to deal not with earth, wood and stone, but with men and by every regard they had for their own safety and prosperity they needed to know the material on which they were to work. Conscious of the injustice and wrong they were every hour perpetuating and knowing what they themselves would do. Were they the victims of such wrongs? They were constantly looking for the first signs of the dreaded retribution. They watched, therefore with skilled and practiced eyes, and learned to read with great accuracy, the state of mind and heart of the slave, through his sable face. Unusual sobriety, apparent abstractions, sullenness and indifference indeed, any mood out of the common was afforded ground for suspicion and inquiry.

Let us make a slave. What do we need? First of all we need a black nigger man, a pregnant nigger woman and her baby nigger boy. Second, we will use the same basic principle that we use in breaking a horse, combined with some more sustaining factors. What we do with horses is that we break them from one form of life to another that is we reduce them from their natural state in nature. Whereas nature provides them with the natural capacity to take care of their offspring, we break that natural string of independence from them and thereby create a dependency status, so that we may be able

EXHIBIT 5

to get from them useful production for our business and pleasure

Cardinal Principles for making a Negro

For fear that our future Generations may not understand the principles of breaking both of the beast together, the nigger and the horse. We understand that short range planning economics results in periodic economic chaos; so that to avoid turmoil in the economy, it requires us to have breath and depth in long range comprehensive planning, articulating both skill sharp perceptions. We lay down the following principles for long range comprehensive economic planning. Both horse and niggers is no good to the economy in the wild or natural state. Both must be broken and tied together for orderly production. For orderly future, special and particular attention must be paid to the female and the youngest offspring. Both must be crossbred to produce a variety and division of labor. Both must be taught to respond to a peculiar new language. Psychological and physical instruction of containment must be created for both. We hold the six cardinal principles as truth to be self evident, based upon the following the discourse concerning the economics of breaking and tying the horse and the nigger together, all inclusive of the six principles laid down about. NOTE: Neither principle alone will suffice for good economics. All principles must be employed for orderly good of the nation. Accordingly, both a wild horse and a wild or nature nigger is dangerous even if captured, for they will have the tendency to seek their customary freedom, and in doing so, might kill you in your sleep. You cannot rest. They sleep while you are awake, and are awake while you are asleep. They are dangerous near the family house and it requires too much labor to watch them away from the house. Above all, you cannot get them to work in this natural state. Hence both the horse and the nigger must be broken; that is breaking them from one form of mental life to another. Keep the body take the mind! In other words break the will to resist. Now the breaking process is the same for both the horse and the nigger, only slightly varying in degrees. But as we said before, there is an art in long range economic planning. You must keep your eye and thoughts on the female and the offspring of the horse and the nigger. A brief discourse in offspring development will shed light on the key to sound economic principles. Pay little attention to the generation of original breaking, but concentrate on future generations.

Therefore, if you break the female mother, she will break the offspring in its early years of development and when the offspring is old enough to work, she will deliver it up to you, for her normal female protective tendencies will have been lost in the original breaking process. For example take the case of the wild stud horse, a female horse and an already infant horse and compare the breaking process with two captured nigger males in their natural state, a pregnant nigger woman with her infant offspring. Take the stud horse, break him for limited containment.

Completely break the female horse until she becomes very gentle, whereas you or anybody can ride her in her comfort. Breed the mare and the stud until you have the desired offspring. Then you can turn the stud to freedom until you need him again. Train the female horse where by she will eat out of your hand, and she will in turn train the infant horse to eat out of your hand also. When it comes to breaking the uncivilized nigger, use the same process, but vary the degree and step up the pressure, so as to do a complete reversal of the mind. Take the meanest and most restless nigger, strip him of his clothes in front of the remaining male niggers, the female, and the nigger infant, tar and feather him, tie each leg to a different horse faced in opposite directions, set him a fire and beat both horses to pull him apart in front of the remaining nigger. The next step is to take a bull whip and beat the remaining nigger male to the point of death, in front of the female and the infant. Don't kill him, but put the fear of God in him, for he can be useful for future breeding.

The Breaking Process of the African Woman

Take the female and run a series of tests on her to see if she will submit to your desires willingly. Test her in every way, because she is the most important factor for good economics. If she shows any sign of resistance in submitting completely to your will, do not hesitate to use the bull whip on her to extract that last bit of resistance out of her. Take care not to kill her, for in doing so, you spoil good economic. When in complete submission, she will train her off springs in the early years to submit to labor when the become of age. Understanding is the best thing. Therefore, we shall go deeper into this area of the subject matter concerning what we have produced here in this breaking process of the female nigger. We have reversed the relationship in her natural uncivilized state she would have a strong dependency on the uncivilized nigger male, and she would have a limited protective tendency toward her independent male offspring and would raise male off springs to be dependent like her. Nature had provided for this type of balance. We reversed nature by burning and pulling a civilized nigger apart and bull whipping the other to the point of death, all in her presence. By her being left alone, unprotected, with the male image destroyed, the ordeal caused her to move from her psychological dependent state to a frozen independent state. In this frozen psychological state of independence, she will raise her male and female offspring in reversed roles.

For fear of the young males life she will psychologically train him to be mentally weak and dependent, but physically strong. Because she has become psychologically independent, she will train her female off springs to be psychological independent. What have you got? You've got the nigger women out front and the nigger man behind and scared. This is a perfect situation of sound sleep and economic. Before the breaking process, we had to be alertly on guard at all times.

Now we can sleep soundly, for out of frozen fear his woman stands guard for us. He cannot get past her early slave molding process. He is a good tool, now ready to be tied to the horse at a tender age. By the time a nigger boy reaches the age of sixteen, he is soundly broken in and ready for a long life of sound and efficient work and the reproduction of a unit of good labor force. Continually through the breaking of uncivilized savage nigger, by throwing the nigger female savage into a frozen psychological state of independence, by killing of the protective male image, and by creating a submissive dependent mind of the nigger male slave, we have created an orbiting cycle that turns on its own axis forever, unless a phenomenon occurs and re shifts the position of the male and female slaves. We show what we mean by example. Take the case of the two economic slave units and examine them closely.

The Nigger Marriage

We breed two nigger males with two nigger females. Then we take the nigger males away from them and keep them moving and working. Say one nigger female bears a nigger female and the other bears a nigger male. Both nigger females being without influence of the nigger male image, frozen with an independent psychology, will raise their offspring into reverse positions. The one with the female offspring will teach her to be like herself, independent and negotiable (we negotiate with her, through her, by her, we negotiate her at will). The one with the nigger male offspring, she being frozen with a subconscious fear for his life, will raise him to be mentally dependent and weak, but physically strong, in other words, body over mind. Now in a few years when these two offspring's become fertile for early reproduction we will mate and breed them and continue the cycle. That is good, sound, and long range comprehensive planning.

Warning: Possible Interloping Negatives

Earlier we talked about the non economic good of the horse and the nigger in their wild or natural state; we talked out the principle of breaking and tying them together for orderly production. Furthermore, we talked about paying particular attention to the female savage and her offspring for orderly future planning, then more recently we stated that, by reversing the positions of the male and female savages, we created an orbiting cycle that turns on its own axis forever unless a phenomenon occurred and resift and positions of the male and female savages. Our experts warned us about the possibility of this phenomenon occurring, for they say that the mind has a strong drive to correct and re-correct itself over a period of time if I can touch some substantial original historical base, and they advised us that the best way to deal with the phenomenon is to shave off the brute's mental history and create a multiplicity of phenomena of illusions, so that each illusion will twirl in its own orbit, something similar to floating balls in a vacuum.

This creation of multiplicity of phenomena of illusions entails the principle of crossbreeding the nigger and the horse as we stated above, the purpose of which is to create a diversified division of labor thereby creating different levels of labor and different values of illusion at each connecting level of labor. The results of which is the severance of the points of original beginnings for each sphere illusion. Since we feel that the subject matter may get more complicated as we proceed in laying down our economic plan concerning the purpose, reason and effect of crossbreeding horses and nigger, we shall lay down the following definition terms for future generations.

Orbiting cycle means a thing turning in a given path. *Axis* means upon which or around which a body turns. *Phenomenon* means something beyond ordinary conception and inspires awe and wonder. *Multiplicity* means a great number. Sphere means a globe. *Cross breeding a horse* means taking a horse and breeding it with an ass and you get a dumb backward ass long headed mule that is not reproductive nor productive by itself.

Crossbreeding niggers mean taking so many drops of good white blood and putting them into as many nigger women as possible, varying the drops by the various tone that you want, and then letting them breed with each other until another cycle of color appears as you desire. What this means is this; Put the niggers and the horse in a breeding pot, mix some assess and some good white blood and what do you get? You got a multiplicity of colors of ass backward, unusual niggers, running, tied to a backward ass long headed mule, the one productive of itself, the other sterile. (The one constant, the other dying, we keep the nigger constant for we may replace the mules for another tool) both mule and nigger tied to each other, neither knowing where the other came from and neither productive for itself, nor without each other.

Control the Language

Crossbreeding completed, for further severance from their original beginning, we must completely annihilate the mother tongue of both the new nigger and the new mule and institute a new language that involves the new life's work of both. You know language is a peculiar institution. It leads to the heart of a people. The more a foreigner knows about the language of another country the more he is able to move through all levels of that society. Therefore, if the foreigner is an enemy of the country, to the extent that he knows the body of the language, to that extent is the country vulnerable to attack or invasion of a foreign culture. For example, if you take a slave, if you teach him all about your language, he will know all your secrets, and he is then no more a slave, for you can't fool him any longer. For example, if you told a slave

that he must perform in getting out "our crops" and he knows the language well, he would know that "our crops" didn't mean "our crops" and the slavery system would break down, for he would relate on the basis of what "our crops" really meant. So you have to be careful in setting up the new language for the slaves would soon be in your house, talking to you "man to man" and that is death to our economic system. In addition, the definitions of words or terms are only a minute part of the process. Values are created and transported by communication through the body of the language. A total society has many interconnected value system. All the values in the society have bridges of language to connect them for orderly working in the society. But for these language bridges, these many value systems would sharply clash and cause internal strife or civil war, the degree of the conflict being determined by the magnitude of the issues or relative opposing strength in whatever form.

For example, if you put a slave in a hog pen and train him to live there and incorporate in him to value it as a way of life completely, the biggest problem you would have out of him is that he would worry you about provisions to keep the hog pen clean, or the same hog pen and make a slip and incorporate something in his language where by he comes to value a house more than he does his hog pen, you got a problem. He will soon be in your house.

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Ex-Bailiff Gets 18 Months For Attempted Bribery

POSTED: 1:56 pm EDT April 29, 2010
UPDATED: 3:54 pm EDT April 29, 2010

Related To Story



Damon Ridley

CINCINNATI -- A judge sentenced a former Hamilton County bailiff Thursday to 18 months in prison.

Damon Ridley, 39, was convicted in March of attempted bribery.

Prosecutors said Ridley tried to help a man convicted of a drug charge in the court of Hamilton County Common Pleas Judge John West.

Ridley denies attempting to get a bribe from the man and suggesting he could get the man's sentence reduced.

Bailiffs run day-to-day courtroom operations and schedule when cases are heard.

Ridley resigned in 2008 after investigators questioned him about why some cases hadn't been acted on in years.

He had been charged with one count each of theft in office, bribery and attempted bribery and faced a possible 8 years in prison if convicted on all those counts.

Previous Stories:

- March 9, 2010: Former Bailiff Found Guilty Of Bribery
- May 28, 2009: Former Bailiff Indicted On Bribery, Extortion Charges

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EXHIBIT 6

JournalNews

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Ohio ex-bailiff found guilty of attempted bribery

The Associated Press

5:05 PM Tuesday, March 9, 2010

CINCINNATI — A former Ohio court bailiff accused of offering to get a case dismissed for money inthe courtroom where he worked has been found guilty of attempted bribery.

Damon Ridley was found guilty Tuesday. He was acquitted of charges of theft in office and bribery. The former bailiff for Hamilton County Common Pleas Judge John West could be sentenced to up to 18 months in prison.

A convicted drug dealer testified that he gave Ridley $1,000 to ensure he wouldn't go to prison for a drug conviction before West.

Bailiffs run day-to-day courtroom operations and schedule when cases are heard.

Ridley resigned in October 2008 after investigators questioned him about why some cases hadn't been acted on in years.

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Information from: The Cincinnati Enquirer, http://www.enquirer.com

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March 09, 2010 09:56 PM EST

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Monday, January 5, 2009

New Year, New Court Corruption Exposed: Bailiff Tampering

Bribery probe snares bailiff

Defendants allegedly could buy secret friend in courtroom

The Cincinnati EnquirerBy Kimball Perry -January 2, 2009 - kperry@enquirer.com

Hoping to crack a federal drug case, investigators were listening in on telephone calls when they stumbled across a conversation that is sending shock waves

through Hamilton County's judicial system. On that wiretap, federal officials heard what they believe was an attempt by convicted drug dealer Charles Johnson to buy his freedom by arranging a meeting with a court bailiff he hoped would fix his sentence. That alleged incident is the centerpiece of a criminal investigation into Damon Ridley, who was the bailiff for Hamilton County Common Pleas Judge John "Skip" West until Ridley was confronted with the allegations and resigned. Johnson's case has investigators poring over thousands of court documents involving criminal cases before West over the last five years. They are looking at why some cases presided over by West never had their sentences carried out and why other cases before him had no activity for years.

The issue is whether Ridley, 37, who also is the girls' varsity basketball coach at Woodward High, accepted money or favors in exchange for fixing sentences handed down by West or delaying them so long that thousands of dollars in fines and court fees were never paid. Bailiffs run the day-to-day operations of courtrooms and schedule when cases are heard. Johnson was arrested in July 2007, accused of selling heroin and cocaine in Over-the-Rhine. He was staring at 8½ years behind bars after police caught him with drugs and $2,165 in cash. That's when Johnson made a few calls, heard on the wiretaps, and arranged a meeting at a Spring Grove Avenue baseball field to try to avoid jail time. Johnson, now also under a federal drug indictment, was offering to pay Ridley $1,000 to help Johnson fix his criminal case so he wouldn't go to prison, Hamilton County Prosecutor Joe Deters said. Ridley showed up at the baseball field, Deters said, but the prosecutor wouldn't discuss the issue further, citing an ongoing investigation. Johnson pleaded guilty March 25 before West to reduced charges that still could have sent him to prison for 5½ years. Instead, West sentenced Johnson to probation and to serve up to six months in the River City Correctional Center, a drug-rehabilitation center run by Hamilton County judges. Investigators asked Ridley on Oct. 29 about the allegation. He resigned the next day. "I can tell you (Ridley) has told us numerous stories," Deters said.

None of what Deters says is true, Ridley told The Enquirer. "I haven't done anything wrong," Ridley said, denying he ever took money or favors for altering sentences. Ridley confirms he was questioned by investigators who asked him if he took money to alter West's sentences - which he denied - but said he hasn't spoken to investigators "in the last two months." "They just put my name on a lot of stuff that is not true," Ridley said. Investigators, Ridley said, also asked him about his visits to Indiana's riverboat casinos, where Ridley admits he gambles often. Ridley resigned after being questioned, he said, to lessen any impact on the judge. "I have a lot of respect for Judge West and I wasn't going to bring anything (negative) to him," Ridley said. He declined to answer additional questions, he

wide-spread list of charges, says

said, on the advice of his attorney. He refused to say who his attorney was. If the allegations are proved, Ridley's actions could be disastrous to the Hamilton County court system as the public - and criminals - may infer the judicial system was undermined by one person's greed. "When you've got someone putting their thumb on the scales of justice, it's a very serious offense," University of Cincinnati law professor Christo Lassiter said. "You lose faith in government and there is a very serious threat to the judicial branch.

"The whole idea is to have a neutral arbiter. Why do that if there is a judge whose decisions are being bought by a bailiff? We may as well not have a judicial system." Deters is unsure of what role, if any, the judge has in the delay of cases, but he doesn't believe West is involved in wrongdoing. "Wherever this leads, we will go," Deters said, "but it would shock me to my core if the judge was involved. The judge is cooperating with us." West has refused to talk about the investigation, referring questions to Deters. Because Johnson's case is one of many being looked at, Deters asked for help from the Ohio Bureau of Criminal Identification and Investigation, an arm of the Ohio Attorney General. Investigators seized all of West's notes and files on the cases he presided over since 2003, shortly after Ridley became West's bailiff. In late November, Investigator McKinley Brown and several other prosecutor's staff took so many documents from West's fifth-floor courtroom they needed a flatbed to take them to the prosecutor's office. Ridley's work computer also was seized and its hard drive pulled for analysis. While on the bench, West talked about several of the stalled cases in question.

In three specific cases, West acknowledged from the bench that the case files he uses to track each case's progress contained handwriting that wasn't his. Generally, judges write their notes from each case on a case file or card they keep for their records. Some judges, though, cede the responsibility of maintaining the case file to their bailiffs. In each of those three cases, the person charged with a crime had no action taken on their case in at least two years. In each, West insisted he knew nothing about why those cases were dormant and noted there were no legal documents - especially none signed by him - that allowed the cases to be continued or set for another court date. Lawyers representing those three defendants admit they have been questioned by investigators about why the cases were dormant for years. Two of those lawyers - Kevin BoBo and Gloria Smith - said the investigators asked them if they had ever given Ridley money or loaned him money to continue the case. Each denied giving or lending Ridley money and denied any wrongdoing. But Ridley did borrow money from some lawyers, Deters said. "Some defense attorneys called us and said they loaned him money," Deters said.

At a Nov. 18 court hearing, West called the case of Josh Ludlum, who pleaded guilty Feb. 15, 2005 - 3½ years earlier - to attempted possession of cocaine. West sentenced Ludlum at that time to pay court costs and a fine. West then allowed Ludlum until March 15, 2005, to pay the fines and fees. But they were never paid. "I have no other record of this defendant being before this court," West said that day. "I have no indication that the fine or the court costs have been paid." The judge then turned to Brown, the prosecutor's investigator who was in the courtroom, and said, "Mr. Brown, this is one of those ones (cases) we discussed." "Yes sir," Brown responded. The second case in question that day involved the 2005 drug case against Gary Walker. "The entry that appears on the (judge's) card and not in my writing is that on 2/24/06, this matter was continued to 4/13/06 for plea or trial setting," West said. "There is no other entry, and I don't know what's happened since then."

In another case that day, Sakinah Thomas, a co-defendant of Walker, had her drug case called. It dated from 2005, three years before. Thomas was represented by attorney Smith. The week before, she told West that the case was still dormant. "You brought it to my attention last week and I'm very curious about that," West told Smith. "But more so, there is an investigator here and that's also curious. ... I know he wants to speak to your client." Smith confirmed she and her client had been interviewed by investigators about the case. West then noted that the last entry made on Thomas' case file was from March 9, 2006, which set the next court date for April 13, 2006. "I made no other notation," West said. "The next notation that appears on my note card is not in my writing, and it's dated 4/13/06, and it says 'continued to 5/10/06 ...' " In a Dec. 15 hearing on Thomas' case, her attorney told the judge she and Thomas had been to the courthouse "many times" to try to plead guilty and dispose of the case. "The case has always been continued," Smith told the judge. "By whom?" West asked. "Mr. Ridley," Smith answered. West also noted that all of the activity on the Thomas case "took place on dates when I wasn't in court" and there were no court entries continuing the case. "All of this is contrary to the way I do business," West told Smith.

Prosecutors became so frustrated with the slow pace of justice in West's courtroom that one, Katherine Pridemore, filed a legal motion requiring her to be contacted on a specific case that had been continued - without her knowledge or agreement - dozens of times. David Gvozdanovic was convicted Oct. 25, 2003, in West's room for trafficking in marijuana. Almost three years later, an exasperated Pridemore filed a motion that showed her frustration. Titled "State's Supplemental motion to be present for any further action taken on this case," the motion reads,

in part: "On August 31, 2006, it came to the attention of the State that this case was yet again moved from the September 1, 2006 docket to September 11, 2006 without notice to the State, causing this case to be continued for the 34th time." The investigation has taken an emotional toll on West. West was close personally to Ridley, treating him like family. West and his family vacationed with Ridley and socialized with him. In West's courthouse chambers, there is a studio portrait of West, Ridley and another of West's court workers. Ridley worked for the Hamilton County Clerk of Courts office from April 16, 1997, until Nov. 15, 2002, when he began working as West's bailiff. Ridley's annual salary when he resigned after being confronted by investigators was $43,957. Deters predicted the investigators' audit of West's files would be complete within "two to three weeks."

Posted by Corrupt Courts Administrator at 6:13 PM 

10 comments:

Anonymous said...

a woman who worked at the state for many years has been trying to get answers for some time over similar occurrences in upstate ny in the hudson valley region

one attorney in upstate ny got a phone call at night after a jury trial started that a judge put a "fix" in ("dirty deal" as described) in favor of some connected law firms representing insurance defendants and the info on the "dirty deal" came from a witness in the case who was told about the dirty deal from a friend who worked as a court deputy who overheard the "dirty deal" according to the witness

sure enough, the "dirty deal" was put in to place the next day and the lawyer could never get the court deputy or witness back on the stand but tried

the witness and the deputy thereafter got political advancements as the deputy was transferred up to the state capital

in another case out of the same courthouse the judge's bailiff was hanging out and watching a valuable home in the middle of a matrimonial / family case the judge was in that looked more like an extortion custody scandal by the wife and others bringing false allegations to get substantial 6 figure monies and property

the judge repeatedly cut off the
the wife during cross exam when the wife was letting out information about the Bailiff who worked in the judge's court

the judge never disclosed the conflicts of interest of his own bailiff working for one side in a case and the state cjc and others have done nothing to date for several years now

January 5, 2009 7:25 PM

Anonymous said...

oh, and those insurance defendants were able to save their companies a lot of money in a case which was otherwise won unanimously by the plaintiff in a jury verdict but the jury never got to hear the key expert witnesses who had been cleared to testify by a previous judge even though one witness was a recognized expert in the field statewide who had done similar work internationally

so the unanimous jury verdict was rather low on damages since the jury

WLWT.com

Former Bailiff Found Guilty Of Bribery

POSTED: 12:54 pm EST March 9, 2010

Related To Story



Damon Ridley

CINCINNATI -- A former Hamilton County bailiff has been found guilty of bribery.

Damon Ridley, 39, had been accused of taking money from a defendant in exchange for a guarantee on a particular sentence and attempting to extort additional money from the same defendant for a lesser sentence.'

Ridley will be sentenced next month.

Previous Stories:

- May 28, 2009: Former Bailiff Indicted On Bribery, Extortion Charges

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Click to view training that has been offered by the Ohio Bailiffs and Court Officers Association since 1995.

Ohio Senate Proclamation for Bill Powell

Click to view new article and Senate Proclamation.

Law Enforcement Torch Run for Special Olympics

The Law Enforcement Torch run for Special Olympics took place in Ohio the week of June 22, 2009. The torch run starts from each corner of the state and meet in Columbus on June 26th. The torch run for Wood County was Wednesday, June 24. Chief Court Constable Tom Chidester participated along with other law enforcement officers in Wood County.





2010 Spring Training Conference

The Association has just completed its preparations to hold the 2010 Spring Training Conference and Awards Banquet in the Wilmington, Ohio area. This conference will be held at the Roberts Centre - Holiday Inn on April 16 & 17, 2010. Training subjects will be announced closer to the conference as well as hotel and conference costs. Check here to view the Roberts Centre.

Fall 2009 Conference

The Fall 2009 Conference for the Ohio Bailiffs & Court Officers Association will be held at the Embassy Suites Hotel on September 17-18, 2009. The Embassy Suites Hotel is located on Corporate Exchange Blvd. in Columbus, Ohio.

National Law Enforcement Training Conference & Expo

View conference and expo information.

Ex-bailiff accused of seeking bribe to kill case

A grand jury has indicted a former court bailiff accused of offering to get a case dismissed for money in the courtroom where he worked.

The grand jury in Cincinnati on Thursday indicted 37-year-old Damon Ridley on theft in office, bribery and attempted bribery charges.

Ridley's phone number is unpublished and he could not be reached for comment yesterday. He has denied any wrongdoing.

Prosecutors say Ridley told a suspected drug dealer that he could get the charges dropped in Hamilton County Common Pleas Court for a price. Authorities think Ridley took $1,000.

Ridley resigned in October after investigators questioned him about why some cases hadn't been acted on in years. Bailiffs run day-to-day courtroom operations and schedule when cases are heard.

-- Cincinnati Enquirer
via AP

Wood County Courthouse is scene of Multi-Agency Police Memorial Service









Written, verbal threats to federal judges jump

View news article.

Office Safety Issues

View recent descriptions and photographs related to officer safety.

Courthouse Incidents

Murder suspect killed while attacking Judge
Courthouse shooting in St. Petersburg, FL

Marijuana Cave

View marijuana growing cave. (NOTE: This is a Microsoft Powerpoint file. If you do not have Powerpoint, you can download the





Ex-bailiff in Ohio charged with theft, bribery

Associated Press - May 29, 2009 9:55 AM ET

CINCINNATI (AP) - An Ohio grand jury has indicted a former court bailiff accused of offering to get a case dismissed for money in the courtroom where he worked.

The grand jury in Cincinnati on Thursday indicted 37-year-old Damon Ridley on theft in office, bribery and attempted bribery charges.

Ridley's phone number is unpublished and he could not be reached for comment Friday. He has denied any wrongdoing.

Prosecutors say Ridley told a suspected drug dealer that he could get the charges dropped in Hamilton County Common Pleas Court for a price. Authorities believe Ridley took $1,000.

Ridley resigned in October after investigators questioned him about why some cases hadn't been acted on in years. Bailiffs run day-to-day courtroom operations and schedule when cases are heard.

Information from: The Cincinnati Enquirer, http://www.enquirer.com

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Turning the tide after a gain
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IN THE SUPREME COURT OF OHIO

STOR-ALL ALFRED, LLC,

Plaintiff,

vs.

DENISE V. NEWSOME,

Defendant.

Common Pleas Case No. A-0901302

From the Hamilton County
Court of Common Pleas

Supreme Court Case No. 10-AP-069

Judgment Entry on Defendant's 8/11/10 Motion for Final Entry and Stay

The affidavit of disqualification filed by Denise Newsome in this case on July 13, 2010 was denied by entry dated July 17, 2010. On July 27, 2010, Newsome filed a motion for reconsideration, which I denied on August 2, 2010.

Newsome has now filed a motion for the court to issue a final judgment entry so she can exercise her right to appeal to the United States Supreme Court. She also seeks a stay of these proceedings while the matter is appealed.

R.C. 2701.03(E) provides that if the chief justice "determines that the interest, bias, prejudice, or disqualification alleged in the affidavit does not exist, the chief justice * * * shall issue an entry denying the affidavit of disqualification." In accordance with R.C. 2701.03(E), I issued an entry on July 17, 2010 denying Newsome's affidavit of disqualification. Likewise, I issued another entry on August 2, 2010 denying Newsome's motion for reconsideration. Thus, contrary to Newsome's assertion, final entries have been issued in this case and there are no issues left to be resolved.

As to Newsome's motion for stay, R.C. 2701.03 does not authorize the chief justice to stay affidavit-of-disqualification proceedings while the affiant files an appeal to the United States Supreme Court.

EXHIBIT 7

For the reasons stated above, Newsome's motions are denied. The case may proceed before Judge West.

Dated this 18 day of August, 2010.

ERIC BROWN
Chief Justice

Copies to: Kristina D. Frost, Clerk of the Supreme Court
Hon. John A. West
Hamilton County Clerk of Courts
✓ Denise V. Newsome

The Supreme Court of Ohio

65 SOUTH FRONT STREET, COLUMBUS, OHIO 43215-3431

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Denise Newsome
P.O. box 14731
Cincinnati, Ohio 45250

GDI-A3F 45250

EXHIBIT 7

IN THE
SUPREME COURT OF OHIO

STOR-ALL ALFRED, LLC
1109 Alfred Street
Cincinnati, Ohio

PLAINTIFF

vs.

DENISE V. NEWSOME
Post Office Box 14731
Cincinnati, Ohio 45250

DEFENDANT

COMMON PLEAS CASE NO.: A0901302

From The Hamilton County
Court Of Common Pleas

FILED
AUG 11 2010
CLERK OF COURT
SUPREME COURT OF OHIO

SUPREME COURT CASE NO. **10-AP-069**

NOTIFICATION OF INTENT TO FILE EMERGENCY WRIT OF CERTIORARI WITH THE UNITED STATES SUPREME COURT; MOTION TO STAY PROCEEDINGS – REQUEST FOR ENTRY OF FINAL JUDGMENT/ISSUANCE OF MANDATE AS WELL AS STAY OF PROCEEDINGS SHOULD COURT INSIST ON ALLOWING AUGUST 2, 2010 JUDGMENT ENTRY TO STAND[1]

COMES NOW Defendant, V. Denise Newsome ("Defendant" and/or "Newsome"), through this instant filing entitled, ***"NOTIFICATION OF INTENT TO FILE EMERGENCY WRIT OF CERTIORARI WITH THE UNITED STATES SUPREME COURT; MOTION TO STAY PROCEEDINGS – REQUEST FOR ENTRY OF FINAL JUDGMENT/ISSUANCE OF MANDATE AS WELL AS STAY OF PROCEEDINGS SHOULD COURT INSIST ON ALLOWING AUGUST 2, 2010 JUDGMENT ENTRY TO STAND"*** ("Notification Of Intent") and request this Court, if it is going to stand by its August 2, 2010 ***"Judgment Entry of Defendant's 7/27/10 Motion for Consideration,"*** that upon the lapse of the appropriate time, that Newsome be provided with a copy of the Ohio Supreme Court's **"FINAL JUDGMENT"** and/or **"ISSUANCE OF MANDATE"** – pursuant to Ohio Supreme Court Rule XI – Section 4 and/or the applicable statutes/laws governing said matters, so that she may exercise her right to appeal this matter to the United States Supreme Court. At this time this Court's ***"Judgment Entry of***

[1] BOLDFACE, ITALICS, UNDERLINE, etc. added for emphasis.

EXHIBIT 8

Defendant's 7/27/10 Motion for Consideration" *does* ***NOT*** *address* ***ALL*** *issues raised in Newsome's Motion for Reconsideration and does* ***NOT*** *appear to be a Final Judgment on its face. Therefore, this Court still has at its discretion the opportunity to revise/remand its August 2, 2010 Judgment Entry prior to the "Issuance of Mandate."* Should this Court INSIST on DENYING Newsome's Affidavit of Disqualification, she will move within the time allowed to file an "***EMERGENCY*** *Writ of Certiorari"* with the United States Supreme Court. Furthermore, should this Court INSIST on allowing its August 2, 2010 Judgment Entry to stand, Newsome is requesting that these *proceedings be* ***STAYED*** while this matter is appealed and/or taken to the United States Supreme Court. The "EMERGENCY Writ of Certiorari" will address the URGENCY of such filing and the affect/impact that that such issues to be raised are of ECONOMIC/JUDICIAL precedent and will affects/impact the lives of many who have been subjected such CRIMINAL/CIVIL wrongs as that leveled against Newsome. Newsome will then move (within the time allowed under United States Supreme Court Rules) to file her "***EMERGENCY Writ of Certiorari."*** If Newsome is *compelled* to move forward with this matter to the ***UNITED STATES*** *Supreme Court*, she will submit to the Ohio Supreme Court her **"REQUEST FOR CERTIFICATION OF RECORDS"** *in this instant matter* (Case No. **10-AP-069**) as well as **Case No. 09-1690** - in that documentation will be RELEVANT/PERTINENT to the ***EMERGENCY*** *Writ of Certiorari* that will be pursued. Newsome will also move to file her *"REQUEST FOR CERTIFICATION OF RECORDS"* in the ***Hamilton County Court of Common Pleas*** in Case No. **A0901302** in that information in said court's record is RELEVANT/PERTINENT to the *EMERGENCY Writ of Certiorari* that will be pursued. Newsome will also move to file her *"REQUEST FOR CERTIFICATION OF RECORDS"* in the ***Hamilton County Municipal Court*** in Case No. **09CV01690** in that information in said court's record is

RELEVANT/PERTINENT to the ***EMERGENCY*** *Writ of Certiorari* that will be pursued. As a matter of law, Newsome may exercise said right to appeal matter to the United States Supreme Court through Writ of Certiorari action pursuant to 28 USC§ 1257 – **State Courts; Certiorari** - which states in part:

> 1257(a) - - Final judgments or decrees rendered by the highest court of a state in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or ***statute of the United States is drawn in question*** or ***where the validity of a statute of any State is drawn in question*** on the ground of its *being* ***repugnant*** to the Constitution, treaties, *or laws of the United States*, or *where any title, right, privilege, or immunity is specially set up or claimed under the Constitution* or the treaties *or statutes of, or any commission held or authority exercised under, the United States*.

pursuant to 28 USC §2101 – **Supreme Court; Time for Appeal or Certiorari; Docketing; Stay** – which states in part:

> 2101(c) - - Any other appeal or any writ of certiorari intended to bring any judgment or decree in a civil action, suit or proceeding before the Supreme Court for review shall be taken or *applied for* ***within ninety days*** *after the entry of such judgment or decree*. A justice of the Supreme Court, for good cause shown, may extend the time for applying for a writ of certiorari for a period not exceeding sixty days.
>
> 2101(f) - - In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on a writ of certiorari, *the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court. . .*

While Newsome has concerns that the Ohio Supreme Court may attempt to obstruct justice in FURTHERANCE of conspiracy leveled against her and/or attempt to render special favors to counsel and Judges because they are BIG FINANCIAL CONTRIBUTORS to Justices of the Ohio Supreme Court, she must still follow and file the proper pleadings to preserve and protect her rights to bring such matters to the attention of the United States Supreme Court. This instant filing is submitted to

support Newsome's good-faith demands made to this Court to aid her in the filing of *"**EMERGENCY** Writ of Certiorari" –*

> Notices of appeal filed May 3 and May 7 from decision announced February 17 but not formally entered until April 9 were timely whether judged by date of entry or by fact that order incorporated in February 17 decision was not finally made effective until decision of April 28. *Burns v. Richardson* (1966), 86 S.Ct. 1286, 384 U.S. 73, 16 L.Ed.2d 376.
>
> Ninety-day limit for filing petition for certiorari in civil case is mandatory and jurisdictional. *Federal Election Com'n v. NRA Political Victory Fund* (1994), 115 s.Ct. 537, 513 U.S. 88, 130 L.Ed.2d 439.
>
> Where ninetieth day within which appeal could be taken from judgment of Missouri Supreme Court to United States Supreme Court fell on Sunday, an appeal taken on the following day was timely. *Union Nat. Bank of Wichita, Kan. V. Lamb* (1949), 69 S.Ct. 911, 337 U.S. 38, 93 L.Ed. 1190, 69 S.Ct. 1492, 337 U.S. 928, 93 L.Ed. 1736.

For Appeal purposes, Newsome is requesting that the Ohio Supreme Court provide her with a copy of Judge John Andrew West's response to the Affidavit for Disqualification filed (if one was filed) – ***by August 25, 2010*** *- in that she did not receive a copy. Information that is CRUCIAL/PERTINENT and RELEVANT to the "**EMERGENCY** Writ of Certiorari" to be filed with the United States Supreme Court.* It is not clear to Newsome how the Ohio Supreme Court reached its decision rendered in ***"Judgment Entry of Defendant's 7/27/10 Motion for Consideration"*** because **NONE** of the issues Newsome raised in her Motion for Reconsideration were addressed. Therefore, as a matter of law, the *Ohio Supreme Court's failure to address the issues raised by Newsome as well as provide legal conclusions to sustain its decision, may be deemed ARBITRARY and CAPRICIOUS; moreover, entered with ill purposes, prejudices, and intent to cause irreparable injury/harm to Newsome.*

The ***"Judgment Entry of Defendant's 7/27/10 Motion for Consideration"*** executed by the Ohio Supreme Court neither addresses the ISSUES timely, properly and adequately raised in

Newsome's *"Affidavit of Disqualification"* and *"Motion for Reconsideration"* and clearly are in conflict with decisions of other state Supreme Courts as well as the United States Supreme Court on such issues. Furthermore, rulings on such issues matters will have an ECONOMIC/SUBSTANTIAL impact on the lives of many citizens who have been subjected to similar CRIMINAL/CIVIL violations as those leveled against Newsome. Newsome having to suffer irreparable injury/harm and loss of many rights/liberties secured under the laws because of the EVIL/WICKEDNESS of her enemies/adversaries who have for DECADES/YEARS sought to destroy her life. Therefore, there is nothing in the record of the Ohio Supreme Court to support and/or substantiate its ground for DENIAL of Newsome's *Motion for Reconsideration.* This instant pleading has been filed in good faith and for purposes to support Newsome's efforts to secure that the record of the Ohio Supreme Court should it become necessary for her to take this matter to the ***United States*** *Supreme Court*. Should this Court instant on allowing its August 2, 2010 Judgment Entry to stand, Newsome believes that the execution of a "FINAL JUDGMENT" and/or "ISSUANCE OF MANDATE" will be needed to support the "stay of proceedings" while Newsome moves to file with the ***United States*** *Supreme Court* her "*Writ of Certiorari."*

> Under this section which authorizes the stay of execution and enforcement of a judgment or decree to enable an aggrieved party to obtain a writ of certiorari form the United States Supreme Court, a stay is authorized only if the judgment sought be stayed is final and is subject to review by the Supreme Court on writ of certiorari. *New York Times Co. v. Jascalevich* (1978), 99 S.Ct. 6, 439 U.S. 1317, 58 L.Ed.2d 25; 99 S.Ct. 11, 439 U.S. 1331, 58 L.Ed.2d 38.
>
> Three conditions must be met before single justice of the Supreme Court will issue a stay; there must be a reasonable probability that certiorari will be granted or probable jurisdiction noted, significant possibility that judgment below will be reversed, and likelihood of irreparable harm, assuming the correctness of the applicant's position, if the judgment is not stayed. (Per Justice Scalia, as Circuit Justice.) *Barnes v. E-Systems, Inc. Group Hosp. Medical & Surgical Ins. Plan,* (1991), 112 S.Ct. 1, 501 U.S. 1301, 115 L.Ed.2d 1087.

Newsome believes that there is reasonable probability that certiorari will be granted and that the United States Supreme Court will have jurisdiction; Newsome believes that should the Ohio Supreme

Court refuse to comply with the statutes/laws governing said matters, that there is significant possibility that its August 2, 2010 Judgment Entry will be reversed; and based upon the FACTS, EVIDENCE, and LEGAL AUTHORITIES the record and testimony provided will support Newsome has suffered irreparable injury/harm based upon the correctness of her position taken and the CRITICAL/CRUCIAL arguments and sustaining evidence in the record of this Court and/or accessible to this Court. In further support of this instant ***"NOTICE OF INTENT,"*** Newsome further states that the "Writ of Certiorari" that she seeks to file with the United States Supreme Court will support:

1) This instant ***NOTICE OF INTENT*** is submitted in good faith and is not submitted for purposes of delay, harassment, hindering proceedings, embarrassment, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, etc. and is filed to protect and preserve the rights of Newsome.

2) Should it become necessary, Newsome will file her ***EMERGENCY*** *Writ of Certiorari* in that she believes the Justices of the United States Supreme Court will see from the record evidence the WELL-ESTABLISHED racism that targets educated African-Americans such as herself that white employers want to control and keep in place; therefore, they engage in criminal/civil wrongs leveled against Newsome which clearly in violation of her Constitutional Rights, Civil Rights and other rights secured/guaranteed under the laws.

3) Newsome believes that ***EMERGENCY*** *Writ of Certiorari* will issue in that the record evidence, facts and legal conclusion to be provided will sustain the IRREPABALE INJURY/HARM Newsome has REPEATEDLY been subjected to because of the criminal/civil wrongs as that by Judge John Andrew West and his Conspirators/Co-Conspirators who have purposed in their hearts to subject Newsome to MALICIOUS actions as well as bring the lower court(s) in ILL REPUTE!!

4) Newsome believes that the record evidence will support that while this supposed to be a ***"Court of Law"*** those who oppose Newsome and come before this Court are not practicing, not arguing and/or relying upon the laws; however, are looking for SPECIAL FAVORS and HANDOUTS from this Court to obtain an undue/unlawful/illegal advantage.

5) Newsome believes that filing of ***EMERGENCY*** *Writ of Certiorari* is PERTINENT/RELEVANT in hopes that it will shed additional light on the NEED TO ADDRESS RACIAL INJUSTICES LEVELED AGAINST AFRICAN-AMERICANS and/or PEOPLE OF COLOR. In light of the recent shooting on or about **August 3, 2010, in**

Manchester, Connecticut see Article(s) attached at **EXHIBITS "1"** – incorporated by reference as if set forth in full herein - and/or the following links:

http://www.omaha.com/article/20100803/NEWS/708039865/1031

http://www.examiner.com/x-48240-NY-Public-Policy-Examiner~y2010m8d8-Possibility-that-Omar-Thornton-did-not-act-alone

Using the following excerpts:

> Some people don't want to discuss racism as being a form of violence because it would reveal that they themselves are in fact extremely violent and in denial about it.
>
> ***Omar Thornton's incident has a host of websites spewing hate talk toward African-Americans.*** Hartford Distributors may have used racism and gradually managed to kill Omar Thornton mentally and emotionally before the killing spree via attrition. Jessica Anne Brocuglio, an ex-girlfriend of Omar Thornton, comes forward with character evidence:
>
> > He always felt like he was being discriminated (against) because he was black[.]" "**Basically they wouldn't give him pay raises. He never felt like they accepted him as a hard working person**."
>
> This statement corroborates with what Kristi Hannah, Omar Thornton's fiancée before his death, had been telling the Manchester Police Department about Hartford Distributors treating him like a persona non grata.
>
> Plus, a fellow co-worker who was employed with Omar Thornton at Hartford Distributors has come forward stating that ***he had seen the racist taunts: "Stuff on walls. Racist comments. I saw with my own eyes***." More importantly, the fellow co-worker said Mr. Thornton **was hired as a truck driver**; ***yet, he was assigned to loading boxes in the warehouse***. Mr. Thornton had to fight to get behind the wheel. The co-worker then states that Hartford Distributors **are lying** and **the evidence** is in Omar's cell phone. *These statements are serious and they are not based upon speculation. This places the co-worker in a position to be called as a key witness to racism within Hartford Distributors. Although the co-worker is no longer under the employ of Hartford Distributors, he has witnessed these incidents first-hand. These statements make it appear as if Hartford Distributors is deliberately being obtuse to shield themselves from potential liability*. As Marcellus said in

> William Shakespeare's play "Hamlet," "[s]omething is rotten in the state of Denmark." Thus far, the answers provided by Hartford Distributors just rubs me the wrong way.

http://www.google.com/hostednews/ap/article/ALeqM5jBNP73m9cp2g6qFtWxCbJH6IAD3gD9HEV71O0

> But underneath, Thornton seethed with a sense of racial injustice for years that culminated in a shooting rampage Tuesday in which the Connecticut man killed eight and wounded two others at his job at Hartford Distributors in Manchester before killing himself.
>
> "***I know what pushed him over the edge was all the racial stuff that was happening at work***," said his girlfriend, Kristi Hannah.
>
> Thornton, a black man, said as much in a chilling, four-minute 911 call.
>
> "***You probably want to know the reason why I shot this place up***," Thornton said in a recording released Thursday. "***This place is a racist place. They're treating me bad over here. And treat all other black employees bad over here, too. So I took it to my own hands and handled the problem. I wish I could have got more of the people."*** . . .
>
> One time Thornton had a confrontation with a white co-worker who used a racial slur against him, she said. Thornton changed jobs a few times because he was not getting raises, Brocuglio said.
>
> "***I'm sick of having to quit jobs and get another job because they can't accept me,***" she said he told her. . . .
>
> Brocuglio's sister, Toni, said Thornton would come home and say co-workers called him racial slurs. He was also upset by comments made by passers-by about the interracial couple, she said.
>
> "***He just didn't understand why people had so much hatred in their lives***," Toni Brocuglio said. . . .
>
> But Hannah said ***he showed her cell phone photos of racist graffiti in the bathroom at the beer company and overheard a company official using a racial epithet in reference to him***, but a union representative did not return his phone calls. Police said they recovered the phone and forensics experts would examine it.

The Fort Hood Shooting on or about November 5, 2009:

http://en.wikipedia.org/wiki/Fort_Hood_shooting

The Virginia Tech Shooting on or about April 16, 2007:

http://en.wikipedia.org/wiki/Virginia_Tech_massacre

The Port Gibson Shooting in March 2006:

http://workplaceviolence.blogspot.com/2006_04_01_archive.html

> Apparently, the deadly shooting rampage was the culmination of years of anger and frustration over what the shooter believed to be false accusations of sexual harassment. "I don't know how you can consider me a danger. I was made a criminal through the system. . .

http://www.topix.com/forum/city/port-gibson-ms/T0RUM1ECTB788O4HN

> "I would put Carl Brandon as a model from my town. I think he was one of the more intellegent and well manners persons in the class. i cannot imagine this guy walking up one morning to decide that he want to destroy his life and others." – Sarah Kelly (Chicago, IL)
>
> "Some time a person ***try to walk away from a problem, but there are people in this world that want let them do that****. This man had left his job and move on, but that was not good enough.* **They had to call his job and tell them what happened 9 years ago, and got this man fired**. I hate that he let the devil take over him at the time, but I do understand . . . I hope we can learn something from this tragedy." – Shelly Jones (Nashville, TN)
>
> "He had lost his job because someone said he had harassed them. He lost his reputation and the respect of some. *When he tried to move on* ***some vindictive, vicious persons went to his next job and scandalized him****. He fought through every legal avenue available to him and found* ***no*** *justice*." – Cassandra Cook Butler (AOL)

are just a few of many shootings why Newsome believes it is of SERIOUS/CRITICAL nature that the issues raised herein as well as in this Court's filing and lower court filings be addressed. Newsome in her filings will provide the EVIDENCE and LEGAL CONCLUSIONS to sustain her arguments.

6) Newsome believes there are compelling reasons to support GRANTING of *"**EMERGENCY** Writ of Certiorari"* which include, but is not limited to, the following:

a) The Ohio Supreme Court has entered a decision in conflict with the decision of another state Supreme Court on the same important matter;

b) Has taken a FAR DEPARTURE from the accepted and usual course of judicial proceedings, or sanctioned such a departure by the Hamilton County Court of Common Pleas, as to call for the exercise of the United States Supreme Court;

c) The Ohio Supreme Court (as the court of last resort) has decided an important federal question in a way that conflicts with the decision of another state court of last resort;

d) The Ohio Supreme Court has decided an important question of federal law that may not have been, but should be, settled by the United States Supreme Court, and/or has decided an important federal question in a way that conflicts with relevant decisions of the United States Supreme Court.

e) It is of PUBLIC/NATIONAL/WORLDWIDE importance because such matters affect not only Newsome but will have a heavy impact on the lives of many others who have suffered similar wrongs; however, may not have had the means and/or resources available to them to retain documentation and/or evidence and legal conclusions as Newsome.

f) The issues to be presented through *"**EMERGENCY** Writ of Certiorari"* is of PUBLIC/NATIONAL importance and affects the substantial Constitutional and Civil Rights of Newsome as well as other citizens of the United States.

7) Newsome believes that the record evidence will support there are **"special and important reasons"** within Rule 10 of the United States Supreme Court to substantiate *"problems beyond the academic or episodic, especially where issues involved reach constitutional dimensions." Rice v. Sioux City Memorial Park Cemetery* (1955), 75 S.Ct. 614, 349, U.S. 70, 99 L.Ed. 897.

8) Newsome believes that Certiorari will be granted in that the evidence will support that **RECURRING** importance of problem that exists in administration of federal laws and conflict between the courts (i.e. State and/or Federal), that the United States Supreme Court has granted Certiorari. *U.S. v. Zacks* (1963), 84 S.Ct. 178, 375 U.S. 59, 11 L.Ed.2d 128.

9) Newsome believes that Certiorari will be granted in that the evidence will support the CRIMINAL/CIVIL wrongs leveled against her by the Justices of this Court as well as lower court(s). Furthermore, that a reasonable mind may conclude that the **SUBSTANTIAL/EXCESSIVE** campaign

contributions paid to Justices of the Ohio Supreme Court by Liberty Mutual and/or it lawyers were for purposes of obtaining SPECIAL FAVORS and/or FAVORABLE rulings on behalf of their client Liberty Mutual and/or Liberty Mutual's clients. Such contributions which this Court apparently finds acceptable; however, federal statutes/laws says otherwise especially when such monies are received with knowledge that special rulings in favor of contributors are expected in EXCHANGE for receipt of monies. Thus, supporting further intervention by the United States Supreme Court in this matter.

10) Based upon the SIGNIFICANCE nature and IMPORTANCE of filing *"**EMERGENCY** Writ of Certiorari,"* and the evidence that will support the ***PATTERN-OF-ABUSE***, ***CRIMINAL STALKING***, ***HARASSMENT,*** etc. contacting of Newsome's employers for reasons of getting her TERMINATED and purposes of obtaining an UNDUE/UNLAWFUL/ ILLEGAL advantage in lawsuits by Plaintiff (Stor-All), its insurance carrier (Liberty Mutual), their attorneys and others, Newsome will be requesting to proceed in Certiorari action ***"in forma pauperis."*** Moreover, providing ***SUFFICIENT and SUBSTANTIAL evidence to support Plaintiff's*** (Stor-All's) insurance carrier's (Liberty Mutual's) and its attorneys/lawyers ***criminal/civil wrongs involved in that Newsome's termination of employment for purposes of FINANCIALLY devastating her as well as means of crippling her to prevent/preclude her from being successful in defending against legal actions***.

11) Newsome believes that Certiorari will be granted in that the record evidence will support the Ohio Supreme Court being TIMELY, PROPERLY and ADQUATELY notified of crimes committed by the Judge(s)/Members of the Ohio Bar pursuant to ***Ohio Code of Judicial Conduct***; however, has failed to take the appropriate legal actions to deter/prevent further injury/harm to Newsome and/or *the PUBLIC/CITIZENS at large*. Newsome, therefore, providing as evidence pleadings filed in action as well as those in the records of this Court and lower court(s).

12) Newsome believes that Certiorari will be granted in that the evidence in the record of the Ohio Supreme Court as well as the lower court(s) will support that the INTEGRITY of this Court as well as lower court(s) have been HEAVILY compromised/breached. Moreover, IMPROPRIETY is apparent/prevalent.

13) Newsome believes that the Certiorari will be granted because the issues to be raised affects the PUBLIC/CITIZENS at large and the CRIMINAL/CIVIL wrongs leveled against her and are those of great ECONOMIC proportions.

14) The record evidence as well as the information contained in this instant filing will support: **(a)** There is a reasonable probability that certiorari will be granted and that the United States Supreme Court will have jurisdiction over

this matter; **(b)** There is significant possibility that if the Ohio Supreme Court does not move immediately to correct the ***"Judgment Entry of Defendant's 7/27/10 Motion for Consideration,"*** that said Judgment will be reversed; and **(c)** To allow the ***Judgment Entry of Defendant's 7/27/10 Motion for Consideration"*** to stand would subject Newsome to further irreparable injury/harm considering the correctness of the position she will take if the August 2, 2010 *Judgment Entry* is not stayed.

15) It is important that Newsome REITERATE that it was Plaintiff Stor-All, in the lower court action, that brought this lawsuit against her. *Stor-All and its counsel doing so upon securing the* ***TERMINATION*** *of Newsome's employment – a termination* ***RACIALLY/DISCRIMINATORALLY*** *motivated***.** Stor-All being an insured of LIBERTY MUTUAL insurance company in which Newsome will be providing ADDITIONAL information to sustain granting of *"****EMERGENCY*** *Writ of Certiorari."* Newsome believes that the information contained in this instant filing as well as the record of the Ohio Supreme Court regarding lower court(s) actions will sustain the CRIMINAL motives and/or UNLAWFUL/ILLEGAL motives behind the filing of the lawsuit against her as well as well as the CRIMINAL STALKING (*i.e. amongst other crimes leveled against Newsome*) ***by Liberty Mutual, its lawyers, clients and/or representatives and others who have a PERSONAL/FINANCIAL interest in legal matters involving Newsome as well as have a WELL-ESTABLISHED discriminatory/prejudicial/malicious intent to ruin Newsome's life***. Information which is PERTINENT because it will support the concerns of the United States Congress actions in the passing of **House Report No. 92-238**. Congress demonstrated its awareness that claimants might not be able to take advantage of the federal remedy without appointment of counsel. As explained in House Report No. 92-238:

> By including this provision in the bill, the **committee emphasizes** *that the nature of . . . actions more often than not pits parties of unequal strength and resources against each other. The* ***complainant, who is usually a member of the disadvantaged class, is opposed by an employer who . . . has at his disposal a vast of resources and legal talent****.*

H.R. Rep. No. 238, 92nd Cong., 2d Sess., reprinted in 1972 U.S.C.C.A.N. 2137, 2148.

Newsome borrows the passing of such Bills to support Congress' concerns and how Plaintiff (Stor-All), its insurance carrier, attorneys and others willingness to CONSPIRE and commit criminal/civil wrongs against Newsome have, through their actions, left the ***proverbial SMOKING GUN***

behind[2] that she diligently sought to find in that such evidence that she has been blessed with, is very hard/difficult to come by because of the CORRUPTION/CRIMINAL acts that violators resort to cover their tracks. Newsome now being able to confirm the CRIMINAL STALKING and other criminal/civil civil wrongs rendered her by Stor-All, its insurance carrier (Liberty Mutual), their attorneys/clients' attorneys (i.e. Baker Donelson Bearman Caldwell & Berkowitz, DunbarMonroe, Schwartz Manes Ruby & Slovin, and Markesbery & Richardson Co., etc.).

16) Newsome believes that Certiorari will be granted in that it will UNCOVER and/or EXPOSE the criminal/civil wrongs of one of the Nation's LEADING Insurance Carrier (Liberty Mutual – who alleges to be the **5th largest** P&C insurance company in the United States) – see document attached at **EXHIBIT "2"**– incorporated by reference as if set forth in full herein – as well as information which may be at the following link:

http://www.libertymutualgroup.com/omapps/ContentServer?pagename=LMGroup/Views/LMG

as well as its lawyers - i.e. one, for example Baker Donelson Bearman Caldwell & Berkowitz ("***Baker Donelson***"), which alleges "as one of the 10 fastest growing law firms in the U.S. by The National Law Journal and is one of the 100 largest law firms in the country":

http://www.aboutus.org/BakerDonelson.com

and believes in PROMOTING and BOASTING about their **STRONG TIES/CONNECTIONS/RELATIONSHIPS** to Government Officials and ***JUDGES/JUSTCES***:

- **Chief of Staff** *to the President of the United States*
- **United States Secretary of State**
- United States **Senate** ***Majority*** Leader
- **Members of** the *United States Senate*
- **Members of** the *United States House of Representatives*
- **Director** of the ***Office of Foreign Assets Control for United States***
- **Department of Treasury**
- **Director** of the *Administrative Office of the United States*

[2] Because discrimination often is **subtle**, and there *rarely* is a "**smoking gun**," [Fn. 45 - *See Aman v. Cort Furniture Rental Corp.,* 85 F.3d 1074, 1081-82 (3rd Cir. 1996)("It has become easier to coat various forms of discrimination with the appearance of propriety, or to ascribe some other less odious intention to what is in reality discriminatory behavior. In other words, while discriminatory conduct persists, violators have learned not to leave the proverbial „smoking gun" behind."); *cf. McDonnell Douglas Corp. v. Green,* 411 U.S. 792, 801 (1973)("it is abundantly clear that Title VII tolerates no racial discrimination, subtle or otherwise").] determining whether race played a role in the decisionmaking requires examination of all of the surrounding facts and circumstances. The presence or absence of any one piece of evidence often will not be determinative. Sources of information can include witness statements, including consideration of their credibility; documents; direct observation; and statistical evidence such as EEO-1 data, among others. See EEOC Compl. Man., Vol. I, Sec. 26, Selection and Analysis of Evidence." A non-exhaustive list of important areas of inquiry and analysis is set out below.

- **Chief Counsel**, Acting **Director**, and Acting **Deputy Director** of **United States Citizenship & Immigration Services** within the *United States Department of Homeland Security*
- **Majority** and **Minority Staff Director** of the ***Senate Committee on Appropriations***
- ***Member of United States President's Domestic Policy Council***
- **Counselor** *to the Deputy Secretary for the United States* ***Department of HHS***
- **Chief of Staff** *of the Supreme Court of the United States*
- **Administrative Assistant** to the ***Chief Justice*** *of the United States*
- ***Deputy*** *under Secretary of International Trade for the United States Department of Commerce*
- ***Ambassador*** **to Japan**
- ***Ambassador*** **to Turkey**
- ***Ambassador*** **to Saudi Arabia**
- ***Ambassador*** **to the Sultanate of Oman**
- ***Governor*** *of Tennessee*
- ***Governor*** *of Mississippi*
- ***Deputy*** *Governor and* ***Chief of Staff*** *for the Governor of Tennessee*
- ***Commissioner*** *of Finance & Administration* (Chief Operating Officer) - State of Tennessee
- **Special Counselor** to the Governor of Virginia
- ***United States Circuit Court of Appeals Judge***
- ***United States District Court Judges***
- **United States Attorneys**
- ***Presidents*** *of State and Local Bar Associations*

This information was originally located at:

http://www.martindale.com/Baker-Donelson-Bearman-Caldwell/law-firm-307399.htm

see attached as **EXHIBIT "3"**– incorporated by reference as if set forth in full herein - however, since Newsome has been gone PUBLIC and is releasing this information, Baker Donelson has SCRUBBED this information from the Internet. It was a good thing Newsome retained copy for her record to EVIDENCE information posted on the Internet.

This information is PERTINENT/RELEVANT in that it will sustain how Liberty Mutual, its attorneys, Judge John Andrew West and others have ***REPEATEDLY*** CONSPIRED to destroy the lives of citizens of the United States; moreover, PATTERN-OF-CRIMINAL/CIVIL WRONGS targeting and exacting revenge on citizens that exercise their rights under the

United States Constitution, Civil Rights Act and other governing statutes/laws.

17) Newsome believes that Certiorari will be granted because the record evidence will support that it is PUBLIC/NATIONAL and WORLDWIDE importance to address the RACIAL INJUSTICES that Newsome as well as other citizens have been subjected to and to EXPOSE the culprits (i.e. as Plaintiff Stor-All, its insurance carrier (Liberty Mutual), their attorneys, Judge John Andrew West and others who have a financial/personal interest in the outcome of legal actions involving Newsome and/or may be brought) of such criminal/civil wrongs as that rendered Newsome in her pursuit of justice. Furthermore, supporting unlawful/illegal actions taken against Newsome to deprive her of life, liberties and the pursuit of happiness because she has elected to exercise her rights under the Constitution, Civil Rights act and other governing statutes laws.

18) Newsome believes that Certiorari will be granted in that she will provide SUBSTANTIAL evidence to support RACIAL INJUSTICES as well as the DISCRIMINATORY/PREJUDICIAL application of the laws that has REPEATEDLY had an ADVERSE impact on Newsome's life – i.e. as well as other citizens in which such criminal/civil wrongs are leveled against for their engagement in PROTECTED activities and/or exercising of rights secured/guaranteed under the Constitution.

*TO FURTHER UNDERSTAND THE **CONSPIRACY** LEVELED AGAINST NEWSOME and/or AFRICAN-AMERICANS or PEOPLE OF COLOR; as well as just how **ELABORATE** and the **MAGNITUDE/SCALE** of the **RACIAL INJUSTICES/DISCRIMINATION/PREJUDICES** are and **in preservation for purposes of raising such issues on appeal** in that this Court's records and the lower court(s) records will sustain said defense and **the grounds for Newsome's filing** of AFFIDAVIT OF DISQUALIFICATION. Newsome further sets forth the following in support of her beliefs as to why Certiorari will be granted:*

PATTERN-OF-CRIMINAL/CIVIL WRONGS INJUSTICES LEVELED AGAINST NEWSOME

– Lead CONSPIRATORS Newsome believes being Liberty Mutual and its lawyers

(i.e. Baker Donelson) who have the ability to INDUCE the willing participation of Judges/Justices and others to engage in their criminal/civil wrongs leveled against her:

I. ENTERGY NEW ORLEANS/ENTERGY SERVICES, INC.

MATTER: *White employer insured by White Insurance Carrier and represented by White Law Firms*

19) To support the ***EMERGENCY*** *Writ of Certiorari* Newsome will file, if required to do so, it is necessary to establish the role of Plaintiff Stor-All's insurance carrier's (Liberty Mutual's) role and its insurance carrier's attorney's (i.e. for example as Baker Donelson and others - ***Schwartz Manes Ruby & Slovin, and Markesbery & Richardson Co. who are counsel for Liberty Mutual and/or Liberty Mutual's insured in the Hamilton County Court of Common Pleas matter in Cincinnati, Ohio out of which this matter arises***) in the CONSPIRACY and the carrying out of criminal/civil wrongs leveled against Newsome:

a) Newsome attaches hereto at **EXHIBIT "4"** the COVER PAGE only of the lawsuit captioned, ***"Newsome v. Entergy NO Inc., et al."*** – Civil Action No. 2:99-cv-03109-GTP - that was filed in the United States District Court of Louisiana (Eastern Division – New Orleans) – incorporated by reference as if set forth in full herein. Documentation which will evidence that legal counsel for Entergy New Orleans, Inc./Entergy Services, Inc. being Baker Donelson along with other co-counsel.

Just as Plaintiff Stor-All's counsel David Meranus was ***UNABLE*** to defend against Newsome's *Answer and Counterclaim* filed in the lower court action (out of which the ***Affidavit of Disqualification*** arises) and clearly ***ABANDONED*** his client Stor-All after he initiated the lawsuit on their behalf; similar actions in the Entergy matter arose. While Entergy began with its in-house legal counsel, *realizing its INABILITY to defend against Newsome's lawsuit*, it HIRED and/or RETAINED **two** HUGE law firms (Baker Donelson as well as Jones Walker – Jones Walker who advertises on its website:

http://www.joneswalker.com/about.html

> Since our inception in 1937, Jones Walker has grown over the past several decades in size and scope to become one of the largest law firms in the Gulf South. We serve local, regional, national, and international business interests in a wide range of markets and industries. Today, we have nearly 300

attorneys in Alabama, Arizona, the District of Columbia, Florida, Louisiana, and Texas.

*Bringing in an ARSENAL of attorneys wherein Entergy having close to **1000** attorneys at its disposal **against** ONE Plaintiff (Newsome*) – however, still UNABLE to defend against Newsome's claims that Entergy and its counsel KNOWINGLY/WILLINGLY/DELIBERATELY resorted to criminal/civil wrongs for purposes of obtain an undue/unlawful/illegal advantage in lawsuit.

Information PERTINENT/RELEVANT because it goes to the grounds which substantiate/support the ***Affidavit of Disqualification*** filed with this Court and *will ESTABLISH the criminal/civil wrongs leveled against Newsome by Judge John Andrew West, Liberty Mutual's client Plaintiff Stor-All and others* – PATTERN-OF-CRIMINAL/ABUSE. Furthermore, will support the reasons for the United States Congress' passing of H.R. Rep. No. 238, 92nd Cong., 2d Sess., reprinted in 1972 U.S.C.C.A.N. 2137, 2148, which provides:

> By including this provision in the bill, the **committee emphasizes** *that the nature of . . . actions more often than not pits parties of unequal strength and resources against each other. The **complainant, who is usually a member of the disadvantaged class, is opposed by an employer who . . . has at his disposal a vast of resources and legal talent**.*

b) Newsome's ability to be successful on appeal is the reason that Liberty Mutual, its insureds and its counsel may have also resort to criminal/civil wrongs leveled against her ***in furtherance of its racial prejudices/bias towards her*.** On appeal to the United States Fifth Circuit Court of Appeal on the issue of appointment of counsel, the Fifth Circuit ruled that the lower court (United States Eastern District Court of Louisiana) erred in its ruling and the criteria used to determine this matter and REMANDED. See **EXHIBIT "5"** – August 4, 2000 5th Circuit Judgment - attached hereto and incorporated by reference as if set forth in full herein.

The record evidence in the Entergy matter will support Newsome's ability to retain counsel (Michelle Ebony Scott-Bennett). However, Newsome believes that from the unlawful/illegal actions of Scott-Bennett to ***ABRUPTLY move to withdraw*** *without her permission may have been as DIRECT and PROXIMATE results of THREATS received from Entergy's/Liberty Mutual's attorneys* (Baker Donelson and/or Jones Walker) to have her DISBARRED, etc. if she did not withdraw. Newsome believes that in obtaining Entergy's/Liberty Mutual's attorneys may have relied upon its

POSITIONS as "***Presidents*** *of State and Local Bar Associations"* to induce Scott-Bennett. See **EXHIBIT "3"** – Baker Donelson information attached hereto and incorporated by reference as if set forth in full herein.

Newsome believes that a reasonable mind may conclude that no attorney (i.e. sole counsel/attorney as Scott-Bennett) would turn down PRO BONO assistance from another law firm that was willing to provide legal services in such a capacity. However, this was just the case. Newsome's past employer (Owens Law Firm) had offered Scott-Bennett its legal services PRO BONO in the lawsuit filed by Newsome. Again, Scott-Bennett did not consider and moved ABRUPTLY to withdraw as legal counsel for Newsome without Newsome's permission and/or just grounds for doing so. See **EXHIBIT "6"** – Affidavit of Rajita I. Moss (Owens Law Firm attorney assigned to assist in lawsuit) attached hereto and incorporated by reference as if set forth in full herein.

Newsome, in accordance with the statutes/laws governing such crimes/civil wrongs reported this matter to the United States Department of Justice on or about **September 17, 2004**; however, to date has not heard anything regarding such filing. Therefore, Newsome believes that a reasonable mind may conclude that Entergy's/Liberty Mutual's attorneys (i.e. Baker Donelson, etc.) ties to **UNITED STATES ATTORNEY GENERALS** may have played a role in the COVER-UP and destruction of her Complaint entitled, "***Petition Seeking Intervention/Participation of the United States Department of Justice***." Baker Donelson's advertisement of their attorneys' roles as United States Attorney Generals was evidenced on information posted on the Internet. It was a good thing Newsome printed and retained information for her record because since going PUBLIC, Baker Donelson has sought to have such special ties/relationships to GOVERNMENT OFFICIALS, Judges/Justices and others SCRUBBED/REMOVED from the Internet. See the list provided above beginning at Page 13 and/or attached hereto at **EXHIBIT "3."**

c) IMPORTANT TO NOTE: Newsome filed the required Complaint with the Equal Employment Opportunity Commission ("EEOC"); however, AGAIN, most likely Entergy/Liberty Mutual, its counsel and others CONSPIRED to assure that Newsome was not able to recover damages for discriminatory practices sustained. Furthermore, in efforts of doing DAMAGE CONTROL and the hiding of its Title VII violations and many others violations, Entergy moved and TERMINATED the employment of the

Manager/Supervisor and co-worker involved in the discrimination, harassment, etc. of Newsome during her employment. Nevertheless, would want the factfinder to think that there were no employment violations – when in FACT there were!! Most likely resorting to criminal acts and denial as the employer (Hartford Distributors) in the recent Connecticut shooting had done!!! While Newsome appealed this matter to the United States Supreme Court, she knew something was wrong; however, could not put her finger on it. Why, because said courts handling of matter clearly CONFLICTED with past decisions and/or handling of matters by it. Low and behold, Newsome's research yielded that Entergy's/Liberty Mutual's attorneys having Special TIES/RELATIONSHIPS to Justices on the United States Supreme Court – i.e. **Chief of Staff** *of the Supreme Court of the United States* and **Administrative Assistant** to the ***Chief Justice*** *of the United States*. See list above as well as document attached as **EXHBIT "3"** to this instant pleading.

d) **IMPORTANT TO NOTE:** While the Fifth Circuit Court's decision in *Newsome v. Equal Employment Opportunity Commission*, 301 F.3d 227 in clearly states:

> *Newsome also is not entitled to the writ because she has another adequate remedy available, i.e.* ***she could file suit in court against her employer****. . . .*

clearly, any such efforts taken by Newsome to bring legal action against her employers and/or others have been met by CRIMINAL/CIVIL wrongs leveled against her as a direct and proximate result of the CONSPIRACY orchestrated and carried out by Liberty Mutual, its insureds, its counsel and other opposing parties with a PERSONAL/FINANCIAL interest in the outcome of legal actions. Furthermore, Newsome has been RETALIATED AGAINST and BLACKLISTED through the role of such Conspirators as well as United States Government Agencies/Officials because of the lawsuit filed against the United States Department of Labor. *Furthermore, the record evidence in this instant action, the lower court (Hamilton County Court of Common Pleas) action and others, will sustain that Justices/Judges resorted to engaging and fulfilling their role in the CONSPIRACY leveled against Newsome for purposes of AIDING and ABETTING Baker Donelson and others in the criminal/civil wrongs leveled against Newsome*. Participants in the criminal/civil wrongs leveled against Newsome having a PERSONAL as well as FINANCIAL interest in the outcome of lawsuit.

e) **IMPORTANT TO NOTE:** That *in light of the recent Connecticut Shooting on or about August 3, 2010, as well as other shootings* (i.e. as that listed above), Newsome believes such

information is RELEVANT/PERTINENT in that it clearly goes to what apparently is REPEATEDLY echoed by African-American males who went on shooting rampage to avenge the RACIAL INJUSTICES and/or discriminatory/prejudicial treatment they were being subjected to. Furthermore, Newsome believes that the information contained herein will support beliefs of many regarding the **PATTERN-OF-PRACTICES** targeting African-Americans and/or people of color. *Unlike Omar Thornton **and** Carl Brandon in the shootings mentioned above, Newsome elected to abide by the law and bring the appropriate legal actions* – i.e. also was **instructed by the United States Fifth Circuit Court of Appeals to bring the proper action against her employer if Newsome felt she was being subjected to employment violations/legal wrongs**. Therefore, supporting the ***EMERGENCY*** *Writ of Certiorari* action to be brought if necessary.

II. MISSISSIPPI MATTERS:

20) To support the ***EMERGENCY*** *Writ of Certiorari* Newsome will file, if required to do so, it is necessary to establish the role of Plaintiff Stor-All's insurance carrier's (Liberty Mutual's) role and its insurance carrier's attorney's (i.e. for example as Baker Donelson and others - ***Schwartz Manes Ruby & Slovin, and Markesbery & Richardson Co. who are counsel for Liberty Mutual and/or Liberty Mutual's insured in the Hamilton County Court of Common Pleas matter in Cincinnati, Ohio out of which this matter arises***) in the CONSPIRACY and the carrying out of criminal/civil wrongs leveled against Newsome:

a) **BARIA FYKE HAWKINS & STRACENER EMPLOYMENT (JACKSON, MISSISSIPPI) –** *WHITE EMPLOYER*: Newsome was assigned to this employer through an employment agency. Pleased with Newsome's work, she was able to obtain permanent employment. However, PRIOR to and only AFTER, a trip by David Baria (former President for the Mississippi Trial Lawyers) to New Orleans, Louisiana did Newsome notice that the working relationship with this employer had changed. Newsome's employment with this law firm was ABRUPTLY ended by Baria – i.e. according to Baria he had the *consensus* of other Partners of the law firm to end her employment. *While Newsome believed that her ABRUPT termination of employment may have been due to criminal/civil wrongs by attorneys for Entergy; she would have to await until sufficient evidence to support the role they may have played in her termination* – i.e. **as that which surfaced during the lower court's** (Hamilton County Municipal Court in Cincinnati, Ohio action) when Plaintiff Stor-All's/Liberty Mutual's client's attorney (David Meranus) made known to Newsome ***upon losing*** *his argument on* ***Motion to Transfer*** *filed by Newsome of*

his ***knowledge of Newsome's engagement in PROTECTED ACTIVITIES***. See **EXHIBIT "7"** – February 6, 2009 Letter to Meranus – attached hereto and incorporated by reference as if set forth in full herein. At the execution of the *"MAGISTRATE DECISION,"* Meranus made known to Newsome his knowledge of her participation in protected activities in New Orleans. Newsome memorialized said conversation in her February 6, 2009 correspondence with is attached as indicated.

> To establish a violation of ~2000e-3(a), it must be shown that employer had actual or imputed knowledge that the plaintiff participated in a protected activity (7 Am. Jur. Proof of Facts 2d 38, 39; EEOC Decision No. 71-1000, 1973 CCH EEOC Decisions ¶6194; EEOC Decision No. 70-840, 1973 CCH EEOC Decisions ¶6155), and further, that based on such knowledge the discharge was in fact retaliatory - that is, motivated by the employee's participation in protected activity with the intent to retaliate against the employee for such participation, and not by unrelated legitimate business reasons.

b) **BRUNINI GRANTHAM GROWER & HEWES EMPLOYMENT ["BGG&H"] (JACKSON, MISSISSIPPI) – *WHITE EMPLOYER*:** Newsome was assigned to this employer through an employment agency. After only approximately TWO days, pleased with Newsome's work performance, BGG&H offered Newsome employment which she accepted. BGG&H having contacted Newsome's previous employer (Owens Law Firm – i.e. an African American Law Firm) and getting no objection to her hiring proceeded then to contact Baria Fyke Hawkins & Stracener ["BFH&S"]. BFH&S objected to Newsome's hiring and took it to a level to which it threatened BGG&H with legal action if it were to hire Newsome. Newsome believes that based upon such threats by BFH&S as well as other ILLEGAL/UNLAWFUL motives, the employment offer extended to Newsome by BGG&H was rescinded. Newsome's research has yielded that IN FACT Liberty Mutual is a client of BGG&H. Therefore, a reasonable mind may conclude that based upon said information Baria, Liberty Mutual and others relied upon RELATIONSHIP to deprive Newsome of an employment opportunity as well as subject her to further CRIMINAL/CIVIL wrongs in RETALIATION of her lawsuit against Entergy as well as engagement in PROTECTED ACTIVITIES known to them. See **EXHIBIT "8"** – BGG&H information revealing *Liberty Mutual* ***as a client*** – attached hereto and incorporated by reference as if set forth in full herein.

21) **MITCHELL MCNUTT & SAMS EMPLOYMENT ["MM&S"] (JACKSON, MISSISSIPPI)- *WHITE EMPLOYER*.** Newsome was sent to this employer to interview for position. Out of the applicants that applied, Newsome was selected and offered employment which she accepted. As in the Omar

Thornton matter, there were payment/salary issues as well as other violations that Newsome reported. However, Newsome did not take the law into her own hand and filed the required Complaint with the Wage & Hour Division of the United States Department of Labor. However, in RETALIATION to Newsome having brought legal action against the United States Department of Labor – EEOC Division, said Department was willing to DENY Newsome the protection required under the law and prosecute MM&S for said violations. Instead, the Wage & Hour ("W&H") Division advised Newsome that there was no violation. What said Division did not know, was that Newsome had inquired of an attorney and shared what was going on and was advised that her understanding of the statutes/laws under the Fair Labor Standard Act ("FLSA") was indeed correct and that a matter with one of their clients had been recently been resolved because they were paying in the same manner as MM&S were paying their employees. In further support of employment violations with this employer, Newsome states:

a) That just as in the Omar Thornton (and most likely the Carl Brandon) incidents/shooting mentioned above, MM&S lied/falsified information provided to government agency handling investigation. In fact, in ***RETALIATION*** and in its role in the CONSPIRACY and cover-up of FLSA violations, the United States Department of Labor placed information on the INTERNET for PUBLIC viewing regarding Newsome that it knew and/or should have known was FALSE/FABRICATED and MALICIOUS information provided for purposes of destroying and ruining Newsome's life. See **EXHIBIT "9"** – FINAL DECISION AND ORDER – attached hereto and incorporated by reference as if set forth in full herein. Information Newsome was able to retrieve from the Internet regarding her as well as other matters obtained from GOOGLE Search. See **EXHIBIT "10"** – *Google Search Results* incorporated by reference as if set forth in full herein.

b) When Newsome requested copy of file, the W&H Division redacted information. Information Newsome is entitled to; however, knew that it was damaging information that would support its reliance upon information provided and the CONSPIRACY leveled against Newsome to BLACKLIST her in RETALIATION of having exercised her rights and/or engagement in PROTECTED ACTIVITIES.

> To establish a violation of ~2000e-3(a), it must be shown that employer had actual or imputed knowledge that the plaintiff participated in a protected activity (7 Am. Jur. Proof of Facts 2d 38, 39; EEOC Decision No. 71-1000, 1973 CCH EEOC Decisions ¶6194; EEOC Decision No. 70-840, 1973 CCH EEOC Decisions ¶6155), and further, that based on such knowledge the discharge was in fact retaliatory - that is, motivated by the employee's participation in protected activity with the intent to retaliate against

the employee for such participation, and not by unrelated legitimate business reasons.

c) Furthermore, MM&S provided FALSE, MISLEADING and MALICIOUS information for purposes of impeding investigation. Such acts which merely FUELED the RETALIATORY feelings the United States Department of Labor harbored against Newsome for bringing legal action against it. See information attached at **EXHIBIT "11"** – FLSA Information – and incorporated by reference as if set forth in full herein which provides information such as:

> U.S. Department of Labor – **FLSA NARRATIVE REPORT**:
>
> Evidence: Interviews of Supervisor Robert Gordon, Attorney Mike Farrell, and Secretary Ladye Margaret Townsend[3] revealed that Ms. Newsome had been rebellious and insubordinate in job duties assigned her from the start of her employment.
>
> [redacted] interview (Exhibit [redacted]) stated that every since Ms Newsome was hired she been looking for a way to get fired to pursue a lawsuit. . . After this incident Ms Newsome began working on whether she was paid properly . . . Newsome disagreed with Attorney Farrell and told Cochanuer and Townsend she was going to contact Wage Hour. [redacted] didn't know if Newsome did or not because nothing came of it. [redacted] further confirmed other events of insubordination. (Exhibit [redacted]).
>
> Further action:
> [redacted]
>
> (Note) **During the course of this investigation, District Director ("DD") Billy Jones retired from the department**. Regional Administrator McKeon assigned Assistant District Director ("ADD") Oliver Peebles as Acting DD for the Gulf Coast District. DD Peebles has been advised through all actions of this case, and all of his instructions have been followed.

d) Newsome's employment with MM&S was ABRUPTLY terminated upon her reporting of employment violations – i.e. DISCRIMINATORY and her being subjected to HOSTILE work environment, etc. **IMPORTANT TO NOTE:** When

[3] All of whom are "White" and having a personal interest and financial interest (either employment and/or business investment related).

Newsome filed for employment benefits, MM&S sent its lawyer Paula Graves Ardelean and two of its employees (James Allen and Robert. Gordon) as witnesses. It was apparent to Newsome from listening to questions presented by MM&S counsel to its witnesses that they had rehearsed what would be said at the hearing. However, what they could not prepare for (because they did not know what Newsome would ask) was CROSS-EXAMINATION by Newsome and the questions presented. Under cross-examination, Newsome was able to get MM&S' witnesses to admit that she was subjected to DISCRIMINATION and/or DISCRIMINATORY practices during her employment and that the work environment was HOSTILE. See **EXHIBIT "12"** – MM&S Transcript – attached hereto and incorporated by reference as if set forth in full herein.

e) There is record evidence to support that Newsome filed a complaint with the EEOC as well as against MM&S; however, in keeping with CONSPIRACY and the COVER-UP of employment violations in **RETALIATION** to Newsome having brought legal against the United States Department of Labor – EEOC Division, etc. it failed to perform MANDATORY ministerial duties owed Newsome. Therefore, as a direct and proximate result of said RETALIATION and criminal/civil wrongs rendered Newsome for exercising protected rights, the United States Department of Labor failed to prosecute MM&S although it having sufficient evidence and/or the means to obtain further evidence to support the Title VII Complaint filed by Newsome. IMPORTANT TO NOTE: It was obvious to Newsome that the United States Department of Labor was CONSPIRING with others to cover-up RACIAL INUSTICES, DISCRIMINATORY/PREJUDICIAL practices, TITLE VII VIOLATIONS, FLSA violations, OSHA violations, etc. that were timely, properly and adequately reported by Newsome.

f) MM&S realizing Newsome's ability to get ADMISSION from its witnesses to support the RACIAL DISCRIMINATION as well as HOSTILE work environment – in efforts of doing DAMAGE CONTROL – moved shortly thereafter to CLOSE DOWN their Jackson, Mississippi Office. An office which was JUST RENOVATED and OPENED; however, ABRUPTLY closing. **IMPORTANT TO NOTE:** Newsome having advised L.F. Sams (Partner/Shareholder) – person who came down to the Jackson, Mississippi Office to personally TERMINATE Newsome's employment – of her intent to bring legal action. See **EXHIBIT "26"** – December 4, 2004, Letter to L.F. Sams – attached hereto and incorporated by reference as if set forth in full herein.

g) **IMPORTANT TO NOTE:** That Judge Bobby DeLaughter, judge assigned matter when Newsome appealed denial of Unemployment Benefits, was INDICTED on or about July 30, 2009, for federal crime(s). See **EXHIBIT "13"** – Indictment and

News Articles – attached hereto and incorporated by reference as if set forth in full herein.

h) In the Mississippi matter the Magistrate Judge/Judge attempted to aid MM&S in trying to get Newsome to pay bond in SLA matter in which, as a matter of law, she was not required to pay. Furthermore, said demand coming at the THREE-YEAR statute of limitation for Newsome to bring legal action against MMS; however, Newsome's claims will arise under Mississippi's "CATCH-ALL" statute which has a SIX-YEAR period for a litigant to bring action. Judge demanding said Bond clearly having a Conflict of Interest and entered his RECUSAL ORDER. Therefore, as a matter of law, any ruling by him is NULL/VOID.

22) **PAGE KRUGER & HOLLAND (JACKSON, MISSISSIPPI) –** *WHITE EMPLOYER*: Newsome was assigned to this employer through an employment agency. Pleased with Newsome's work, she was able to obtain permanent employment. It was during this employment that:

a) Newsome encountered problems (i.e. racially motivated) with Landlord/Representatives of Spring Lake Apartments. Spring Lake Apartments' owner (Dial Equities, Inc.) is an ***insured of*** LIBERTY MUTUAL.

b) Landlord/Representative(s) of Spring Lake Apartment subjected Newsome to violations under the Fair Housing Act, Constitution, Civil Rights Act as well as other statutes/laws governing said matters.

c) Newsome was subjected to similar crimes as that in which O. J. Simpson was INDICTED on:

- Conspiracy to Commit a Crime
- Conspiracy to Commit Kidnapping
- Conspiracy to Commit Robbery
- First Degree Kidnapping With Use Of A Deadly Weapon
- Assault With a Deadly Weapon
- Coercion With Use Of A Deadly Weapon

See **EXHIBIT "14"** – *O.J. Simpson Criminal Complaint* – attached hereto and incorporated by reference.

On or about June 26, 2006, Newsome filed a timely Criminal Complaint with the Federal Bureau of Investigation ("FBI"). A document which will be submitted with Newsome's ***EMERGENCY*** *Writ of Certiorari* if it becomes necessary to file said action with the United States Supreme

Court. The Criminal Complaint filed with the FBI resulted out of the: **i)** Conspiracy leveled against Newsome by Liberty Mutual, its insured (Dial Equities – owner of Spring Lake Apartments), its counsel and other; **ii)** Unlawful/Illegal seizure of Newsome's Apartment; **iii)** Kidnapping of Newsome; **iv)** Theft of Newsome's property; **v)** Burglary of Newsome's Apartment; **vi)** Breaking and Entering of Newsome's Apartment; **vii)** First Degree Kidnapping with use of a deadly weapon; **vii)** Assault with a deadly weapon, etc. – i.e. other crimes known and/or should be known to the FBI.

d) As in the Omar Thornton matter, Newsome had retained evidence by tape recording incident. However, in efforts of COVERING-UP and concealing his criminal activities, the Constable (Jon Lewis) involved with and the carrying out of KIDNAPPING as well as other crimes against Newsome removed the tape recorder from her person. Rather than turn recorder/microcassette recorder and tape in at the Detention Center, Constable Lewis compromised the case and STOLE and TAMPERED with said microcassette recorder and tape because he knew and/or should have known that it had INCRIMINATING evidence recording the criminal/civil wrongs leveled against Newsome as well as NOTIFICATION by Newsome to Constable Lewis and others (i.e. CONSPIRATORS) that they were engaging in unlawful/illegal actions. Newsome having telephoned attorney (Raymond Fraser) at PKH to advise him as to what was going on. Fraser very surprised in that he knew that Newsome was involved in legal action and had filed the required pleadings to PRECLUDE/PREVENT the criminal/civil wrongs leveled against her.

It will be interesting to see whether the evidence alleged to have been stored on Omar Thornton's (the Connecticut Shooter in the above Article and attached documents at **EXHIBIT "1"**) phone ever see the light of day or whether (if such evidence exist) evidence is destroyed. While Newsome demanded that Constable Lewis return her microcassette recorder/tape on or about March 17, 2006, via facsimile, said demand was ignored. SEE **EXHIBIT "15"** – ***"Request for Arrest Report & Return of Personal Property Retrieved by Constable Jon C. Lewis – Arrest of Vogel Newsome by Constable Jon C. Lewis on February 14, 2006"*** - attached hereto and incorporated by reference as if set forth in full herein. **IMPORTANT TO NOTE:** This information is PERTINENT/RELEVANT in that it goes to support the ***Affidavit of Disqualification*** that has been filed in this instant action; establishment of the PATTERN-OF-CRIMINAL/CIVIL wrongs leveled against Newsome; and the role Judge John Andrew West is playing in CONSPIRACY leveled against Newsome – i.e in the fulfilling and completion in the carrying out of his part in the COVER-UP of crimes/civil wrongs reported.

IMPORTANT TO NOTE: In that there appears to be sufficient evidence that law enforcement and/or the proper government agencies knew and/or should have known of the PATTERN-OF-CRIMINAL behavior of Constable Lewis and others; however, clearly ignored. Newsome finding during her research a blog posted by another victim (Frank Baltimore) of Constable Lewis which states in part:

> I know Jon Lewis has been taking money his whole term in office because ***his stolen money*** and ***property from me***. I feel he should have criminal charges filed against him for his criminal behavior. *No one wants to help me and every Law enforcement agency and official have not done their jobs.*
>
> My name is *Frank D. Baltimore Sr., Sr.,* ***I am an African American*** *citizen who resided in Jackson Mississippi and* ***was run out by threats made*** *and Constitutional rights violations performed by Constable Jon Lewis against me*. I currently reside in Los Angeles, CA…. ***I contacted the board of supervisors and the board's attorney back in 2004, 2005, and 2006***. I have asked you to help me on numerous occasions to no avail from any board member…. I am asking that you call for and add my complaint to our already internal investigation presently going on against Jon Lewis. He took my **badges**, **stun gun**, **diamond earring**, and **$100 dollars in cash** from me, and ***never*** *returned them to me to his present date*….
>
> On October 30, 2003, while you were **enforcing a simple eviction** at 23 N. Hill Pkwy, Apt. F, Jackson, MS 39206, you willfully and deliberately **without probable cause** and **without a search warrant illegally searched** and **seized** *the Personal Business property owned by Frank D. Baltimore, Sr., Damon Baltimore, and Baltimore Enterprises,* ***who had*** *and* ***has a legal right to the said property*** *illegally seized.*
>
> This letter is a demand for you to return all said property seized by you on October 30, 2003, November 1, 2003, and November 2, 2003 dates. Please be advised that if the said property is not returned within 5 days, a civil lawsuit is prepared and will be filed against you in your official and
> individual capacities, the County of Hinds, and the County of Hinds Board of Supervisors for constitutional and civil rights violations of my 1st, 4th, 5th, and 14th amendments, discrimination, and other Federal and State amendments not mentioned herein.

Furthermore, criminal charges will also be filed against you...

See **EXHIBIT "27"** – *Frank Baltimore Blog* – attached hereto and incorporated by reference as if set forth in full herein. Information/Evidence PERTINENT/RELEVANT in that it goes to support the LONGSTANDING Racial Injustices against African-Americans in which the evidence supports Newsome has been REPEATEDLY subjected to; Connecticut Shooter (Omar Thornton) complained of to no avail so he took the laws into his own hands and rendered SPEEDY justice; and Port Gibson Shooter (Carl Brandon) complained of to no avail so he took the laws into his own hand and rendered his own justice in that he found that following the legal recourses available to him proved to be FRUITLESS because those who engaged in the CONSPIRACY to destroy his life would not stop and apparently were UNRELENTING in their CRIMINAL/CIVIL violations leveled against him and to destroying his life.

IMPORTANT INFORMATION to support the ***EMERGENCY*** *Writ of Certiorari* with the United States Supreme Court should Newsome be required to file due to the FAILURE of the Ohio Supreme Court's to uphold the laws and grant the relief sought through her ***Affidavit of Disqualification***.

e) As in the Cambridge Police Department and Louis Gates (African-American male) matter that occurred last year:

http://www.boston.com/news/local/breaking_news/2009/07/harvard.html

it appears in efforts to cover-up criminal/civil violations committed against Louis Gates, the Police Officer (Crowley) may have filed a FALSE police report. See **EXHIBIT "16"** – ***"Cambridge Police Department Incident Report"*** - attached hereto and incorporated by reference.

As in the Spring Lake Apartments matter with Newsome, in efforts to provide himself with a DEFENSE to Newsome's CIVIL lawsuit filed, Constable Lewis went and filed "MALICIOUS" criminal charges against Newsome. Resulting in Newsome having to retain a criminal lawyer (i.e. white attorney – Richard Rehfeldt). Criminal lawyer who attempted to sell Newsome out; however, to his disappointment, he was unaware that Newsome had moved to expose the CRIMINAL actions/practices leveled against her commonly used against African-Americans. Rehfeldt KNOWINGLY and DELIBERATELY failed to advise Newsome of the Court date for the charges brought against her. ***To Rehfeldt's disappointment the charges brought by Constable Lewis against Newsome were dismissed.***

*Newsome believes that Rehfeldt may have conspired with others (i.e. Liberty Mutual's counsel, PKH and others – **ALL white**) to throw her case so that the Judge would find her "guilty" and provide Constable Lewis and Judge William Skinner (judge involved in the carrying out of crimes leveled against Newsome in the Spring Lake matter) with a legal defense to Newsome's CIVIL lawsuit filed in the United States Southern District of Court of Mississippi (Jackson, Mississippi) – Civil Action No. 3:07-cv-00099-TSL-LRA*. Again, having no knowledge that Newsome had began to go public and reporting their intentions to set her up and send her to PRISON/JAIL. However, REHFELDT, Liberty Mutual, its attorneys, PKH and others involved in efforts of THROWING the case were disappointed when the Judge dismissed the charges against Newsome. CONSPIRING to withhold the Court date from Newsome because Rehfeldt and CO-CONSPIRATORS were seeking to get an AUTOMATIC conviction for Newsome's failure to appear due to his NEGLIGENCE has her attorney to keep her informed and notify her what date was set for criminal charges filed against her. See **EXHIBIT "17"** – Criminal Charges filed by Constable Lewis against Newsome alleging:

- Resisting Arrest; and
- Disorderly Conduct – Failure to Comply With Law Enforcement

attached hereto and incorporated by reference as if set forth in full herein. See **EXHIBIT "18"** – ***DISMISSAL*** of Criminal Charges against Newsome – attached hereto and incorporated by reference as if set forth in full herein.

f) **IMPORTANT TO NOTE:** Rather than file a timely Answer to the Civil lawsuit filed by Newsome in the United States Southern District Court of Mississippi (Jackson), Constable Lewis elected instead to file the MALICIOUS criminal charges (which were filed WELL over a year) against Newsome which were DISMISSED and resulted in the UNTIMELY filing of his and Judge Skinner's Answer to Civil Lawsuit filed. Nevertheless, Constable Lewis' and Judge Skinner's attorney (Clifford McDaniel - of PKH) attempted to abuse the Court's Electronic Filing System and file an UNTIMELY Answer on behalf of Constable Lewis and Judge Skinner which was TIMELY met by Newsome's MOTION TO STRIKE. A reasonable mind may conclude that clearly, it was more important to Constable Lewis' and Judge Skinner's counsel that the MALICIOUS criminal charges be filed to provide them with a defense to Newsome's lawsuit rather than file a timely Answer to Newsome's Civil Lawsuit. Criminal charges which were DISMISSED and the GAMBLE taken by McDaniel proved to be FATAL/DETRIMENTAL to PKH's clients (Constable Lewis and Judge Skinner).

g) **IMPORTANT TO NOTE:** That while PKH had a Partner/Shareholder (J. Lawson Hester) who is counsel for Hinds

County/Sheriff of Hinds County, Hester apparently *DID* ***NOT*** want to represent Hinds County Constable Jon Lewis or then Hinds County Justice Court Judge William Skinner. Instead, Hester left Constable Lewis and Judge Skinner to a NOVICE – *attorney/Associate (Clifford McDaniel)* that had not been practicing the law long. Newsome believes a reasonable mind may also conclude that Hester knew and/or should have known of the CRIMINAL/CIVIL wrongs of Constable Lewis and Judge Skinner and was not willing to sacrifice his legal career in defending them – i.e. especially after FAILING to file a timely Answer to Newsome's Civil Lawsuit.

h) Spring Lake Apartment's owner (Dial Equities) appears to be an insured by LIBERTY MUTUAL and in the Mississippi matter is represented by DunbarMonroe. **IMPORTANT TO NOTE:** In that Baker Donelson has a Jackson, Mississippi Office, Newsome believes that Baker Donelson's failure to represent Spring Lake Apartments/Dial Equities may be due to the fact that Newsome would have READILY made the connection and established the CULPRITS in the CRIMINAL STALKING and other crimes leveled against her. See **EXHIBIT "19"** – DunbarMonroe Information revealing Liberty Mutual as client – attached hereto and incorporated by reference as if set forth in full herein.

i) Based on the information provided Newsome at the time of her termination of employment with PKH, PKH advised Newsome that it had been contacted and notified of her participation in lawsuit – thus resulting in the termination of Newsome's employment. While Newsome requested that PKH provide her with information as to who contacted it and advised of such, PKH refused to reveal this information. Nevertheless, believes a reasonable mind may conclude that it was LIBERTY MUTUAL and/or its counsel having done so. See **EXHIBIT "20"** – *May 16, 2006, PKH Termination of Employment* - attached hereto memorializing reasons provided for Newsome's termination of employment. Newsome recalls that a "PRINTOUT LIST" was given to Newsome's attorney, **Brandon Dorsey (African-American male**), by Liberty Mutual's counsel during a hearing before the judge. Should ***EMERGENCY*** *Writ of Certiorari* become necessary to file, Newsome will produce said documentation as an Appendix/Exhibit. A hearing that was held in the Chamber of the Judge to which Newsome was not privy. Liberty Mutual's counsel provided Dorsey with said list for purposes of CRIMINAL/MALICIOUS intent (i.e. bribery/blackmail, etc.) - to get Dorsey to abandon his representation of Newsome. Clearly, based upon such list, it was apparent that Liberty Mutual's/Liberty Mutual's counsel preyed on the IGNORANCE of Newsome's attorneys and others *INABILITY to see that is List is merely A* ***DUPLICATE*** *of same cases and produced to make it appear that Newsome was involved in 100'S of lawsuits* – when she **WAS NOT**!! A document used by Liberty Mutual's counsel to THROW Newsome's lawsuit and for purposes of obtaining an undue/unlawful/illegal advantage. A

document used by Liberty Mutual's counsel to bribe, blackmail, etc. Newsome's attorney (Brandon Dorsey) to get him to withdraw his legal representation of her. Thus, Newsome believes that based upon Dorsey's comment to her that he ***"need to live in Mississippi and feed his family,"*** a reasonable mind may conclude that threats may have been made against him if he did not withdraw in legal representation of Newsome. Therefore, he ABRUPTLY withdrew from representing Newsome over Newsome's objections. Furthermore, by so doing, fulfilled his role in CONSPIRACY leveled against Newsome. *Criminal/Civil wrongs which Newsome reported through the applicable filing of Complaint.*

IMPORTANT TO NOTE: Newsome was later able to obtain information to support that it appears Brandon Dorsey apparently abandoned her to go over to the DARK SIDE and represent Judge William Skinner. In fact, from information, is representing Judge Skinner in what appears to be matters that may involve CRIMINAL/CIVIL wrongs in the running of the Henley Young Juvenile Detention Center (a/k/a Hinds County Youth Detention Center). Detention Center which Newsome believes the majority of the detainees are African-Americans and/or people of color. Concerning Newsome because Newsome experiencing FIRST HAND the racial bias/prejudices of Judge Skinner as well as was able to obtain information from research that revealed that Judge Skinner's father (Lt. William Louis Skinner of the Jackson Police Department) was killed during an FBI raid on an activist group (New Republic of Africa). Concerning Newsome because she believes the FBI may have shot and killed Officer Skinner; however, FRAMED New Republic of Africa members because it had for some time, sought ways to bring an end to this African-American group that had organized and sought to improve the living conditions in the African-American communities, etc. ***Newsome filing a Complaint on or about June 24, 2009, with United States President Barack Obama and United States Attorney General Eric Holder.***

From information Newsome was able to obtain from the Internet, the United States Department of Justice appears to have prosecuted others for similar crimes as that taking place at the Henley Young Juvenile Detention Center. See information at the United States Department of Justice's website entitled: DOJ Press Release: *Justice Department Files Lawsuit Challenging Conditions at Two Erie County, New York, Correctional Facilities.* See EXHIBIT "28" attached hereto and incorporated by reference as if set forth in full hrein. This information may also be found at the following link if it has not been scrubbed.

http://www.justice.gov/opa/pr/2009/September/09-crt-1053.html

However, in light of the recent shooting in Connecticut, those in Port Gibson matter, Virginia Tech matter, as well as, the Jena Six incident, it is OBVIOUS that the Department of Justice/FBI is KNOWINGLY, WILLINGLY and DELIBERATELY covering up the criminal actions of Judge William Skinner. Newsome believes it may be due to the fact that Judge Skinner has knowledge the that FBI may have **FRAMED** New Republic of Africa members for his father's death (i.e. in the 1972 FBI shoot out with this group) for purposes of destroying this group.

j) **<u>IMPORTANT TO NOTE</u>:** While Newsome was able to retain legal representation from another attorney (Wanda Abioto – African American female), this **did NOT** stop Liberty Mutual's counsel from coming after Abioto and subjecting her to THREATS, HARASSMENT, etc. if she did not withdraw lawsuit filed on Newsome's behalf. See **EXHIBIT "22"** – *February 2008 Letters to Abioto from Liberty Mutual's counsel (Clark Monroe)* – attached hereto and incorporated by reference as if set forth in full herein. Such attacks on Newsome's attorney(s) by Liberty Mutual's counsel/attorney(s) clearly is violation of federal statutes/laws governing said matters:

> **Title 42, U.S.C., Section 3631 - Criminal Interference with Right to Fair Housing**
>
> *This statute makes it unlawful for any individual(s), by the use of force or threatened use of force, to injure, intimidate, or interfere with (or attempt to injure, intimidate, or interfere with), any person's housing rights because of that person's race, color*, religion, sex, handicap, familial status or national origin. Among those housing rights enumerated in the statute are:
>
> - The sale, purchase, or ***renting of a dwelling***;
> - the ***occupation of a dwelling***;
> - the financing of a dwelling;
> - contracting or negotiating for any of the rights enumerated above.
> - applying for or participating in any service, organization, or facility relating to the sale or rental of dwellings.
>
> This statute also makes it unlawful by the ***use of force or threatened use of force, to injure, intimidate***, or **interfere with any person who is assisting an individual** or class of persons ***in the exercise of their housing rights***.

Succumbing to the THREATS, HARASSMENT, INTIMIDATION, etc. from Liberty Mutual's counsel and/or opposing counsel, Abioto ABRUPTLY moved to withdraw as Newsome's counsel without client's permission. Said move to withdraw clearly is in violation of the statutes/laws governing said matters. *Criminal/Civil wrongs which Newsome has reported through the applicable filing of Complaint.*

IMPORTANT TO NOTE: That while Liberty Mutual's attorney (Clark Monroe) subjected Newsome's counsel to such BRUTAL/HOSTILE and MALICIOUS attacks and accused Newsome of attacking judges, he failed to reveal to Newsome and her attorney Liberty Mutual's and/or its attorneys' SPECIAL TIES/RELATIONSHIPS to Judges. Moreover, the special TIES/RELATIONSHIP to Judge Tom S. Lee who was presently presiding over case. Newsome having to find out from information posted on the Internet. See **EXHIBIT "23"** – Baker Donelson Ties/Relationships to Judges/Justices - attached hereto and incorporated by reference as if set forth in full herein. Information previously stored at the following website location:

http://www.bakerdonelson.com/appellate-practice-sub-practice-areas/

however, only AFTER Newsome went PUBLIC in revealing and releasing this information did Baker Donelson seek to move information thinking Newsome may not think to look elsewhere for it. However, she did and was able to find information moved to the following location:

http://www.bakerdonelson.com/courtclerks.htm

III. KENTUCKY MATTER – *WHITE LANDLORDS*:

23) To support the ***EMERGENCY*** *Writ of Certiorari* Newsome will file, if required to do so, it is necessary to establish the PATTERN-OF-CRIMINAL/CIVIL wrongs leveled against Newsome in the Kentucky matter that she believes is a part of an ONGOING CONSPIRACY leveled against Newsome. In further supports, Newsome states the following:

a) One of attorneys (James) representing GMM Properties – Landlords-in lawsuit did NOT make it known that he and Judge assigned in Circuit Court matter were employed and worked at the by the same law firm prior to Judge Gregory M. Bartlett taking the bench. Although required by law to reveal such information, both James West and Judge Bartlett failed to advise Newsome of such. It was only because one of the attorneys at the law firm (Wood & Lamping)

Newsome was employed at advised her of such CRUCIAL/PERTINENT information that she found out. Newsome moved to file the required pleading to clarify and verify this information; however, Judge Bartlett REFUSED to reveal and/or provide Newsome with information to which she was entitled.

b) GMM Properties and its attorneys were subjecting Newsome to unlawful/illegal practices for purposes of FORCING her to give up her apartment and for purposes of depriving her rights secured under the Constitution, Fair Housing Act, Civil Rights Act and other governing statutes/laws.

c) On October 9, 2008, GMM's counsel (Gailen Bridges) contacted Newsome at her place of employment to advise that her property had been set out on the street. Newsome leaving work returned home to see that she had been burglarized and THREATENED not to enter the building. Newsome seeing where criminals had fenced/left property that they could not get away with on the street for others to steal and/or help themselves to.

d) Newsome called the Covington Police Department to report the crimes committed against her. A white police officer was sent out however, refused to take Newsome's criminal complaint. Covington Police Department having been contacted apparently by GMM's legal counsel and advised not to take Newsome's criminal complaint.

e) On or about October 13, 2008, Newsome filed a Criminal Complaint entitled, **"***Complaint and Request for Investigation Filed by Denise Newsome with the Federal Bureau of Investigation – Louisville, Kentucky.***"** Should it be necessary for Newsome to file an EMERGENCY Writ of Certiorari, she will submit a copy of said Criminal Complaint to the United States Supreme Court. Said criminal complaint alleging the following Counts/Charges:

i. Conspiracy;
ii. Burglary;
iii. Theft;
iv. Larceny
v. Invasion;
vi. Unlawful Entry/Forcible Action;
vii. Obstruction of Justice/Process;
viii. Color of Law;
ix. Conspiracy Against Rights;
x. Conspiracy to Interfere With Civil Rights;
xi. Power/Failure to Prevent

recalling that O.J. Simpson was INDICTED for the following crimes:

- Conspiracy to Commit a Crime

- Conspiracy to Commit Kidnapping
- Conspiracy to Commit Robbery
- First Degree Kidnapping With Use Of A Deadly Weapon
- Assault With a Deadly Weapon
- Coercion With Use Of A Deadly Weapon

See **EXHIBIT "14"** – O.J. Simpson Criminal Complaint.

Clearly criminal/civil wrongs leveled against Newsome are racially motivated and carried out by white landlords and their white attorneys who feel that they are above the laws and that the laws do not apply to them. To date, Newsome has not aware of the status of the October 13, 2008 FBI Criminal Complaint.

f) **IMPORTANT TO NOTE:** At the time of the October 9, 2008, criminal/civil wrongs leveled against Newsome, she had a LEGAL/BINDING Injunction and Restraining Order in place which PROHIBITED and/or PRECLUDED the actions taken against Newsome by GMM, its counsel and others. See **EXHIBIT "24"** – *Injunction and Restraining Order* – attached hereto and incorporated by reference as if set forth in full herein.

Newsome was ordered by the Kenton County Circuit Court to pay rent into escrow and *was **NOT*** delinquent at the time the October 9, 2008, criminal/civil wrongs were rendered her. See **EXHIBIT "25"** – October 6, 2008 Facsimile supporting "PROOF OF PAYMENT" - attached hereto and incorporated by reference as if set forth in full herein.

IMPORTANT TO NOTE: That the *"Warrant of Possession"* relied upon to carry out the criminal/civil violations on October 9, 2008, was executed by Judge Ann Ruttle of the Kenton County DISTRICT Court who clearly ***LACKED*** jurisdiction and GMM and its counsel were aware that Judge Ruttle could not execute Warrant of Possession. In fact, the Deputy/Officer that engaged in the criminal acts wrote the contents on the "NOTICE" on ***backside*** of *Warrant of Possession* that Newsome had posted on the Front and Back doors of apartment:

> **IMPORTANT NOTICE:** The Circuit Court has ORDERED Injunction and Restraining Order against owners, GMM Properties from taking any type of eviction (Removal or Obtaining Premises) action against this tenant

Furthermore, in efforts of COVER-UP the criminal acts of GMM, the Officer *falsified* ***"EXECUTION"*** information on *Warrant of*

Possession. Furthermore, the Kenton County Sheriff's Department ***failed to serve*** Newsome with *Warrant of Possession* **PRIOR** to entry and WITHOUT warning because he and GMM owners, its lawyers and others in CONSPIRACY leveled against Newsome knew and/or should have known they were acting in violation of the statutes/laws governing said matters.

g) **IMPORTANT TO NOTE:** The other TARGET (i.e. besides the unlawful/illegal removal of Newsome from her residence) was the money Newsome had entrusted to the Kenton County Circuit Court in an ESCROW account with monies totaling ***approximately $16,250.00.*** GMM Properties and its attorneys CONSPIRED with Court officials to EMBEZZLE and unlawfully/illegally take monies out of Newsome's Escrow Account set up with the Kenton County Circuit Court.

24) Newsome believes that the Kentucky matter is PERTINENT/RELEVANT to this instant action and the ***Affidavit of Disqualification*** in that it will sustain and shed additional light on the PATTERN-OF-RACIAL INJUSTICES, JUDICIAL INJUSTICES, harassment, threats, intimidation, and criminal/civil wrongs leveled against Newsome and an investigation into said matter may yield the role that LIBERTY MUTUAL and/or its attorneys had in said crimes. **IMPORTANT TO NOTE:** That Newsome believes that this information is PERTINENT/RELEVANT to support the ***EMERGENCY*** *Writ of Certiorari* to be filed should it become necessary to proceed to the United States Supreme Court regarding ***Affidavit of Disqualification***. Thus, said information is being timely, properly and adequately raised so that it may be addressed on appeal to the United States Supreme Court if necessary.

25) In light of the recent Connecticut Shootings by Omar Thornton, as well as other shootings (i.e. Port Gibson, Mississippi, Virginia Tech, etc.) in support of ***EMERGENCY*** *Writ of Certiorari*, Newsome believes that this issues as well as other mentioned herein (and in the record of the courts) need to be preserved in that it sustains/substantiates the PATTERN-OF-ABUSE of criminal/civil violations leveled against Newsome as well as the CRIMINAL STALKING of Newsome by white employers, white insurance carrier, white attorneys, - i.e. opposing parties – that have engaged in CONSPIRACY leveled against Newsome to destroy her life as well as deprive her rights secured under the Constitution and other governing statutes/laws which are motivated by RACIAL/DISCRIMINATORY/PREJUDICAL biases.

IV. **WOOD & LAMPING (CINCINNATI, OHIO) –** *WHITE EMPLOYER*: Newsome was assigned to this employer through an employment agency. Pleased with Newsome's work, she was able to obtain permanent employment. It was during this employment that:

26) Newsome was subjected to Racial Discrimination, Family and Medical Leave Act violations as well as other criminal/civil wrongs leveled against her

because Wood & Lamping ("W&L") found out about Newsome's engagement in protected activities.

27) On or about July 14, 2008, Newsome filed a document entitled, ***"Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Findings."*** In follow-up to this Complaint, Newsome flew to Washington, D.C. *in **December 2008** to check on the status of said filing*. While Newsome submitted the Original and four copies it appears that the United States Legislature/Congress may have engaged in CRIMINAL/CIVIL wrongs to cover-up the criminal/civil wrongs reported by Newsome. Newsome memorialized the conduct and behavior of Senator Leahy's Staff as well as Congressman John Conyer's Staff's handling of this matter –i.e. UNPROFESSIONALISM and run around Newsome was subjected to. Information that Newsome intends to provided with Certiorari action should it become necessary to file so the United States Supreme Court will understand the CONSPIRACY as well as the criminal/civil wrongs leveled against Newsome.

IMPORTANT TO NOTE: Newsome addresses said issue for purposes of PRESERVING for appeal should the filing of ***EMERGENCY*** *Writ of Certiorari* become necessary to file in regards to the ***Affidavit of Disqualification*** with the United States Supreme Court because based on information Newsome was able to retain from the Internet regarding Liberty Mutual's Law Firm (Baker Donelson) – said firm makes known attorneys employed by it and/or having been employed by it holding TOP/KEY positions such as:

- United States **Senate** ***Majority*** Leader
- **Members of** the *United States Senate*
- **Members of** the *United States House of Representatives*
- **Majority** and **Minority Staff Director** of the ***Senate*** ***Committee on Appropriations***

See **EXHIBIT "3"** – Baker Donelson Information attached hereto and incorporated by reference as if set forth in full herein.

28) Record evidence will support the role Plaintiff Stor-All, its counsel and Liberty Mutual played in the termination of Newsome's employment. Moreover, the unlawful/illegal actions taken to eliminate the CONFLICT OF INTEREST that arose because of Newsome's employment with Wood & Lamp and providing Legal Assistance to Thomas Breed – an attorney who prior to working at W&L was employed by the law firm now known as Schwartz Manes Ruby & Slovin (SMR&S). SMR&L being the law firm Plaintiff Stor-All retained to file the lawsuit in this action. SMR&S being a white employer.

29) In the W&L matter, Newsome's employment was terminated the NEXT day after attorneys approved her to begin the medical procedure she advised

doctors recommended. Said termination clearly in violation of the Family and Medical Leave Act ("FMLA").

IMPORTANT TO NOTE: Newsome filed the required FMLA Complaint with the United States Department of Labor. Realizing that it had committed criminal/civil wrongs, W&L *DELIBERATELY and KNOWINGLY provided **false and misleading** information to the Wage and Hour Division for **purposes of obstructing a federal investigation** and **depriving Newsome rights** secured under the FMLA, Civil Rights Act, Constitution and other statutes/laws governing said matters*. PRIOR to terminating Newsome's employment and in efforts of DESTROYING documentation that W&L knew would be incriminating should legal action be brought, it BROKE into Newsome's desk (which she kept locked) and removed Employee Handbook/Manual and/or information secured by Newsome. However, to its disappointment, Newsome had retained copies of Employee Handbook/Manual and/or information W&L had broke into her desk and stolen. Clearly these are ACTS of PREMEDITATION and PRETEXT to support efforts taken by W&L to cover-up/shield employment violations.

> **EEOC Decision No**. 70-925, Case No. YME9-141 (¶ 6158) **Discharge for Civil Rights Activities Indicates Racial Discrimination: Racial Discrimination-Discharge-Participation in Civil Rights Activities** – There was reasonable basis for a belief that joint employers of a Negro airline ticket agent engaged in unlawful employment practices by causing him to be removed from his regular employment and subsequently discharging him because of his race and for absenting himself to participate in various civil rights activities. Evidence indicated that the charging party's attendance record compared favorably with those of other ticket agents and that he was never officially reprimanded or warned against further absences or against engaging in civil rights activities prior to his termination. . . . . It is now well settled that, where an employer has mixed motives for discharging an employee, and any one of those reasons is unlawful, the non-discriminatory nature of other motives does not preclude a finding of reasonable cause to believe that the employer (or, in this case, employers) has engaged in an unlawful employment practice within the meaning of Title VII of the Act. [*NLRB v. Murray Ohio Manufacturing Company*, (48 LC ¶ 18,691) 326 F.2d 509, 517 (6th Cir. 1964); *Wonder State Manufacturing Company v. NLRB* (49 LC ¶ 18,870) 331 F.2d 737, 738 (6th Cir. 1964)].

30) Newsome further believes that ***EMERGENCY*** *Writ of Certiorari* will issue not only because it is of NATIONAL/WORLDWIDE importance but will EXPOSE the CONSPIRACY leveled against Newsome and the CRIMINAL

STALKING and other crimes/civil wrongs Plaintiff Stor-All, its insurance carrier and lawyers have engaged in for purposes of seeing that Newsome's life is ruined and in RETALIATION of Newsome having engaged in PROTECTED ACTIVITIES which involve insureds of Liberty Mutual. Furthermore, the record evidence will support that while Newsome has attempted to move on with her life that Liberty Mutual relied upon information obtained from THIRD-PARTIES and/or its clients to track her and contact Newsome's employer(s) for purposes of getting her terminated. The record evidence as well as that to be presented on appeal to support EMERGENCY Writ of Certiorari will sustain that the CRIMINAL STALKING that Plaintiff Stor-All, its insurance carrier, its attorneys and others subject Newsome to is clearly PROHIBITED BY LAW:

> *Barela v. United Nuclear Corp.,* 317 F.Supp. 1217 (1970) - **(n. 1)**Refusal to process plaintiff's application for employment simply because he had filed with Equal Employment Opportunity Commission a charge against another employer violated Civil Rights Act. **(n.2)** Filing of charge against employer with Equal Employment Opportunity Commission is protected right under Civil Rights Act and conduct infringing upon that right cannot be permitted. Civil Rights Act of 1964, § 704(a), 42 U.S.C.A. § 2000e-3(a).
>
> . . .(N.2) - The evidence will support no other inference than that United . . . did not want the plaintiff only because of the charge against Kerr. . . The filing of such a charge **is a <u>protected</u> right** under the Civil Rights Act, and conduct infringing upon that right **<u>cannot</u>** be permitted. See *Pettway v. American Cast Iron Pipe Co.,* 411 F.2d 998 (5th Cir. 1969): *Equal Employment Opportunity Commission v. United Ass'n. of Journeymen and Apprentices of the Plumbing and Pipefitting Indus. of the United States and Canada, Local Union No. 189,* 311 F.Supp. 464 (S.D.**Ohio**, 1970).
>
> (n.3) Plaintiff was entitled to injunction restraining defendant from refusing to process his application for employment simply because he had a complaint pending before Equal Employment Opportunity Commission against another employer. Civil Rights Act of 1964, § 704(a), 42 U.S.C.A. § 2000e-3(a).
>
> ***Equal Employment Opportunity Commission*** *v. United Ass'n of Journeymen,* 311 F.Supp. 464 (D.C.**Ohio** 1970) - **(n.2)** By utilizing statutorily established machinery of the equal employment opportunity commission an employee **<u>is exercising a protected right</u>** and federal court cannot permit conduct which would tend to infringe on that right to be practiced with impunity. Civil Rights Act of 1964, § 704(a), 42 U.S.C.A. § 2000e-3(a).
>
> *Christopher v. Stouder Memorial Hosp.,* 936 F.2d 870 (C.A.6.**Ohio**, 1991) - Fact that Congress used words "any individual" in provision making it unlawful employment

> practice to refuse to hire or discriminate against person, while it used term "employees or applicants for employment" in retaliation provision of Title VII, did not limit class of persons entitled to sue for retaliation; rather, **Congress intended to prohibit** discrimination on basis of race or sex and *to **prohibit** discrimination against person who engages in protected activity under Title VII*. Civil Rights Act of 1964, §§ 703, 704, as amended, 42 U.S.C.A. §§ 2000e-2, 2000e-3.

31) Newsome believes that ***EMERGENCY*** *Writ of Certiorari* will issue because the record evidence will support the role Plaintiff Stor-All, its insurance carrier, its attorneys played in the termination of Newsome's employment and how they REPEATEDLY rely upon such criminal acts for purposes of FINANCIALLY devastating Newsome and hinder her from defending against lawsuits filed against her and/or by her.

32) Newsome believes that ***EMERGENCY*** *Writ of Certiorari* will issue because the February 6, 2009, ADMISSION by Plaintiff Stor-All's counsel (David Meranus) will not only support the CRIMINAL STALKING of Newsome, but his advising Newsome of his knowledge of her participation in PROTECTED ACTIVITIES was presented for purposes of BRIBERY, BLACKMAIL, EXTORTION, etc. in efforts to get Newsome to withdraw Counterclaim. FAILING to REALIZE it was he who filed the lawsuit on behalf of his client (Stor-All). Said ADMISSION further sustains the UNLAWFUL/ILLEGAL practices used by Liberty Mutual, its insureds, its attorneys and others in making KNOWN their knowledge of Newsome's engagement in PROTECTED ACTIVITIES. Therefore, a reasonable mind may conclude that a **NEXUS** can be established between: **a)** the issuance of Plaintiff Stor-All's January 9, 2009 document served upon Newsome and her termination on January 9, 2009; **b)** the filing of Plaintiff's Stor-All's Forcible Entry and Detainer Action on January 20, 2009, when it was already in possession of Newsome's storage unit without legal authority – i.e. Court Order; and **c)** the setting of Hearing on February 6, 2009, in that they had no clue that it would be met with Newsome's Counterclaim and the role they played in the termination of her employment being EXPOSED:

33) Newsome believes that ***EMERGENCY*** *Writ of Certiorari* will issue because the Justices of the United States Supreme Court will see to deny Newsome of said relief will only allow Liberty Mutual, its insureds, its attorneys and others to CONTINUE in the criminal stalking of Newsome and will not cease except it intervenes. Such criminal/civil violations which clearly affect the PUBLIC/CITIZENS at large and are methods RELIGIOUSLY used by white employers for purposes of keeping African-Americans and/or people of color oppressed and in bondage. The record evidence will support Newsome's GOOD-FAITH efforts to move on with her life; however, Liberty Mutual, its lawyers, its insureds and others REFUSE to allow Newsome to do so and are determined to destroy her life and deprive her life, liberties and the pursuit of happiness. Rights secured/guaranteed under the Constitution, Civil Rights Act and other governing statutes/laws.

Elements of Damages – In General: All employment-related losses for salaried and hourly wage employees are recoverable in a wrongful discharge suit, regardless of whether the action sounds in contract or tort. Thus, the employee may recover back pay, bonuses, and commissions that would have been earned but for the dismissal. The employee's recovery may include ***damages for loss of fringe benefits***. . . The employee is also entitled to recover the cost of securing other employment, and this cost may include moving expenses. The amount of the award for back pay and loss of fringe benefits during the employee's period of unemployment **may** be offset by the amount of unemployment insurance, if any, received by the employee during that time.. . *the employee has* ***NO*** *duty to seek inferior employment*, *and the burden of proof of the employee's failure to mitigate damages is on the employer*. Moreover, it has been held that the employer may be estopped from raising the issue of the employee's duty to mitigate damages ***IF*** *the employee's dismissal was* ***maliciously*** *motivated*.. . . Damages for consequential losses and emotional distress generally are not allowed in a wrongful discharge case if the cause of action sounds entirely in contract. Where the action sounds in tort alone, or in both contract and tort, such compensatory damages are allowed. . . Plaintiff testified that as a result of the firing he suffered emotional distress by way of humiliation and lost confidence and trust. . . The court held that this evidence supported an award of compensatory damages.. . . Punitive damages are recoverable in an action for bad faith wrongful discharge if the defendant's conduct is sufficiently culpable.. . . The amount of punitive damages or exemplary damages to be awarded is a matter for the discretion of the jury; it depends on the circumstances of the particular case. Punitive damages must bear a reasonable relationship to the actual damages sustained by the plaintiff, though there is no fixed ratio by which punitive and actual damages are properly proportioned. An appellate court generally will not substitute its judgment for that of the trier of fact as to the amount of punitive damages to be awarded. . . . **Plaintiff experienced substantial difficulty finding subsequent employment, and she ultimately had to leave the state**. She had lived and worked in a small community where a dismissal for poor work performance would necessarily have an adverse consequence on her reputation and ability to earn a livelihood. One of the charges against her had been fabricated and her personnel file had been altered to support the allegation. An award of punitive damages against her former

> employer was affirmed on the basis of this evidence. . . .Plaintiff had a . . . faithful performance until she was fired by a vindictive supervisor . . .At the trial of Plaintiff's wrongful discharge case, expert witnesses testified that the employer had violated its own personnel practices and policies in thirteen separate instances; and the employer's evidence at trial was often inconsistent and even contradictory as to whether plaintiff was fired . . . **as a part of a reduction-in-force program**. In addition, the president of the company for which she had worked had revealed a calloused attitude toward. . . plaintiff in particular. . . An award of exemplary damages against the plaintiff's former employer was affirmed on appeal. [FN 89] *Flanigan v. Prudential Federal Sav. & Loan Asso.* (1986), 720 P2d 257. . . 105 CCH LC ¶ 55614 (verdict for $95,000 economic damages, $100,000 compensatory damages for mental distress, and $1,300,000 punitive damages). See also *Cancellier v. Federated Dept. Stores* (1982) 672 F.2d 1312. . . 48 Am. Jur. Proof of Facts 2d 235-240.

Newsome reiterating the story of Carl Brandon referenced above in the Claiborne County/Port Gibson Shootings because a reasonable mind may conclude that this is where Liberty Mutual is attempting to take Newsome; however, she "JUST AIN'T BITING." Further supporting the role of Liberty Mutual, is insured (i.e. Stor-All), its attorneys actual involvement in CRIMINAL WRONGDOING with intent to drive their VICTIMS TO COMMIT HIDEOUS CRIMES, etc.

WHEREFORE, PREMISES CONSIDERED, Newsome prays that through this instant ***"NOTIFICATION OF INTENT TO FILE EMERGENCY WRIT OF CERTIORARI WITH THE UNITED STATES SUPREME COURT; MOTION TO STAY PROCEEDINGS – REQUEST FOR ENTRY OF FINAL JUDGMENT/ISSUANCE OF MANDATE AS WELL AS STAY OF PROCEEDINGS SHOULD COURT INSIST ON ALLOWING AUGUST 2, 2010 JUDGMENT ENTRY TO STAND"***, that the Ohio Supreme Court has a DUTY and OBLIGATION to report the criminal actions of that provided in Newsome's Affidavit of Disqualification as well as her Motion for Reconsideration in this instant action. Furthermore, that this Court has a DUTY and OBLIGATION based upon the PATTERN-OF-ABUSE, INTEGRITY of this Court as well as the appearance of IMPROPRIETY to exercise its discretion and VACATE the August 2, 2010 ***"Judgment Entry of Defendant's 7/27/10 Motion for Consideration"*** and do the right thing and UPHOLD JUSTICE and the EQUAL PROTECTION OF THE LAWS in that it is clear that said ruling is BIAS/PREJUDICIAL and to allow it to stand would cause Newsome irreparable injury/harm; moreover is of PUBLIC interest for the wellbeing of many that such

CRIMINAL STALKING and PATTERN-OF-CRIMINAL BEHAVIOR of by Judge John Andrew West, opposing counsel and others who have targeted Newsome to subject her to criminal/civil wrongs be stopped as a matter of law.

Newsome further prays that if this Court insist on allowing its August 2, 2010 ***"Judgment Entry of Defendant's 7/27/10 Motion for Consideration"*** to stand, that it issue the applicable Order STAYING these proceedings while Newsome appeals to the United States Supreme Court on this issues raised herein as well as those in her Affidavit of Disqualification and Motion of Reconsideration.

Respectfully submitted this **11th** day of **August, 2010.**

Denise Newsome, *Defendant Pro Se*
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the forgoing pleading was MAILED via U.S. Mail first-class to:

Hamilton County Court of Common Pleas
Attn: Patricia M. Clancy – ***Clerk of Court***
1000 Main Street
Cincinnati, OH 45202

Honorable John Andrew West, JUDGE
Hamilton County Court of Common Pleas
1000 Main Street – Room 595
Cincinnati, Ohio 45202

VIA E-MAIL & PRIORITY MAIL – 2306 1570 0001 0442 2421
ATTN: Barack H. Obama – U.S. President
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500-0005
Phone: (202) 456-1414
Fax: (202) 456-2461

VIA E-MAIL & PRIORITY MAIL– 2306 1570 0001 0442 2469
ATTN: Eric H. Holder, Jr. – U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0009
Phone: (202) 514-2001
Fax: (202) 307-6777

Dated this **11th** day of **August, 2010.**

Denise Newsome

IN THE
SUPREME COURT OF OHIO

DENISE V. NEWSOME PLAINTIFF vs. **HAMILTON COUNTY MUNICIPAL COURT** and **Hon. JOHN ANDREW WEST** Judge, Hamilton County Court of Common Pleas DEFENDANTS/RESPONDENTS	:	SUPREME COURT CASE NO.: **AFFIDAVIT OF DISQUALIFICATION** Out of the Hamilton County Court of Common Pleas Case No. A0901302

AFFIDAVIT OF DISQUALIFICATION OF V. DENISE NEWSOME

COMMONWEATH OF KENTUCKY)
)SS:
COUNTY OF CAMPBELL)

I, V. Denise Newsome (a/k/a Denise V. Newsome "Newsome" and/or "Plaintiff/Newsome"), being sworn, depose and say:

1. Newsome is the Plaintiff in the above numbered and entitled cause and that the Honorable John Andrew West ("Judge West"), Judge of the Court of Common Pleas, Hamilton County, Ohio, in whose court her matter is pending and before whom it is assigned, is prejudiced in this matter against the Plaintiff and is by reason of such prejudice disqualified to sit in the proceedings and trial of this cause.

2. The next scheduled hearing in the matter in the Court below (Hamilton County Court of Common Pleas) is set for **July 21, 2010** at **2:00 p.m.** before Judge West. See **EXHIBIT "1"** attached hereto and incorporated by reference.

3. This instant ***Affidavit of Disqualification*** is being timely submitted and in accordance with the statutes/laws governing said matters:

> If a judge of the court of common pleas ***allegedly is interested in a proceeding pending before the court***, is related to, ***or has a bias or prejudice either for or against a part to a***

EXHIBIT 9

proceeding pending before the court or a party's counsel, or allegedly otherwise is disqualified to preside in a proceeding pending before the court, any party to the proceeding or the party's counsel may file and affidavit of disqualification with the clerk of the supreme court.[1]

An affidavit of disqualification must be filed with the clerk not fewer than seven calendar days before the day on which the next hearing on the proceeding is scheduled. . .

The clerk of the Supreme Court will not accept an affidavit of disqualification if it is not timely presented for filing or does not satisfy the statutory requirements. However, the requirement that an affidavit of disqualification of a judge be filed not less than seven days before the scheduled hearing date can be set aside when it is demonstrated that compliance with the seven-day requirement is impossible.

When a proper affidavit of disqualification is timely presented to the clerk of the supreme court for filing, the clerk must accept the affidavit for filing and must forward it to the Chief Justice of the Supreme Court.[2]

The supreme court **must** send notice of the filing of the affidavit to the clerk of the court served by the judge against whom the affidavit is filed. Upon receipt of notice, the appropriate clerk will enter the fact of the filing of the affidavit on the docket of the court.[3]

Except for certain activities enumerated by statute, if the clerk of the supreme court accepts an affidavit of disqualification for filing, ***the affidavit deprives the judge against whom the affidavit was filed of any authority to preside in the proceeding until the Chief Justice of the Supreme Court or a justice of the supreme court designated by the Chief Justice, rules on the affidavit***.[4]

A judge who is aware of a pending disqualification affidavit should not continue to proceed with the case,[5] and a judge who proceeds with substantive matters pending resolution of the affidavit risks the ***proceedings being held for naught*** if disqualification is ordered.[6]

A judge against whom an affidavit of disqualification is filed may do the following if applicable:

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[1] Ohio Revised Code § 2701.03.
[2] ORC § 2701.03(C)(1)(a).
[3] ORC § 2701.03(C)(1)(b), (c).
[4] ORC § 2701.03(D)(1).
[5] ***In re Disqualification of Celebrezze***, 74 Ohio St. 3d 1242, 657 N.E.2d 1348 (1992).
[6] ***Rife v. Morgan,*** 106 Ohio App. 3d 843, 667 N.E.2d 450 (2d Dist. Clark County 1995).

- If, based on the scheduled hearing date, the affidavit was not timely filed, the judge may preside in the proceeding . . .[7]

- Determine a matter that **does <u>not</u>** affect the substantive right of any of the parties.[8]

4. Newsome believes that while she submitted a sufficient *Affidavit of Disqualification* on or about May 28, 2010 (See **EXHIBIT "2"** – Affidavit/Brief Only), the Clerk of Court (Patricia M. Clancy), may have failed to implement and handle said Affidavit in compliance with the statutes/laws governing said matters. In the **<u>NOTIFICATION TO CLERK OF COURT</u>** of the May 28, 2010 *Affidavit of Disqualification* at Page 11, it states in part:

> **the clerk of the court of common pleas shall enter the fact of such filing on the trial docket in such cause and forthwith notify the presiding judge of the court of appeals for the district in which such court of common pleas is located**. *<u>If such presiding judge finds that such judge of the court of common pleas is disqualified he shall forthwith notify the chief justice of the Supreme Court. The chief justice shall designate and assign some other judge to take the place of the judge against whom such affidavit is filed</u>*.

See **EXHIBIT "2"** at p.11 attached hereto and incorporated by reference. Therefore, as a matter of law, ***<u>Newsome is entitled to know whether or not upon submittal of her Affidavit of Disqualification whether or not Clancy followed the proper procedures in the handling thereof</u>***.

Newsome is not aware whether or not these procedures were followed and now it appears Judge West is attempting to usurp authority, abuse his discretion, violate the Code of Judicial Conduct, infringe upon the rights of Newsome and rule on her Affidavit of Disqualification on July 21, 2010.

5. Newsome is informed and believe, and based on such information and belief allege, that the Honorable John Andrew West ("Judge West"), the judge before whom this cause is pending: **(a)** has a personal bias or prejudice against her and in favor of Stor-All Alfred LLC ("Stor-All"), who is the Plaintiff in the lower court action, and its counsel/attorneys; **(b)** has a *personal* interest in the proceeding and the outcome thereof; **(c)** a CONFLICT OF INTEREST exist; and **(d)** is disqualified from presiding over matter in that formal criminal charges have been filed against him and others with the Federal Bureau of Investigation ("FBI") – a matter which to Newsome's knowledge is still pending.

6. This Affidavit is submitted in good faith and for purposes of preserving the rights of Plaintiff/Newsome and is not being submitted for purposes of delay, harassment, hindering proceedings, obstruction of justice, etc.

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[7] ORC § 2701.03(D)(2)(b).
[8] ORC § 2701.03(D)(3).

7. The facts and the reasons for Plaintiff's/Newsome's belief that such bias or prejudice exists are set forth in this instant ***Affidavit of Disqualification***.

8. In support of this instant ***Affidavit for Disqualification***, Newsome states the following in support thereof: **(a)** the specific allegations on which the claim of interest, bias, prejudice, or disqualification is based and the facts to support each of her allegations; **(b)** the jurat of a notary public authorized to administer oaths or affirmations; **(c)** certification supporting that a copy of the affidavit has been served on Judge West and opposing parties and/or their counsel; **(d)** The Plaintiff (Stor-All) in the lower court action has requested a hearing on its Motion to Dismiss/Motion for Summary Judgment which appears to be set **for July 21, 2010** (See **EXHIBIT "1"** attached hereto and incorporated by reference; however, Defendant (Newsome) in the lower court action and in response to Plaintiff's/Stor-All's request has timely, properly and adequately notified the lower court and Judge John Andrew West that she **WILL NOT** be available for the time and date set by said court in that there is pending Affidavit of Disqualification that was submitted for filing on or about May 28, 2010 and DOCKETED on or about June 1, 2010. See **EXHIBIT "3"** – Docket Printout attached hereto and incorporated by reference as if set forth in full herein.

9. In the preservation of Plaintiff's/Newsome's rights the instant ***Affidavit of Disqualification*** is submitted in that the evidence and record in this matter will support that without intervention, Judge West will attempt to move forward with the July 21, 2010 hearing OVER Plaintiff's/Newsome's objections and despite the CONFLICT OF INTEREST that exist regarding him and his knowledge of the pending Affidavits of Disqualification – the May 28, 2010 submittal and now this instant Affidavit.

10. On or about June 7, 2010, with knowledge that Newsome had filed her Affidavit of Disqualification, Judge West executed NULL/VOID *Orders Lifting Stay Entered April 28, 2009* ***and*** *Denying Defendant's Motion for Default Judgment*. Doing so with knowledge that he lacked authority and/or jurisdiction to do so given light of the pending TIMELY FILED Affidavit of Disqualification submitted on May 28, 2010.

11. Disqualification of Judge John Andrew West is sought pursuant to the Ohio Constitution, Article IV, § 5(C), as amended in 1968, and Revised Code § 2701.03 and other governing statutes/laws.

12. The Ohio Revised Code § 2701.03, as amended in 1963, provides:

> When a judge of the court of common pleas *is interested in a cause or matter pending before the court*, is related to, *or has a bias or prejudice either for or against, a party to such matter or cause* or to his counsel, *or is otherwise disqualified to sit in such cause or matter*, on the filing of an affidavit by any party to such cause or matter, or by the counsel of any party, setting forth the fact of such interest, bias, prejudice, or disqualification, **the clerk of the court of common pleas shall enter the fact of such filing on the trial docket in such cause and forthwith notify the presiding judge of the court of appeals for**

> **the district in which such court of common pleas is located**. *If such presiding judge finds that such judge of the court of common pleas is disqualified he shall forthwith notify the chief justice of the Supreme Court. The chief justice shall designate and assign some other judge to take the place of the judge against whom such affidavit is filed*. The judge so assigned shall try such matter or cause. Such affidavit shall be filed not less than three days prior to the time set for the hearing in such matter or cause.

13. The term "bias or prejudice" in the canon requiring Judge West to perform judicial duties without bias or prejudice implies a hostile feeling in spirit of ill will or undue friendship or favoritism toward Stor-All and/or its counsel with the formation of a fixed anticipatory judgment on part of Judge West, as contra-distinguished from an open state of mind which will be governed by the law and the facts. *Cleveland Bar Assn. v. Cleary,* 93 Ohio St. 3d 191, 2001-Ohio-1326, 754 N.E.2d 235 (2001), reinstatement granted, 96 Ohio St. 3d 1204, 2002-Ohio-3639, 771 N.E. 2d 863 (2002); *State v. Seller,* 173 Ohio App. 3d 60, 2007-Ohio-4681, 877 N.E. 2d 387 (8th Dist. 2007).

14. In further support of this instant *Affidavit of Disqualification* and in keeping with Revised Code § 2701.03, the following are specific allegations, facts, evidence and legal conclusions to substantiate the claim of interest, bias, prejudice and/or disqualification of Judge John Andrew West:

    a) The record evidence will support that Plaintiff/Newsome prior to filing this Affidavit and during the course of proceedings notified the Court of concerns of bias and/or prejudices against her – to no avail. Judge West continued to march forward disregarding Plaintiff's/Newsome's timely notifications and concerns submitted in the preservation of "PROTECTED RIGHTS."

    b) Judge West has a personal bias or prejudice concerning Plaintiff/Newsome as well as PERSONAL knowledge of disputed evidentiary facts concerning this lawsuit;

    c) *On or about September 9-10, 2009,* Judge West and others engaged in CRIMINAL/CIVIL wrongs leveled against Plaintiff/Newsome which resulted in Plaintiff/Newsome filing an OFFICIAL FBI Criminal Complaint **on or about September 24, 2009**, which ***is presently pending*** and includes (however not limited) to the following Charges/Counts:

        i. Conspiracy;

        ii. Public Corruption;

iii. Complicity;

iv. Corruption;

v. Aiding and Abetting;

vi. Extortion and Blackmail;

vii. Bribery;

viii. Coercion;

ix. Retaliation;

x. Pattern of Conduct;

xi. Intimidation;

xii. Deprivation of Rights;

xiii. Power/Failure to Prevent;

xiv. Stalking/Menacing by Stalking;

xv. Burglary and Breaking & Entering;

xvi. Theft;

xvii. Trespass;

xviii. Larceny

xix. Invasion;

xx. Unlawful Entry/Forcible Action;

xxi. Obstruction of Justice/Process;

xxii. Color Law;

xxiii. Conspiracy Against Rights; and

xxiv. Conspiracy to Interfere With Civil Rights.

Judge West's role and engagement in the above criminal acts **IS <u>NOT</u>** protected under the Cloak of Immunity. The role Judge West played in the carrying out of the above crimes was done knowingly, willingly and maliciously for purposes of *aiding and abetting* Stor-All, its attorneys and others in criminal/civil wrongs leveled against Plaintiff/Newsome.

> *Dennis v. Sparks,* 101 S.Ct. 183 (U.S.Tex.,1980) - **<u>State</u> judge** *may be found* ***criminally*** *liable* for violation of civil rights *even though the judge may be immune from damages under the civil statute*. 18 U.S.C.A. § 242; 42 U.S.C.A. § 1983.

d) Because Judge West is named in the FBI Criminal Complaint with Stor-All, its counsel and others, a reasonable mind may conclude he has an interest in the outcome of this lawsuit and

therefore, cannot remain impartial and rulings by him clearly supports his inability to remain impartial when deciding matters in this lawsuit because of his relationship and interest to Stor-All and/or their counsel. This instant *Affidavit of Disqualification* is submitted to further support Plaintiff's/Newsome's objection to Judge West presiding in this lawsuit. Said rights of Plaintiff/Newsome to object to Judge West **WILL <u>NOT</u>** and **IS <u>NOT</u>** hereby waived and is timely submitted in good faith.

e) Judge West, as a matter of law, is under an obligation to disqualify himself in this lawsuit because his impartiality is reasonably questioned and Plaintiff/Newsome has filed a timely FBI Criminal Complaint during the course of this lawsuit that also now renders his inability to continue presiding over this lawsuit and his inability to remain impartial. Judge West now further has an additional PERSONAL interest in the outcome of this lawsuit. Furthermore, where the record evidence, facts and legal conclusions supports Judge West harbors personal bias or prejudice concerning Defendant/Newsome. ORC § 2701.03.

f) Judge West also now has a personal interest in the outcome of this lawsuit because of the FBI Criminal Complaint Plaintiff/Newsome has filed; therefore, disqualifying and requiring his removal/recusal. *State ex rel. Taylor v. Winget,* 37 Ohio St. 153, 1881 WL 80 (1881).

15. In the interest of justice Judge John Andrew West should step down and have this case transferred to another judge not only because of Plaintiff's/Newsome's instant Affidavit but on his own to give place to another, conceding that he might be prejudiced and therefore disqualified to sit in the case. *State v. Hunt,* 72 Ohio St. 643, 76 N.E. 1132 (1905). Ohio courts have long held that not only may a judge refuse to sit when such conflicts arise, ***<u>but has been recognized as highly proper and becoming to the dignity of the court to step down when he considers it appropriate</u>***. As in this case, when Judge West exhibited bias and interest and acted upon questions of facts that clearly were contrary to prior rulings by him and other judges/justices and/or this Court, the laws require that he refuse to sit and should have made known his interest at the earliest stage of proceeding than requiring Plaintiff/Newsome to have to conduct IN-DEPTH research to determine why he and others engaged in CRIMINAL/CIVIL wrongs leveled against Defendant/Newsome. *Probasco v. Raine,* 50 Ohio St. 378, 34 N.e. 536 (1893); *Gregory v. Cleveland, C. & C. R.Co.,* 4 Ohio St. 675, 1855 WL 31 (1855); *Ashland Bank & Sav. Co. v. Houseman,* 5 Ohio App. 165, 1915 WL 1296 (5th Dist. 1915).

16. Stor-All (Plaintiff in lower case action) as recent as May 19, 2010, contacted Judge West with knowledge of the pending Criminal FBI Complaint as well as Plaintiff/Newsome notifying the Court of Common Pleas/Judge West of her objections to his further sitting on the case. Stor-All and/or opposing counsel was provided with a copy of same. See **EXHIBIT "4"** – May 19, 2010 correspondence to Judge West attached hereto and incorporated by reference. Judge West received a copy of said correspondence via facsimile as well.

If Stor-All and/or its counsel is aware of the Federal Bureau of Investigation's findings and/or rulings on the Criminal Complaint and that said issues have been resolved, then it is important/eminent that such information be produced to support that Plaintiff's/Newsome's FBI Complaint against Judge West, Plaintiff and their counsel have been exonerated of the charges/crimes filed against them. However, Plaintiff nor its counsel has done so because criminal charges are still pending against those Plaintiff/Newsome has filed a September 24, 2009 FBI Criminal Complaint against.

17. A ruling by the lower court may be considered to be the product of judicial bias if based on improper extrajudicial motives or if it is so extreme as to display clear inability to render fair judgment as the facts and evidence in this instant matter displays. *Cleveland Bar Assn. v. Cleary,* 93 Ohio St. 3d 191, 2001-Ohio-1326, 754 N.E.2d 235 (2001), reinstatement granted, 96 Ohio St. 3d 1204, 2002-Ohio-3639, 771 N.E. 2d 863 (2002).

18. Judge West's mode of articulating; moreover, his FAILURE to articulate the basis for decision(s) may exhibit such a degree of antagonism or other offensive conduct that a single incident would indicate that impartial judgment is not reasonably possible. *Cleveland Bar Assn. v. Cleary,* 93 Ohio St. 3d 191, 2001-Ohio-1326, 754 N.E.2d 235 (2001), reinstatement granted, 96 Ohio St. 3d 1204, 2002-Ohio-3639, 771 N.E. 2d 863 (2002).

19. Plaintiff/Newsome is entitled, as a matter of statute/law, to a fair and impartial trial before a disinterested court and also to provide the same to opposing parties and/or any party who discovers, AFTER the filing of lawsuit, conditions in the court which would likely prevent either party from having a fair and impartial trial before a disinterested court. *Moore v. O'Dell,* 16 Oio Op. 460, 30 Ohio L. Abs. 297, 1 Ohio Supp. 389 (C.P. 1939).

20. The record evidence will support that the lower Court/Judge West had sufficient facts, evidence and legal conclusions to support his DISQUALIFICATION/REMOVAL/RECUSAL from this lawsuit.

21. Plaintiff's/Newsome's research has further yielded disturbing information which supports Stor-All's Insurance Company (Liberty Mutual) and Liberty Mutual's attorneys' and their clients' role in CONSPIRACIES involving criminal/civil wrongs leveled against Newsome which involve; however, is not limited to the following:

    a) Stalking, harassing, contacting employers of Newsome to get her terminated, relying upon special favors and relationships to judges assigned lawsuits in which Newsome is involved to obtain special favors/rulings from judges. Neither Liberty Mutual, its attorneys or the judges involved in lawsuit to which Newsome is a party revealed or made known their special relationships to Liberty Mutual, its insureds or attorneys. CRITICAL/CRUCIAL/PERTINENT information to which Newsome was entitled; however, withheld from her. Had it not been from the information obtained through this instant lawsuit and Stor-All's counsel's, David Meranus, disappointment in losing against Plaintiff/Newsome on the Motion to Transfer filed by her and Meranus' revealing his and his client's knowledge of Newsome's engagement in protected activities

unrelated to this lawsuit, Plaintiff/Newsome may not have been able to determine who the COMMON DENOMINATOR/ CONSPIRATORS (Liberty Mutual and its attorneys) were that have been STALKING, HARASSING, ENGAGING IN CRIMINAL/CIVIL WRONGS from state-to-state, job-to-job that has been leveled against Defendant/Newsome.

b) Based upon information provided Plaintiff/Newsome in February 2009 by Stor-All's counsel, David Meranus, and filings by one of Liberty Mutual's many attorneys, Molly Vance, Plaintiff/Newsome was able to conduct research and CONFIRM the NEXUS/ASSOCIATION of Liberty Mutual, its attorneys and others in lawsuits involving Newsome. Moreover, special relationships as well as FINANCIAL CONTRIBUTIONS Liberty Mutual and its attorneys have made to SITTING Judges before which lawsuits/matters involving Newsome was pending. Facts and evidence clearly supporting "CONFLICT OF INTEREST" however, there were judges who knew of their special relationships to Stor-All's Insurance provider (Liberty Mutual) and the FINANCIAL gains received therefrom; however, failed to advise Plaintiff/Newsome and/or or counsel of same. Again, Newsome has filed the required FBI Criminal Complaints as well as other Complaints to address such issues which, as a matter of law, are presently pending. Plaintiff/Newsome is currently in the process of determining the status of other Complaints and what has happened to them – i.e considering the PATTERN-OF-PRACTICE and well-established CONSPIRACY that has been leveled against Plaintiff/Newsome by Liberty Mutual, its insureds and its attorneys.

22. For example, in Plaintiff's/Newsome's research she was able to obtain CRUCIAL/CRITICAL/PERTINENT information regarding Liberty Mutual's attorney's ties/relationships to judges assigned lawsuits/matters involving her. See **EXHIBIT "5"** – Baker Donelson Info regarding relationships to Judges/Justices (i.e. Plaintiff/Newsome ***UNDERLINED names of judges/ justices associated in matters involving her***) attached hereto and incorporated by reference. In efforts of concealing one of Liberty Mutual's MAJOR LAW FIRMS (i.e. Baker Donelson Bearman Caldwell & Berkowitz ["Baker Donelson"]) so that Plaintiff/Newsome would not easily make the connection, Liberty Mutual relied upon using smaller law firms in efforts of throwing Plaintiff/Newsome off of Liberty Mutual's trail as well as the role Baker Donelson was playing at every level. Baker Donelson being a very HUGE and well established law firm with KEY/MAJOR ties to judges/justices, senators/representatives, White House, government officials, etc. In fact, such major ties and relationships to those holding key positions was OPENINGLY and WILLINGLY advertised on website containing Baker Donelson information. See **EXHIBIT "6"** – Baker Donelson Info regarding RELATIONSHIPS to TOP/KEY Government Officials, etc. attached hereto and incorporated by reference. *However, since Plaintiff/Newsome has confronted the United States President and his Administration regarding such special ties and information supporting that Liberty Mutual and Baker*

Donelson are TOP/KEY FINANCIAL CONTRIBUTORS and ADVISORS to President Obama and others, Baker Donelson ***has since tried to do DAMAGE CONTROL and remove information from the Internet***. See **EXHIBIT "7"** attached hereto and incorporated by reference. However, to their disappointment, Plaintiff/Newsome retained HARD COPY evidencing Liberty Mutual's and its attorneys' TIES to judges/justices, the United States White House, Supreme Court (United States and Ohio) and many others.

23. Newsome forwarded a copy of the May 19, 2010 letter to Judge West to United States President Barack Obama and United States Attorney General Eric Holder. United States President Barack Obama because he is Head ***over the Executive Department*** *under which the United States Department of Justice resides.* United States Attorney General Eric Holder because he is the Head of the Department of Justice under which ***the Federal Bureau of Investigation*** ("FBI") resides. The United States Postal records reveal that both President Obama (on May 25, 2010) and Attorney General Eric Holder (on May 24, 2010) received the copy mailed to them. See **EXHIBIT "8"** – U.S. Mailing Receipt attached hereto and incorporated by reference.

24. While Ohio law pursuant to Ohio Revised Code § 2701.03, as amended in 1963, provides in part:

> . . . the clerk of the court of common pleas shall enter the fact of such filing on the trial docket in such cause and forthwith notify the presiding judge of the court of appeals for the district in which such court of common pleas is located. *If such presiding judge finds that such judge of the court of common pleas is disqualified* ***he shall forthwith notify the chief justice of the Supreme Court.*** *The chief justice shall designate and assign some other judge to take the place of the judge against whom such affidavit is filed*. The judge so assigned shall try such matter or cause. Such affidavit shall be filed not less than three days prior to the time set for the hearing in such matter or cause.

It is important to note that Plaintiff's/Newsome's research has also yielded that ***Liberty Mutual and its attorneys own the MAJORITY, if not the ENTIRE, Supreme Court of Ohio***. Plaintiff's/Newsome's research found that Liberty Mutual and/or its attorneys FINANCIALLY CONTRIBUTED hundreds of thousands/millions of dollars to Justices of the Supreme Court of Ohio. A reasonable mind may conclude that such large FINANCIAL CONTRIBUTIONS to the Supreme Court justices being provided for special favors and rulings from said court.

25. In Newsome's research she found that the MAJORITY if not all of the Justices of the Ohio Supreme Court receive a SUBSTANTIAL financial benefit from Liberty Mutual and/or its attorneys/law firms as well. See **EXHIBIT "9"** –

Ohio Supreme Court Justices information attached hereto and incorporated by reference as if set forth in full herein.

26. While it appears the DECK MAY BE STACKED against Newsome in that the evidence uncovered reveals that Liberty Mutual, its counsel and others engage in practices to PURCHASE, BRIBE, etc. Justices/Judges by providing HUGE and SUBSTANTIAL financial contributions to obtain rulings in their favor – Evidence of such contributions supporting that at least SIX of the Seven Justices of the Ohio Supreme Court receive SUBSTANTIAL financial contributions from LIBERTY MUTUAL and/or its attorneys/law firms – *it is imperative and of **PUBLIC interest** that the record reveals that this information is properly recorded*.

27. In December 2009, it appears Justices of the Supreme Court of Ohio sought to make good on their special relationships to Liberty Mutual and its attorneys and in so doing engaged in CRIMINAL/CIVIL wrongs in the handling of matters involving this lawsuit. In efforts of COMPROMISING Plaintiff's/Newsome's appeal, the Supreme Court of Ohio deprived Newsome of "PROTECTED RIGHTS" and withheld its ruling from her. As a direct and proximate result of said CRIMINAL wrongs by the Justices and/or Supreme Court of Ohio, Plaintiff/Newsome was DEPRIVED rights secured to her under the Ohio Constitution, United States Constitution, Civil Rights Act and others statutes/laws governing said matters. Because of such criminal/civil wrongs leveled against her which clearly infringed upon Plaintiff's/Newsome's protected rights, she moved and timely filed an FBI Criminal Complaint against the Justices and/or officials of the Supreme Court of Ohio and others which include (however is not limited) to the following CHARGES/COUNTS:

i. Conspiracy (**18 USC§ 371**);
ii. Conspiracy Against Rights (**18 USC§ 241**);
iii. Conspiracy to Defraud (statutes provided)
iv. Conspiracy to Interfere with Civil Rights (**42 USC§ 1985**);
v. Public Corruption (provided information taken from ***FBI's*** *website*);
vi. Bribery (statutes cited);
vii. Complicity (statutes cited);
viii. Aiding and Abetting (statutes cited);
ix. Coercion (statutes cited);
x. Deprivation of Rights Under **COLOR OF LAW** (**18 USC§ 242**);
xi. Conspiracy to Commit Offense to Defraud United States (**18 USC§ 371**);
xii. Conspiracy to Impede (**18 USC§ 372**);
xiii. Frauds and Swindles (**18 USC§ 1341** and **1346**);
xiv. Obstruction of Court Orders (**18 USC§ 1509**);
xv. Tampering with a Witness (**18 USC§ 1512**);
xvi. Retaliating Against A Witness (**18 USC§ 1513**);

xvii. Destruction, Alteration, or Falsification of Records (**18 USC§ 1519**);

xviii. Obstruction of Mail (**18 USC§ 1701**);

xix. Obstruction of Correspondence (**18 USC§ 1702**);

xx. **Delay of Mail** (**18 USC§ 1703**);

xxi. Theft or Receipt of Stolen Mail (**18 USC§ 1708**);

xxii. Avoidance of Postage by Using Lower Class (**18 USC§ 1723**);

xxiii. Postage Collected Unlawfully (**18 USC§ 1726**);

xxiv. Power/Failure to Prevent (**42 USC§ 1986**);

xxv. Obstruction of Justice

To Plaintiff's/Newsome's knowledge this FBI Criminal Complaint is still pending. While a conviction of the Justices involved in such crimes may be SCANDELOUS, it is important for the PUBLIC sake that such CORRUPTION/CRIMINAL practices be cleaned up. If Stor-All and/or its counsel is aware of the Federal Bureau of Investigation's findings and/or rulings on the Criminal Complaint and that said issues have been resolved, then it is important/eminent that such information be produced to support that Plaintiff's/Newsome's FBI Complaint against Judge West, Stor-All and their counsel have been exonerated of the charges/crimes filed against them. However, Stor-All nor its counsel has done so because criminal charges are still pending against those Plaintiff/Newsome has filed the September 24, 2010 FBI Criminal Complaint against.

28. Plaintiff/Newsome is responding in a timely manner to correspondence received from United States President Barack Obama and his Administration in efforts of resolving said matters and determining the status of Complaints filed. Defendant/Newsome's most recent response to correspondence sent from the Administration being May 19, 2010.

29. While there is no legal/lawful justification for the criminal/civil wrongs leveled against Newsome by Judge West, Stor-All, its counsel and others, Plaintiff/Newsome has abided by the laws of the State of Ohio and United States and filed the required Complaints. Furthermore, *while justice is **supposed to be blind**, apparently rather than EQUALLY apply and render justice in accordance with the statutes/laws governing said matters, it appears there are Judges (i.e. such as Judge West) who are willing to peep beneath the blindfold and DISCRIMINATE against Plaintiff/Newsome in efforts of rendering special favors to Stor-All, Liberty Mutual, its counsel and others*. However, the record will reveal that Plaintiff/Newsome does not look at the color of skin when seeking justice and has filed the required criminal complaints against those who have violated the laws and deprived her rights secured under the Constitution (Ohio and United States) as well as other governing statutes/laws regardless of the color of their skin. As a matter of law, citizens are entitled to EQUAL protection of the laws and DUE PROCESS of laws under the Constitution and other governing laws.

30. In Newsome's May 28, 2010 Affidavit of Disqualification at Paragraph 24, she states:

> While Judge West and opposing counsel were advised that Plaintiff/Newsome would not be available until AFTER July

15, 2010, **he and opposing counsel may attempt to file and act in furtherance of CRIMINAL/CIVIL wrongs leveled against Newsome which further warrants the DISQUALIFICATION of Judge West**. Actions by Judge West in furtherance of bias and prejudices towards Plaintiff/Newsome and efforts of extending SPECIAL FAVORS to Stor-All and its counsel/attorneys.

See **EXHIBIT "2"** – May 28, 2010 Affidavit of Disqualification attached hereto and incorporated by reference. Surely enough on June 7, 2010, Judge West executed *Order Lifting Stay Entered April 28, 2009* ***and*** *Order Denying Defendant's Motion for Default Judgment* with knowledge that Newsome would not be in town and would be on vacation. Judge West doing so deliberately, knowingly and MALICIOUSLY in efforts of rendering LIBERTY MUTUAL, Stor-All and their counsel special favors.

31. While Judge West and opposing counsel will receive a copy of this instant Affidavit, a reasonable mind may conclude that in keeping with tradition and criminal acts, Judge West and counsel may be present at the July 21, 2010 hearing set for purposes of COMPLETING the OBJECT of the CONSPIRACY leveled against Newsome. However, Newsome has timely, properly and adequately submitted for filing NOTICE OF NONATTENDANCE of the July 21, 2010 hearing set in light of the PENDING Affidavits of Disqualification of May 28, 2010 and this instant submittal to the Ohio Supreme Court.

32. Newsome through this instant filing also request that if CONFLICT OF INTEREST exist with the Chief Justice of the Ohio Supreme Court and/or any other Justices of this Court because of the pending FBI Complaint filed on December 28, 2009, as well as for other reasons known to this Court that the proper RECUSAL/DISQUALIFICATIONS as well as Conflict of Interests be provided Newsome and matter presented to Justice under which bias and prejudice as well as grounds for disqualification do not exist.

Affiant hereby,

ELECTRONIC COPY

V. DENISE NEWSOME

Sworn to and subscribed before me on this **9th** day of **July, 2010.**

NOTARY PUBLIC

My Commission expires on:

CERTIFICATE OF SERVICE

V. Denise Newsome certifies that she is the Plaintiff in this instant action (Defendant in the lower Court – Hamilton County Court of Common Pleas) and a party to this action in the above-entitled cause, and as such prepared the above *Affidavit of Disqualification*, and is informed as to the proceedings, and that such Affidavit is made in good faith and not for the purpose of hinderence or delay.

V. Denise Newsome further certifies that Judge John Andrew West and opposing counsel to this action has been served a copy of this *Affidavit of Disqualification* via First-Class United States Mail and postage paid as follows:

Honorable John Andrew West, JUDGE
Hamilton County Court of Common Pleas
1000 Main Street – Room 595
Cincinnati, Ohio 45202

Schwartz Manes Ruby & Slovin, LPA
Attn: David Meranus, Esq.
2900 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202

Markesbery & Richardson Co., LPA
Attn: Michael E. Lively, Esq.
Attn: Patrick B. Healy, Esq.
Post Office Box 6491
Cincinnati, Ohio 45206

VIA E-MAIL & PRIORITY MAIL – 0309 1830 0000 0661 8023
ATTN: Barack H. Obama – U.S. President
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500-0005
Phone: (202) 456-1414
Fax: (202) 456-2461

VIA E-MAIL & PRIORITY MAIL– 0309 1140 0001 9264 2721
ATTN: Eric H. Holder, Jr. – U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0009
Phone: (202) 514-2001
Fax: (202) 307-6777

This **9th** day of **July, 2010.**

ELECTRONIC COPY
V. DENISE NEWSOME, *PLAINTIFF PRO SE*

IN THE
SUPREME COURT OF OHIO

STOR-ALL ALFRED, LLC 1109 Alfred Street Cincinnati, Ohio	:	COMMON PLEAS CASE NO.: **A-09013-2**
PLAINTIFF	:	From The Hamilton County Court Of Common Pleas
vs.	:	SUPREME COURT CASE NO. 10-AP-069
DENISE V. NEWSOME Post Office Box 14731 Cincinnati, Ohio 45250	:	**MOTION FOR RECONSIDERATION**
DEFENDANT	:	

COMES NOW Defendant, Denise V. Newsome ("Defendant" or "Newsome"), through this instant *"Motion for Reconsideration* ("MFR")*,"* **without** *waiving her defenses as to DISQUALIFICATION of Judge John Andrew West* ("Judge West") *of the Hamilton County Court Of Common Pleas* to reconsider its July 17, 2010 *Judgment Entry* (Attached hereto as **EXHIBIT "I"** – ***Judgment Entry*** and copy of **Envelope** in which mailed incorporated herein by reference as if set forth in full herein.)

Newsome further moves this Court pursuant to S. Ct. R. XI, Section 2 to VACATE and SUSPEND its July 17, 2010 *Judgment Entry* and reconsider this matter and *enter a ruling* ***GRANTING*** *the relief Newsome seeks* through this instant ***Motion for Reconsideration*** and her subsequent filing of ***Affidavit of Disqualification***. In support thereof Newsome further states:

1. This instant MFR is submitted in good faith and is not submitted for purposes of delay, harassment, hindering proceedings, embarrassment, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, etc. and is filed to protect and preserve the rights of Newsome.

2. Newsome through her Affidavit of Disqualification at Paragraph 11, TIMELY, PROPERLY and ADEQUATELY sought the following relief:

> Disqualification of Judge John Andrew West is sought pursuant to the Ohio Constitution, Article IV, § 5(C), as amended in 1968, and Revised Code § 2701.03 and ***other*** *governing statutes/laws*.

EXHIBIT 10

Therefore, as a matter of law, the legal conclusions, relief sought through Newsome's Affidavit of Disqualification is **NOT ONLY** limited to arguments presented in Affidavit; however, *are to **include** those **known*** to this Court which would support Newsome's *Affidavit of Disqualification* and the Recusal/Removal of Judge John Andrew West from presiding over lawsuit.

3. The Ohio Supreme Court through its July 17, 2010 *Judgment Entry* insist on providing the Judge West in the Hamilton County Court of Common Pleas with jurisdiction over subject matter; wherein as a matter of law, Judge West lacks jurisdiction and is not qualified to continue to proceed in the action before the lower court (Court of Common Pleas) based upon the grounds set forth in the ***Affidavit of Disqualification*** – which is attached hereto as **EXHIBIT "II"** and incorporated herein by reference as if set forth in full herein. Therefore, as a direct and proximate result, Newsome's rights secured under the United States Constitution, **Ohio Constitution, Article IV, § 5(C), as amended in 1968**, **Revised Code § 2701.03,** Ohio Revised Code 2701.12 – ***Cause for Removal, Suspension or Retirement of Judge*** *which states in part*:

> (A) Cause for removal or suspension of a judge from office without pay under section 2701.11 of the Revised Code exists when he has, since first elected or appointed to judicial office:
>
> (1) Engaged in any misconduct involving moral turpitude, or a violation of such of the canons of judicial ethics adopted by the supreme court as would result in a substantial loss of public respect for the office;
> (2) Been convicted of a crime involving moral turpitude; or . . . ,

Ohio Code of Judicial Conduct which states in part:

> **CANON 1:** A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.
>
> **RULE 1.2:** Promoting Confidence in the Judiciary - - A judge shall act all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.
>
> **OFFICIAL COMMENT:**
>
> [1] ***Public confidence*** *in the judiciary* ***is eroded*** *by* ***improper*** ***conduct*** *that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge*.
>
> [2] A judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by the code.

[3] ***Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary***. *Because it is not practicable to list all such conduct, the rule is necessarily cast in general terms*.

[4] Judges should participate in activities that promote ethical conduct among judges and lawyers, support professionalism within the judiciary and the legal profession, and promote access to justice for all.

[5] Actual improprieties include ***violations of the law, court rules, OR provisions of this code.*** The test for appearance of impropriety is an objective standard that focuses on whether the conduct would create, in **reasonable minds**, a perception that the judge violated this code, ***engaged in conduct that is prejudicial to public confidence in the judiciary, or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.***

RULE 1.3: Avoiding Abuse of the Prestige of Judicial Office - - A judge shall not abuse the prestige of judicial office to advance the personal or economic interest of the judge or others, or allow others to do so.

CANON 2: A judge shall perform the duties of judicial office impartially, competently, and diligently.

RULE 2.2: Impartiality and Fairness - - A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

RULE 2.3: Bias, Prejudice, and Harassment - - **(A)** A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

(C) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, based upon attributes including but not limited to race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, or others.

OFFICIAL COMMENT:

[1] A judge ***who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding*** and ***brings the judiciary into disrepute***.

[2] Examples of manifestations of bias or prejudice include, but are not limited to: . . . threatening, intimidating, or hostile acts; suggestions of connections between. . . crime, . . . A judge must avoid conduct that may reasonably be perceived as prejudiced or biased.

RULE 2.6: Ensuring the Right to be Heard - - (A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to ***law.***

OFFICIAL COMMENT:

[1] The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.

[1A] The rapid growth in litigation involving ***self-represented litigants*** and increasing awareness of the significance of the role of the courts in promoting access to justice have led to additional flexibility by judges and other court officials in order to facilitate a ***self-represented litigant's*** ability to be heard. By way of illustration, individual judges have found the following affirmative, nonprejudicial steps helpful in this regard: (1) providing ***brief information*** about the proceeding and **evidentiary** and **foundational** *requirements*; (2) ***modifying the traditional order*** of taking evidence; (3) refraining from using legal jargon; (4) ***explaining the basis for a ruling***; and (5) making referral to any resources available to assist the litigant in the preparation of the case.

RULE 2.7: Responsibility to Decide - - A judge shall hear and decide matters assigned to the judge, except when disqualification is *required by Rule 2.11* or **other** *law.*

RULE 2.11: Disqualification - - (A) A judge shall disqualify himself or herself in any proceeding in which the judge's ***impartiality*** might reasonably be questioned, including but not limited to the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal ***knowledge*** of facts that are in dispute in the proceeding.

OFFICIAL COMMENT:

[2] A judge's ***obligation not to hear or decide matters*** in which disqualification is required applies regardless of whether a motion to disqualify is filed.

[3] . . . In matters that required immediate action, the judge ***must*** disclose on the record the basis for possible disqualification and make reasonable efforts to transfer the matter to another judge as soon as practicable.

RULE 2.15: Responding to Judicial and Lawyer Misconduct - -

(A) A judge having ***knowledge*** that another judge has committed a violation of this Code that raises a question regarding the judge's honesty, trustworthiness, or fitness as a judge in other respects shall inform the ***appropriate authority***.

(B) A judge having ***knowledge*** that a lawyer has committed violation of the Ohio Rules of Professional Conduct that raises a question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the ***appropriate authority.***

OFFICIAL COMMENT:

[1] Taking action to address known misconduct is a judge's obligation. Division (A) and (B) impose an obligation on the judge to report to the appropriate disciplinary authority the known misconduct of another judge or a lawyer that raises a question regarding honesty, trustworthiness, or fitness of that judge or lawyer. ***Ignoring*** *or* ***denying*** *known misconduct among one's judicial colleagues or members of the legal profession* ***undermines the judge's responsibility to participate in efforts to ensure public respect for the justice system****. This rule limits the reporting obligation to those offenses that an independent judiciary must vigorously endeavor to prevent.*

[2] A judge who does not have actual knowledge, but who receives information indicating a substantial likelihood that another judge or a lawyer has committed misconduct, should take appropriate action. Appropriate action may include, but is not

> limited to, . . .reporting of the suspected violation to the appropriate disciplinary authority.
>
> **RULE 2.16:** Cooperation With Disciplinary Authorities - - (B) A judge shall **not retaliate**, directly or indirectly, against a person ***known*** or suspected to have assisted or cooperated with an investigation of a judge or a lawyer.

Therefore, Newsome herein and hereby REITERATES and INCORPORATES the defenses/grounds set forth in her *Affidavit of Disqualification* filed with this Court as if set forth in full in this instant ***Motion for Reconsideration***.

4. This Court's July 17, 2010 Judgment Entry, as a matter of law, CANNOT be sustained and can be DEFEATED by more favorable rulings rendered by other courts as well as by the arguments contained herein as well as rulings by other courts and/or higher courts on the same subject matter. Furthermore, the evidence contained in Newsome's ***Affidavit of Disqualification*** supports disqualification and recusal/removal of Judge West for violations under the Code of Judicial Conduct, Ohio Revised Code and/or other statutes/laws governing said matters.

5. The Ohio Supreme Court's failure to act as well as its DENIAL of Newsome's Affidavit of Disqualification, clearly goes against the Ohio Code of Judicial Conduct and said Court has failed to REPORT and/or DETER the legal wrongs/injustices that have been TIMELY, PROPERLY and ADEQUATELY brought to its attention pursuant to Newsome Affidavit of Disqualification as well as **Rule 2.15** of the Ohio code of Judicial Conduct.

6. Newsome believes that because this Court's July 17, 2010 Judgment Entry is CONTRARY to law and clearly the legal conclusions cited therein were provided for DECEPTIVE and FRAUDLENT intent, that a reasonable mind may conclude that said Judgment Entry may be in RETALIATION of Newsome's filing an FBI Complaint against Justices/Officials of the Ohio Supreme Court. Nevertheless, it is this Court's DUTY and OBLIGATION to uphold the law and remain IMPARTIAL, FAIR and JUST in the handling of matters brought by Newsome.

7. Newsome through her ***Affidavit of Disqualification*** filed with this Court in Paragraph 14 provided further evidence to support disqualification of Judge West for violation of the Ohio Code of Judicial Conduct. Said Paragraph which stated:

> In further support of this instant *Affidavit of Disqualification* and in keeping with Revised Code § 2701.03, the following are specific allegations, facts, evidence and legal conclusions to substantiate the claim of interest, bias, prejudice and/or disqualification of Judge John Andrew West:
>
> a) The record evidence will support that Plaintiff/Newsome prior to filing this Affidavit and during the course of proceedings notified the Court of concerns of bias and/or prejudices against her – to no avail. Judge West continued to march forward disregarding Plaintiff's/Newsome's timely notifications

and concerns submitted in the preservation of "PROTECTED RIGHTS."

b) Judge West has a personal bias or prejudice concerning Plaintiff/Newsome as well as PERSONAL knowledge of disputed evidentiary facts concerning this lawsuit;

c) *On or about September 9-10, 2009*, Judge West and others engaged in CRIMINAL/CIVIL wrongs leveled against Plaintiff/Newsome which resulted in Plaintiff/Newsome filing an OFFICIAL FBI Criminal Complaint **on or about September 24, 2009**, which ***is presently pending*** and includes (however not limited) to the following Charges/Counts:

i. Conspiracy;
ii. Public Corruption;
iii. Complicity;
iv. Corruption;
v. Aiding and Abetting;
vi. Extortion and Blackmail;
vii. Bribery;
viii. Coercion;
ix. Retaliation;
x. Pattern of Conduct;
xi. Intimidation;
xii. Deprivation of Rights;
xiii. Power/Failure to Prevent;
xiv. Stalking/Menacing by Stalking;
xv. Burglary and Breaking & Entering;
xvi. Theft;
xvii. Trespass;
xviii. Larceny
xix. Invasion;
xx. Unlawful Entry/Forcible Action;
xxi. Obstruction of Justice/Process;
xxii. Color Law;
xxiii. Conspiracy Against Rights; and

xxiv. Conspiracy to Interfere With Civil Rights.

Judge West's role and engagement in the above criminal acts **IS <u>NOT</u>** protected under the Cloak of Immunity. The role Judge West played in the carrying out of the above crimes was done knowingly, willingly and maliciously for purposes of *aiding and abetting* Stor-All, its attorneys and others in criminal/civil wrongs leveled against Plaintiff/Newsome.

> *Dennis v. Sparks,* 101 S.Ct. 183 (U.S.Tex.,1980) - **<u>State</u> judge** *may be found* ***criminally*** *liable* for violation of civil rights *even though the judge may be immune from damages under the civil statute*. 18 U.S.C.A. § 242; 42 U.S.C.A. § 1983.

d) Because Judge West is named in the FBI Criminal Complaint with Stor-All, its counsel and others, a reasonable mind may conclude he has an interest in the outcome of this lawsuit and therefore, cannot remain impartial and rulings by him clearly supports his inability to remain impartial when deciding matters in this lawsuit because of his relationship and interest to Stor-All and/or their counsel. This instant *Affidavit of Disqualification* is submitted to further support Plaintiff's/Newsome's objection to Judge West presiding in this lawsuit. Said rights of Plaintiff/Newsome to object to Judge West **WILL <u>NOT</u>** and **IS <u>NOT</u>** hereby waived and is timely submitted in good faith.

e) Judge West, as a matter of law, is under an obligation to disqualify himself in this lawsuit because his impartiality is reasonably questioned and Plaintiff/Newsome has filed a timely FBI Criminal Complaint during the course of this lawsuit that also now renders his inability to continue presiding over this lawsuit and his inability to remain impartial. Judge West now further has an additional PERSONAL interest in the outcome of this lawsuit. Furthermore, where the record evidence, facts and legal conclusions supports Judge West harbors personal bias or prejudice concerning Defendant/Newsome. ORC § 2701.03.

f) Judge West also now has a personal interest in the outcome of this lawsuit because of the FBI Criminal Complaint Plaintiff/Newsome has filed; therefore, disqualifying and requiring his removal/recusal. *State ex rel. Taylor v. Winget*, 37 Ohio St. 153, 1881 WL 80 (1881).

See **EXHIBIT "II"** attached hereto and incorporated by reference as if set forth in full herein. Judge West and other CONSPIRATORS/CO-CONSPIRATORS apparently engaging in similar CRIMINAL activities:

- Conspiracy to Commit a Crime . . .
- Conspiracy to Commit Robbery . . .
- Coercion With Use Of A Deadly Weapon

in which O.J. Simpson was INDICTED on and found GUILTY. See **EXHIBIT "III"** O.J. Simpson ***Criminal Complaint*** attached hereto. Like O.J. Simpson Judge West, Plaintiff in the lower court action, their counsel and others felt that on September 9/10 2010, they could just go in and take property/possession of property through CRIMINAL/UNLAWFUL/ILLEGAL actions. However, like O.J. Simpson, Judge West and his COHORTS in Criminal/Civil wrongs leveled against Newsome will have to learn the HARD way that the laws are clear. Judge West and other CONSPIRATORS/CO-CONSPIRATORS elected to take the laws into their own hands WITHOUT legal authority that as a DIRECT and PROXIMATE RESULT of their actions resulted in Newsome's filing of the September 24, 2009 FBI Complaint.

8. The July 17, 2010 Judgment Entry of this Court deprived Newsome equal protection of the laws and due process of laws – rights secured/guaranteed under the 14th Amendment to the United States Constitution.

9. Newsome through her ***Affidavit of Disqualification*** filed with this Court in Paragraph 27 provided further evidence to support concerns of this Court's handing of her ***Affidavit of Disqualification*** because of the December 28, 2009 FBI Criminal Complaint filed against the Ohio Supreme Court Justices/Officials and whether it could itself remain IMPARTIAL and UNBIAS in its handling of this matter due to the pending FBI Complaint filed against Justices/Officials of this Court. Said Paragraph which stated:

> In December 2009, it appears Justices of the Supreme Court of Ohio sought to make good on their special relationships to Liberty Mutual and its attorneys and in so doing engaged in CRIMINAL/CIVIL wrongs in the handling of matters involving this lawsuit. In efforts of COMPROMISING Plaintiff's/Newsome's appeal, the Supreme Court of Ohio deprived Newsome of "PROTECTED RIGHTS" and withheld its ruling from her. As a direct and proximate result of said CRIMINAL wrongs by the Justices and/or Supreme Court of Ohio, Plaintiff/Newsome was DEPRIVED rights secured to her under the Ohio Constitution, United States Constitution, Civil Rights Act and others statutes/laws governing said matters. Because of such criminal/civil wrongs leveled against her which clearly infringed upon Plaintiff's/Newsome's protected rights, she moved and timely filed an FBI Criminal Complaint against the Justices and/or officials of the Supreme Court of Ohio and others which include (however is not limited) to the following CHARGES/COUNTS:

i. Conspiracy (**18 USC§ 371**);

ii. Conspiracy Against Rights (**18 USC§ 241**);

iii. Conspiracy to Defraud (statutes provided)

iv. Conspiracy to Interfere with Civil Rights (**42 USC§ 1985**);

v. Public Corruption (provided information taken from ***FBI's*** *website*);

vi. Bribery (statutes cited);

vii. Complicity (statutes cited);

viii. Aiding and Abetting (statutes cited);

ix. Coercion (statutes cited);

x. Deprivation of Rights Under **COLOR OF LAW** (**18 USC§ 242**);

xi. Conspiracy to Commit Offense to Defraud United States (**18 USC§ 371**);

xii. Conspiracy to Impede (**18 USC§ 372**);

xiii. Frauds and Swindles (**18 USC§ 1341** and **1346**);

xiv. Obstruction of Court Orders (**18 USC§ 1509**);

xv. Tampering with a Witness (**18 USC§ 1512**);

xvi. Retaliating Against A Witness (**18 USC§ 1513**);

xvii. Destruction, Alteration, or Falsification of Records (**18 USC§ 1519**);

xviii. Obstruction of Mail (**18 USC§ 1701**);

xix. Obstruction of Correspondence (**18 USC§ 1702**);

xx. **Delay of Mail** (**18 USC§ 1703**);

xxi. Theft or Receipt of Stolen Mail (**18 USC§ 1708**);

xxii. Avoidance of Postage by Using Lower Class (**18 USC§ 1723**);

xxiii. Postage Collected Unlawfully (**18 USC§ 1726**);

xxiv. Power/Failure to Prevent (**42 USC§ 1986**);

xxv. Obstruction of Justice

To Plaintiff's/Newsome's knowledge this FBI Criminal Complaint is still pending. While a conviction of the Justices involved in such crimes may be SCANDELOUS, it is important for the PUBLIC sake that such CORRUPTION/CRIMINAL practices be cleaned up. If Stor-All and/or its counsel is aware of the Federal Bureau of Investigation's findings and/or rulings on the Criminal Complaint and that said issues have been resolved, then it is important/eminent that such information be produced to support that Plaintiff's/Newsome's FBI Complaint against Judge West, Stor-All and their counsel have been exonerated of the charges/crimes filed against them. However, Stor-All nor its counsel has done so because criminal charges are still pending against

those Plaintiff/Newsome has filed the September 24, 2010 FBI Criminal Complaint against.

Charges which should not be new to the FBI in that prosecutors went after Judge Bobby DeLaughter (i.e. judge in Mississippi) for crimes such as ***"USE OF MAIL"*** violations. See **EXHIBIT "IV"** – ***INDICTMENT*** filed against Bobby DeLaughter attached hereto and incorporated by reference. Newsome's December 28, 2010 FBI Criminal Complaint of course if MORE ELABORATE and DETAILED to support her Charges/Claims. *This information is PERTINENT and of PUBLIC importance because Newsome is diligently seeking to determine the status of her FBI Criminal Complaints as well as going PUBLIC with releasing this information so that CITIZENS can see the DISCRIMINATORY practices in the United States Government (FBI, etc.) handling of matters brought by her. It is merely important to Newsome JUST TO MAKE SURE INFORMATION IS IN THE RECORD and INFORMATION HAS BEEN TIMELY, PROPERLY AND ADEQUATELY PRESENTED TO THIS COURT to support the Disqualification of Judge West.*

So no while there are those who want to make it appear that Newsome is crazy, etc. She laughs because clearly the FBI goes after judges for similar crimes as that committed by the Ohio Supreme Court Justices/Officials in their handling of Newsome's matters; however, may now be attempting to look the other way. No the *FINANCIAL CONTRIBUTIONS by Liberty Mutual's counsel to the Justices of this Court* ***is pertinent*** *information based on the INDICTMENT Newsome pulled on Judge DeLaughter. Said monies are* ***not*** *given* ***without EXPECTIONS*** *of special favors in rulings by this court* – i.e. confirmed through the CRIMINAL ACTS of the Justices'/Officials' handling of the December Order they attempted to keep from Newsome. Moreover, *a* ***reasonable mind*** *may reach the same conclusion that monies paid to Justices of the Ohio Supreme Court are done for means of BRIBERY, EXTORTION, BLACKMAIL, etc.*

10. Even the Ohio Supreme Court's recent mailing of its July 17, 2010 Judgment Entry, it is not clear to Newsome why said entry was executed on July 17, 2010; however, the Court ***HELD it for approximately THREE (3) day*** *– i.e. until July 20, 2010 –* ***before*** *mailing. Further concerns of this Court's*

COMPROMISING and/or TAMPERING with the handling of Orders/Rulings/Entry by it and its DETERMINATION to OBSTRUCT THE ADMINISTRATION OF JUSTICE. **See EXHIBIT "I"** attached hereto and incorporated by reference.

11. This instant pleading is also filed in good faith to afford this Court the opportunity to reconsider its ruling prior to Newsome taking the matter to the United States Supreme Court via writ of certiorari.

12. In the exercise of the power given to it by the United States Constitution (U.S. Const. Art. III, § 2 cl 2),[1] the United States Supreme Court has jurisdiction to review the judgment of the Ohio Supreme Court when a party in the state court action claims to have been denied a right or immunity under the laws of the United States. A review by the United States Supreme Court of a judgment or decree of by the Ohio Supreme Court is to be conducted in the same manner and under the same regulations, and will have the same effect, as if the judgment or decree reviewed had been rendered in a court of the United States (28 U.S.C.A. § 2104). The United States Supreme Court has jurisdiction to review state court decisions by writ of certiorari pursuant to 28 U.S.C.A. § 1257(a) where:

(a) the validity of a treaty or statute of the United States is drawn into question;

(b) the validity of a state statute is drawn into question on the ground that it is repugnant to the Constitution, laws, or treaties of the United States; or

(c) any title, right, privilege, or immunity is specially set up or claimed under the Constitution, treaties, or statutes of, or commission held or authority exercised under, the United States.

13. While Newsome believes that this matter is also ripe for a Writ of Certiorari to the United States Supreme Court in that:

(a) the Ohio Supreme Court has decided an important federal question in a way that *not only conflicts with its own decisions*, but conflicts with the decision of another state court of last resort or of a United States Court of Appeals; and

(b) the Ohio Supreme Court has decided an important question of federal law in a way that conflicts with relevant decisions of the United States Supreme Court and clearly goes against Newsome's Constitutional rights.

she believes it is of PUBLIC INTEREST that this Court VACATE its July 17, 2010 Judgment Entry and PERFORM the ministerial duties owned to Newsome by

[1] . . . In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

correcting its errors as well as GRANTING Newsome the relief sought through her Affidavit of Disqualification.

14. State court judgments that are rendered after September 25, 1988, may be appealed to the United States Supreme Court by a petition for writ of certiorari (see American Jurisprudence 2d Appellate Review § 14).

15. In the exercise of the power given it by the United States Constitution, the United States Supreme Court will have jurisdiction to review the judgment of the Ohio Supreme Court as well as the Hamilton County Court of Common Pleas because Newsome claims to have been denied a right secured/guaranteed under the laws of the United States as well as the United States Constitution. Moreover, the record evidence clearly supports there is a federal question which exist as to the validity of a federal or state statute. See 23 Ohio Jur. 3d § 412.

16. On ***EVERY*** writ of error or appeal, the first and fundamental question is that of jurisdiction, first, of the United States Supreme Court, and then of the court from which the record comes. *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 118 S.Ct. 1003, 140 L.Ed. 2d 210 (1998). The United States Supreme Court must first consider whether it has jurisdiction to decide a case even if the parties to the action do not raise the issue of jurisdiction in their briefs on the merits. *Florida v. Thomas*, 532 U.S. 774, 121 S.Ct. 1905, 150 L.Ed. 2d 1 (2002). See 23 Ohio Jur. 3d § 412.

17. Pursuant to 28 U.S.C.A. § 1257, in order for the United States Supreme Court to review the Ohio Supreme Court's judgment or decree by writ of certiorari, it must affirmatively appear from the record as whole that the federal claim was adequately presented to the highest court of the state in which a decision could be had and the claim was passed upon by that court. See Am. Jur. 2d. Appellate Review § 39; also 23 Ohio Jur. 3d § 410.

18. The record evidence will support that Newsome's ***Affidavit of Disqualification*** and/or (4) Newsome's filings in this matter, will support that Newsome has filed the applicable and required pleadings presenting federal claim(s) in which the Ohio Supreme Court is attempting to avoid having to address in FURTHERANCE of the CORRUPTION, CONSPIRACY and COVER-UP of the criminal/civil wrongs leveled against Newsome.

19. Pursuant to 28 U.S.C.A. § 1257, the jurisdiction of the United States Supreme Court to review the Ohio Supreme Court's decision, is dependent upon the existence of a federal question in the case. The federal question must be real and substantial. Am. Jur. 2d Appellate Review § 34. Moreover, the United States Supreme Court cannot consider an alleged federal question when it appears that the question relied upon was not called to the attention of the state and considered by it. *Capital City Diary Co. v. State of Ohio*, 183 U.S. 238, 22 S.Ct. 120, 46 L. Ed. 171 (1902). Because the United States Supreme Court will refuse to consider any federal-law challenge to an Ohio Supreme Court's decision unless the federal claim(s) to be asserted through writ of certiorari was either addressed by or properly presented to the Ohio Supreme Court that is being asked to be reviewed. *Howell v. Mississippi*, 543 U.S. 440, 125 S.Ct. 856, 160 L.Ed. 2d 873 (2005). Newsome believes that the record evidence will sustain that there is sufficient facts, evidence and legal conclusions in the record of the Ohio Supreme Court and lower courts

to sustain the existence of a federal question in the case; moreover, the federal question is one that is real and of substance. ***Furthermore, the CRIMINAL actions of Judge West and others which resulted in Newsome's filing of Complaints with the Federal Bureau of Investigation.***

20. Whether Newsome's pleadings submitted in this instant action sets up a sufficient right of action or defense grounded on the United States Constitution or laws of the United States is necessarily a question of federal law, and where a case from the Ohio Supreme Court presents that question, the United States Supreme Court must determine for itself their sufficiency of the allegations. Moreover, the United States Supreme Court is not precluded from reaching its own decision concerning such issues by the view taken of them by the Ohio Supreme Court. *Allied Stores of Ohio, Inc. v. Bowers,* 166 Ohio St. 116, 1 Ohio Op. 2d 342, 140 N.E. 2d 411 (1957), judgment aff'd, 358 U.S. 522, 79 S. Ct. 437, 3 L. Ed. 2d 480, 82 Ohio L. Abs. 312 (1959). See 23 Ohio Jur. 3d § 411.

21. *Once Newsome has properly brought a federal claim before the Ohio Supreme Court, she can make any argument in support of that claim on certiorari to the United States Supreme Court*. On Writ of Certiorari to the United States Supreme Court, Newsome ***will not*** *be limited to the precise arguments that were made in her* ***Affidavit of Disqualification***. Newsome seeking review to the United States Supreme Court of a federal claim properly raised in the Ohio Supreme Court generally *have the ability to frame the question(s) to be decided without being limited to the manner in which the question was presented in the Ohio Supreme Court.* Am. Jur. 2d. Appellate Review § 36. The United States Supreme Court has jurisdiction to review a decision of the Ohio Supreme Court which is based upon both federal and a nonfederal ground, where the nonfederal ground is so interwoven with the other as not to be an independent basis for the decision. *Milkovich v. Lorain Journal Co.,* 497 U.S. 1, 110 S. Ct. 2695, 111 L.Ed. 2d 1, 60 Ed. Law Rep. 1061 (1990). See 23 Ohio Jur. 3d § 411.

22. Newsome is confident that the record evidence will support that the Ohio Supreme Court through its JUDGMENT ENTRY denying the relief sought has willingly, knowingly, and maliciously sought to deprive Newsome rights secured under the Constitution and efforts taken to deprive Newsome the right to a JURY trial in the Hamilton County Court of Common Pleas action - which has been timely, properly and adequately DEMANDED through Newsome's Answer and Counterclaim in the lower court action and subsequent pleadings/filings by her. Moreover, Newsome has concerns that this Court may be attempting to COVER-UP the CORRUPTION, CONSPIRACY and CRIMINAL acts of the lower court judges through its July 17, 2010 Judgment Entry. Moreover, is attempting to avoid seeing that the proper actions are initiated to INVESTIGATE the lower court's judge's (John Andrew West) handling of matters and see that the proper punishment is rendered against said this judge and opposing counsel in that action as required by the OHIO CODE OF JUDICIAL CONDUCT.

23. Because the Ohio Supreme Court has ***REFUSED*** to advise of any potential CONFLICT OF INTEREST with the Justices of its Court and parties to the action, INSURANCE Company(s), etc., Newsome has taken it upon herself to determine whether such Conflicts of Interest exist based upon information provided by Stor-All's counsel on February 6, 2009, during the hearing in the Hamilton County Municipal Court regarding Newsome's ***Motion to Transfer***. Based upon Newsome's research, she has found information that is VERY DISTURBING and clearly support FINANCIAL

CAMPAIGN CONTRIBUTIONS from Stor-All's (Plaintiff in the lower court action out of which this action is brought) Insurance Company's law firms to a MAJORITY of the Justices of the Ohio Supreme Court from Liberty Mutual's attorneys' law firms – such as:

(a) Frost Brown Todd LLC;
(b) Jones Day;
(c) Keating, Muething & Klekamp PL
(d) Porter Wright Morris & Arthur LLP;
(e) Squire, Sanders & Dempsey LLP;
(f) Vorys, Sater, Seymour and Pease LLP;

See **EXHIBIT "V"** attached hereto and incorporated by reference as if set forth in full herein. While these are only a select few of the law firms that Newsome pulled for this Exhibit, what is more disturbing is the amount of monies Justices received from these laws firms and/or others. While this Court in its July 17, 2010 Judgment Entry attempts to justify the RECEIPT of such contributions as lawful, to the CONTRARY. The laws are clear that it is a CRIMINAL offense to enter judgment/rulings that in which a reasonable mind may conclude, based upon the facts, evidence and legal conclusions, may sustain that decision is ARBITRARY and/or CAPRICIOUS and may have been influenced by such campaign contributions. Especially, when the actions/behavior of the factfinder is CONTRARY TO LAW – i.e. clearly goes against prior rulings of the court and/or other courts on the same issue.

24. From information Newsome has been able to obtain from research, the following financial contributions have been made by law firms represented by Liberty Mutual to Ohio Supreme Court Justices as follows:

JUSTICE	POLITICAL PARTY	LAW FIRM(S) WITH LIBERTY MUTUAL AS CLIENT	CONTRIBUTION
MOYER, THOMAS (Chief Justice)	***Republican***	Baker & Hostetler	$15,800
		Jones Day	$21,525
		Porter Wright Morris & Arthur LLP	$14,530
		Vorys, Sater, Seymour and Pease LLP	$23,070
		TOTAL:	**$74,925**
O'CONNOR, MAUREEN	***Republican***	Jones Day	$12,700
		Vorys, Sater, Seymour and Pease LLP	$10,075
		TOTAL:	**$22,775**
STRATTON, EVELYN	***Republican***	Frost Brown Todd LLC	$12,000
		Jones Day	$20,750

		Vorys, Sater, Seymour and Pease LLP	$16,000
		TOTAL:	**$48,750**
CUPP, ROBERT	***Republican***	Porter Wright Morris & Arthur LLP	$12,610
		Vorys, Sater, Seymour and Pease LLP	$18,350
		TOTAL:	**$30,960**
LAZINGER, JUDITH	***Republican***	Porter Wright Morris & Arthur LLP	$12,735
		TOTAL:	**$12,735**
O'DONNELL, TERRENCE	***Republican***	Baker & Hostetler	$30,475
		Jones Day	$37,025
		Squire, Sanders & Dempsey LLP	$30,600
		Vorys, Sater, Seymour and Pease LLP	$39,925
		TOTAL:	**$138,025**

See **EXHIBIT "V"** attached hereto and incorporated by reference as if set forth in full herein. **IMPORTANT TO NOTE: ALL** Justices are REPUBLICANS and **ALL** Justices are WHITE!! Information Newsome believes is PERTINENT in that the criminal/civil wrongs leveled against her are indeed RACIALLY motivated.

25. Again, Newsome mentions *Castner v. Colorado Springs Cablevision*, 979 F.2d 1417, 1421 (10th Cir. 1992), a decision which addresses whether to appoint counsel requiring accommodation of two competing considerations. First, the court must consider Congress's "special . . . concern with legal representation with Title VII actions." *Jenkins v. Chemical Bank*, 721 F.2d 876, 879 (2nd Cir. 1983). In enacting the attorney appointment provision of the Civil Rights Act of 1964 and later reaffirming the importance of that provision in the legislative history of the Equal Employment Opportunity Act of 1972, Congress demonstrated its awareness that Title VII claimants might not be able to take advantage of the federal remedy without appointment of counsel. As explained in House Report No. 92-238:

> By including this provision in the bill, the **committee emphasizes** *that the nature of Title VII actions more often than not pits parties of unequal strength and resources against each other. The* ***complainant, who is usually a member of the disadvantaged class, is opposed by an employer who . . . has at his disposal a vast of resources and legal talent.***

H.R. Rep. No. 238, 92nd Cong., 2d Sess., reprinted in 1972 U.S.C.C.A.N. 2137, 2148. Why, because there is record evidence to support at what GREAT LENGTHS Judge

West, other Judges/Justices with an interest in the outcome of the lower court lawsuit, employers/landlords, their lawyers, their insurance companies and others opposing Newsome have gone to, to ***TIP-THE-SCALES*** *of Justice* in their favor and obtain rulings/decisions they knew were obtained through *CORRUPTION and CONSPIRACY to Obstruct the Administration of Justice*; moreover, deprive Newsome equal protection of the laws and due process of laws. Rights secured/guaranteed under the United States Constitution and/or other laws of the United States.

26. From information Newsome was able to obtain from research to support the criminal/civil wrongs leveled against her through **STALKING** and ***Pattern-of-Practice/Pattern-of-Conduct*** in CONSPIRACY and corruption in matters before Courts, that there is record evidence to support the following:

Law Firms Representing Liberty Mutual Clients	**Present Status**	**State of Pending Lawsuit/Legal Action**	**Client**
Baker Donelson	Submitted to the U.S. Legislature/Congress, U.S. Office of President and U.S. Attorney Office Attention – Awaiting Findings	New Orleans, Louisiana	Entergy
DunbarMonroe	**Important to Note:** Baker Donelson has an Office in Jackson, MS. Surely Liberty Mutual was aware of this fact. Newsome believes Baker Donelson was aware its representation would have alerted Newsome sooner of its involvement in STALKING, Pattern-of-Conduct/Pattern-of-Practices of criminal/civil wrongs leveled against Newsome. Submitted to the U.S. Legislature/Congress, U.S. Office of President and U.S. Attorney's Office's attention – Awaiting Findings	Jackson, Mississippi	Spring Lake Apartments
Schwartz Manes Ruby & Slovin	Ohio Supreme Court	Cincinnati, Ohio	Stor-All Alfred LLC
Markesbery & Richardson Co., LPA	Ohio Supreme Court		Stor-All Alfred LLC

27. To get an understanding as to the CONSPIRACY and CORRUPTION involving Judges and Justices involved in lawsuits brought by Newsome, as well as trying to figure out why Judges/Justices originally comply with the statutes/laws – ruling in favor of Newsome and upholding the laws; however, when given another opportunity to address issues (*after opposing parties have availed themselves through POLITICAL*

connections and relationships to key government and judicial officials) have **REPEATEDLY** *taken a far departure from the laws to deprive Newsome rights secured under the United States Constitution and laws of the United States for purposes of depriving her equal protection of the laws and due process of laws.* Newsome's research has found that such actions by Judges/Justices are **RACIALLY**, **DISCRIMINATORILY** and **PREJUDICIALLY** motivated. Furthermore, that Judges/Justices involved in lawsuits filed by Newsome have a direct PERSONAL and FINANCIAL interest in the outcome of case – SPECIAL relationships to Liberty Mutual's attorneys' law firms and the monies they pay into their campaigns. For example - See **EXHIBIT "VI"** attached hereto and incorporated by reference as if set forth in full herein:

LAW FIRMS REPRESENTING LIBERTY MUTUAL CLIENTS	**RELATIONSHIP TO JUDGES/JUSTICES**	**COURTS**
Baker Donelson	Have attorneys who have worked with Courts and/or as Clerks to Judges/Justices in matters that may have involved Newsome	**UNITED STATES 5TH CIRCUIT COURT OF APPEALS** Rhesa H. Barksdale James L. Dennis W. Eugene Davis Elbert P. Tuttle (?) **UNITED STATES – EASTERN DISTRICT COURT (NEW ORLEANS, LA)** Stanwood R. Duval, Jr. Frederick Heebe Carl J. Barbier Morey L. Sear George Arceneaux Henry A. Mentz, Jr. **LOUISIANA SUPREME COURT** Pascal Calogero (Chief Justice) James L. Dennis **UNITED STATES – SOUTHERN DISTRICT (JACKSON, MS)*** William H. Barbour, Jr. Tom S. Lee John M. Roper **NORTHERN DISTRICT (MS)** Glen H. Davison **MISSISSIPPI SUPREME COURT** Dan M. Lee Neville Patterson **MISSISSIPPI COURT OF APPEALS** David Ishee Donna Barnes (*former attorney with Mitchell*

McNutt & Sams)

SIXTH CIRCUIT COURT OF APPEALS
David A. Nelson
James M. Swiggart
Paul C. Wieck

> *James C. Sumner RECUSED himself from matter for reason as CONFLICT OF INTEREST. However, this was not the case with Judge Barbour or Judge Lee. The record in matter before said court will support request for recusal was sought. Nevertheless, Judge Lee was determined to throw the case and compromise the integrity of the Court for purposes of aiding Liberty Mutual's attorneys and others. Said information has been submitted to the appropriate government authorities addressing Newsome's matters in Washington, D.C.

It is a good thing that law firms (such as Baker Donelson) and/or Liberty Mutual enjoy BOASTING and/or BRAGGING about their relationships. In so doing, Newsome has been able to *link them to the **CRIMINAL stalking of Newsome**, Pattern-of-Practice/Pattern-of-Conduct as well as relationships to the Judges/Justices in the lawsuits involving Newsome.* Now since Newsome is going public and releasing such pleadings for review to the PUBLIC, Baker Donelson has attempted to move this information from original location at:

http://www.bakerdonelson.com/courtclerks.htm

the following location in which Newsome was able to find through her research/surfing of the Internet:

http://www.bakerdonelson.com/appellate-practice-sub-practice-areas/

CONCLUSION

The ***Affidavit of Disqualification*** was brought as a direct and proximate result of Judge John Andrew West's refusal to RECUSE himself and his ACTIVE/WILLING role in bias and prejudices harbored towards Newsome. Because of such bias/prejudices of Judge West towards Newsome, he ***lacks jurisdiction*** *to proceed any further in this lower court action.* The evidence contained in this ***Affidavit of Disqualification*** as well as this instant ***Motion for Reconsideration*** will support what African-Americans and/or people of color have known for quite some time:

a) Racial/Prejudicial biases in the application of the laws – the laws are *not* equally applied when whites are involved. Whites get more lenient sentences for criminal acts than that of African-Americans and/or people of color. However, Newsome in her Criminal Complaint filed with the FBI out of the completion of

additional crimes and/or furtherance of crimes and conspiracies – to obtain the object pursued - is requesting the maximum punishment (fine **and** imprisonment) under the laws for such egregious criminal acts rendered her by those found to be guilty of the September 9-10, 2009, crimes carried out against her as well as those reported by this Court in its December 2009 criminal conduct leveled against Newsome. This instant pleading will further support how Stor-All has used its vast financial and legal resources for purposes of obtaining an undue/unlawful/illegal advantage in this lawsuit and has relied upon special favors by Judge John Andrew West and others to obtain rulings in its favor that are contrary to statutes/laws governing said matters.

b) Racial profiling. Stalking of Newsome, etc. for purposes of attempting to get her to commit a crime and/or crimes – i.e. which backfired and Stor-All, its representatives and others instead being those who have engaged in criminal activities similar to those in which O.J. Simpson was found guilty of. Moreover, this Court's Justices/Officials allowed themselves to be induced to commit such crimes as that of Judge Bobby DeLaughter in the handling of Orders/Rulings by this Court.

c) Deprivation of rights, obstruction of justice, conspiracy to interfere with civil rights through the obstruction of justice. Deprivation of equal protection of the laws and due process of laws – rights secured under the Constitution (Ohio and United States), Civil Rights Act and other governing statutes/laws.

d) Racial discrimination, discrimination in employment, discrimination in the handling of judicial lawsuits, etc.

WHEREFORE, PREMISES CONSIDERED, Newsome reiterates the issues/defenses presented in her ***Affidavit of Disqualification*** as well as this instant ***Motion for Reconsideration*** and other pleadings filed with the Ohio Supreme Court to support this instant ***Motion for Reconsideration*** and, hereby, moves this honorable Court to GRANT the relief sought through this instant filing. Moreover, any and all applicable relief the Ohio Supreme Court deems just and fair to correct the legal wrongs complained of herein. Newsome moves this Court through this instant Motion for Reconsideration to VACATE its July 17, 2010 Judgment Entry and GRANT Newsome the relief sought herein as well as in her Affidavit of Disqualification.

Respectfully submitted this **26th** day of **July, 2010.**

Denise Newsome, *Defendant Pro Se*
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the forgoing pleading was MAILED via U.S. Mail first-class to:

Hamilton County Court of Common Pleas
Attn: Patricia M. Clancy – ***Clerk of Court***
1000 Main Street
Cincinnati, OH 45202

Honorable John Andrew West, JUDGE
Hamilton County Court of Common Pleas
1000 Main Street – Room 595
Cincinnati, Ohio 45202

VIA E-MAIL & PRIORITY MAIL – 0309 1140 0001 9264 1892
ATTN: Barack H. Obama – U.S. President
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500-0005
Phone: (202) 456-1414
Fax: (202) 456-2461

VIA E-MAIL & PRIORITY MAIL – 0309 1140 0001 9264 1922
ATTN: Eric H. Holder, Jr. – U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0009
Phone: (202) 514-2001
Fax: (202) 307-6777

Dated this **26th** day of **July, 2010.**

Denise Newsome

FILED
JAN 06 2009
DAVID CREWS, CLERK
By D Adams
Deputy

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA

v.

RICHARD F. "DICKIE" SCRUGGS and
BOBBY B. DELAUGHTER

CRIMINAL CASE NO. 3:09CR002
18 U.S.C. § 2
18 U.S.C. § 371
18 U.S.C. § 666
18 U.S.C. §§ 1341 & 1346
18 U.S.C. § 1512

INDICTMENT

The Grand Jury charges that:

At all times relevant and material to this Indictment:

1. Defendant RICHARD F. "DICKIE" SCRUGGS was an attorney licensed to practice in the State of Mississippi and a member of a private law firm, Richard F. Scruggs, P.A., known as "The Scruggs Law Firm."

2. BOBBY B. DELAUGHTER was a public officer and a duly elected official serving the State of Mississippi in the capacity of Circuit Court Judge for Hinds County, Mississippi, part of the Seventh Circuit Court District, a subdivision of the judicial branch of the State of Mississippi.

3. Under the Constitution and laws of the State of Mississippi and pursuant to the Code of Judicial Conduct and under his oath, BOBBY B. DELAUGHTER owed a duty of fair and honest services to the people of the State of Mississippi.

4. BOBBY B. DELAUGHTER was the presiding judge assigned to the case of Wilson v. Scruggs, Cause No. 251-94-582, pending for a decade in the Circuit Court of Hinds County, Mississippi, a case in which Wilson sued Scruggs, his former associate, for millions of dollars in

EXHIBIT
11

legal fees resulting from asbestos litigation.

5. During the summer, 2005, RICHARD F. "DICKIE" SCRUGGS asked Joseph C. Langston and the Langston Law Firm (not named as defendants herein) to take over the lead as chief counsel in the Wilson case.

Count One

6. From on or about July, 2005 until on or about October, 2007, in the Northern District of Mississippi and elsewhere, RICHARD F. "DICKIE" SCRUGGS, defendant, Joseph C. Langston, Timothy R. Balducci, Steven A. Patterson and Ed Peters, not named as defendants herein, and Circuit Judge BOBBY B. DELAUGHTER, defendant, did knowingly and willfully conspire with each other and with others to the grand jury known and unknown to corruptly give, offer and agree to give, and in the case of Circuit Judge BOBBY B. DELAUGHTER to accept and to agree to accept for himself and others, anything of value with the intent that Circuit Judge BOBBY B. DELAUGHTER, as an agent of a state and local government, would be corruptly influenced and rewarded in connection with his handling of the Wilson case, then the business of such government and judicial agency involving a thing of value of $5,000 or more, when such government and judicial agency received in a one-year period benefits in excess of $10,000 under a federal program, in violation of Section 666 of Title 18 of the United States Code.

7. It was part of the conspiracy that Ed Peters would be used secretly and corruptly to influence his very close friend BOBBY B. DELAUGHTER and that BOBBY B. DELAUGHTER's aspirations to become a federal judge would also be exploited in order to secretly and corruptly obtain rulings from the court that while not plainly unlawful, would ultimately minimize Scruggs' financial liability and preclude his exposure to excessive damages.

8. It was further part of the conspiracy that Ed Peters, an attorney, would not officially enter an appearance as counsel of record in the case of Wilson v. Scruggs, so that his involvement on behalf of Scruggs would be unknown to the Wilson legal team.

OVERT ACTS

9. During and in furtherance of the conspiracy and to promote and accomplish its objectives, the co-conspirators committed one or more of the following overt acts:

a. On or about July, 2005, at New Albany, Mississippi, in the Northern District of Mississippi, RICHARD F. "DICKIE" SCRUGGS asked Joseph C. Langston and the Langston Law Firm to take the lead in the case of Wilson v. Scruggs, Cause No. 251-94-582, pending in the Circuit Court of Hinds County, Mississippi, in the Southern District of Mississippi.

b. On or about August 2005, Joseph C. Langston, Timothy R. Balducci and Steven A. Patterson flew from the Northern District of Mississippi to the Southern District of Mississippi and paid Ed Peters $50,000 cash in order to procure his assistance in corruptly influencing his very close friend Circuit Judge BOBBY B. DELAUGHTER, in connection with the Wilson case.

c. On or about January 19, 2006, Joseph C. Langston and Timothy R. Balducci, lawyers with the Langston Law Firm in Booneville, Mississippi, in the Northern District of Mississippi, entered appearances as attorneys of record for RICHARD F. "DICKIE" SCRUGGS in the case of Wilson v. Scruggs, Cause No. 251-94-582, pending in the Circuit Court of Hinds County, Mississippi, in the Southern District of Mississippi.

d. On or about January 24, 2006, Judge BOBBY B. DELAUGHTER accepted a secret, ex parte communication from the Scruggs legal team, essentially reversing his earlier

ruling and accepting, almost verbatim, a scheduling order favorable to Scruggs.

e. On or about February 27, 2006, Judge BOBBY B. DELAUGHTER secretly provided the Scruggs legal team with an ex parte advance copy of a court order in the Wilson case by electronically mailing the same to Ed Peters.

f. On or about August 2005 until on or about August 2006, Ed Peters had a number of improper ex parte meetings with Judge Delaughter designed and intended to secretly influence the judge to shade his rulings in favor of Scruggs.

g. On or about August 2005 until on or about August 2006, Judge BOBBY B. DELAUGHTER secretly and corruptly communicated with the Scruggs legal team through Ed Peters, affording them a unique and valuable opportunity to foresee and attempt to influence his rulings.

h. On or about March 29, 2006, in order to exploit Judge Delaughter's aspirations to become a federal judge, RICHARD F. "DICKIE" SCRUGGS caused his brother-in-law, then a United States Senator from Mississippi, to offer Judge Delaughter consideration for appointment to a federal judgeship then open in the Southern District of Mississippi.

i. From on or about October, 2006, until on or about October, 2007, Joseph C. Langston wired approximately $950,000 from his law office in Booneville, Mississippi, in the Northern District of Mississippi, to Ed Peters for his role in corruptly influencing Circuit Judge BOBBY B. DELAUGHTER.

All in violation of Title 18, United States Code, Section 371.

Count Two

10. The allegations contained in paragraphs 1-5 preceding Count One of this Indictment

are realleged and incorporated herein as though wholly set forth herein.

11. From on or about July, 2005, until on or about October, 2007, in the Northern District of Mississippi and elsewhere, RICHARD F. "DICKIE" SCRUGGS, defendant, Joseph C. Langston, Timothy R. Balducci, Steven A. Patterson, and Edward Peters, none of whom are named as defendants herein, and BOBBY B. DELAUGHTER, defendant, aided and abetted by each other, devised and executed and intended to devise and execute a scheme and artifice to defraud the plaintiff in the Hinds County Circuit Court case of Wilson v. Scruggs, Cause No. 251-94-582, thereby depriving the plaintiff and the citizens of the State of Mississippi of their intangible right to the honest services of Circuit Judge BOBBY B. DELAUGHTER, who as circuit court judge had a duty to perform impartially, without affording either side an unfair advantage or secret access to the court.

THE PURPOSE OF THE SCHEME

12. The purpose of the scheme was to ensure that Scruggs enjoyed an unlawful advantage, in secret and unknown to the plaintiffs. RICHARD F. "DICKIE" SCRUGGS and his legal team consisting of Joseph C. Langston, Timothy R. Balducci and non-lawyer Steven A. Patterson devised a scheme and artifice to secretly and corruptly influence Hinds County Circuit Judge BOBBY B. DELAUGHTER by exploiting two vulnerabilities: first, his close association with former district attorney Ed Peters and, second, his known ambition to become a federal judge. Langston, Balducci and Patterson paid Ed Peters $50,000 cash and Langston later paid Peters an additional $950,000, all for the purpose of using Ed Peters to influence BOBBY B. DELAUGHTER. Additionally, RICHARD F. "DICKIE" SCRUGGS prevailed upon his brother-in-law, then a United States Senator from Mississippi, to offer Judge Delaughter consideration

for a federal district judgeship then open in the Southern District of Mississippi. All of this occurred as the Wilson v. Scruggs case gained intensity and proceeded to a final resolution in Judge Delaughter's court. In return, Judge Delaughter afforded the Scruggs legal team secret access to the court by way of Ed Peters, forwarding them advance copies of his rulings and proposed orders on issues before the court and on one occasion accepting from the Scruggs legal team a scheduling order favorable to Scruggs, which the court then adopted, almost verbatim.

USE OF THE MAIL

13. On or about January 19, 2006, for the purpose of executing and attempting to execute the aforesaid scheme and artifice to defraud in the Northern District of Mississippi and elsewhere, defendant RICHARD F. "DICKIE" SCRUGGS, aided and abetted by other non-defendants named but not charged herein, and Circuit Judge BOBBY B. DELAUGHTER, defendant, knowingly caused to be deposited in a post office or other authorized depository for mail matter in the Northern District of Mississippi to be delivered by the Postal Service according to the directions thereon, Joseph C. Langston's and Timothy R. Balducci's Entry of Appearance for filing in the Hinds County Circuit Court case of Wilson v. Scruggs, Cause No. 251-94-582.

All in violation of 18 U.S.C. §§ 2, 1341 and 1346.

Count Three

14. The allegations contained in paragraphs 1-5 and in paragraphs 10-12 of this indictment are realleged and incorporated herein as though wholly set forth herein.

15. On or about February 27, 2006, for the purpose of executing and attempting to execute the aforesaid scheme and artifice to defraud in the Northern District of Mississippi and

elsewhere, defendant RICHARD F. "DICKIE" SCRUGGS, aided and abetted by other non-defendants named but not charged herein, and Circuit Judge BOBBY B. DELAUGHTER, defendant, knowingly caused to be deposited in a post office or other authorized depository for mail matter to be delivered by the Postal Service in the Northern District of Mississippi according to the directions thereon, Circuit Judge BOBBY B. DELAUGHTER's "Memorandum Opinion and Order Adopting in Part and Rejecting in Part Special Master's Report and Recommendation of January 9, 2006" in the Hinds County Circuit Court case of Wilson v. Scruggs, Cause No. 251-94-582.

All in violation of 18 U.S.C. §§ 2, 1341 and 1346.

Count Four

16. The allegations contained in paragraphs 1-5 and in paragraphs 10-12 of this indictment are realleged and incorporated herein as though wholly set forth herein.

17. On or about July 7, 2006, for the purpose of executing and attempting to execute the aforesaid scheme and artifice to defraud in the Northern District of Mississippi and elsewhere, defendant RICHARD F. "DICKIE" SCRUGGS, aided and abetted by other non-defendants named but not charged herein, and Circuit Judge BOBBY B. DELAUGHTER, defendant, knowingly caused to be deposited in a post office or other authorized depository for mail matter to be delivered by the Postal Service in the Northern District of Mississippi according to the directions thereon, Circuit Judge BOBBY B. DELAUGHTER's "Order Quantifying Moneys Due Plaintiffs from Defendants" in the Hinds County Circuit Court case of Wilson v. Scruggs, Cause No. 251-94-582.

All in violation of 18 U.S.C. §§ 2, 1341 and 1346.

Count Five

18. On or about December 10, 2007, in the Northern District of Mississippi and elsewhere, BOBBY B. DELAUGHTER, defendant, did corruptly attempt to obstruct, influence and impede an official proceeding, that is, while being interviewed by FBI agents in connection with an official federal corruption investigation and grand jury proceeding, he stated that he "never spoke to Ed Peters regarding . . . ." substantive issues related to the case of Wilson v. Scruggs, at a time when said case was pending in his court, when in truth and fact he had corruptly discussed with Ed Peters substantive issues in the Wilson v. Scruggs case on numerous occasions and knew Peters was secretly acting on behalf of Scruggs' lawyers in an attempt to gain favorable rulings for Scruggs, at a time when Peters was not counsel of record, all in violation of Title 18, United States Code, Section 1512(c)(2).

A TRUE BILL

/s/ SIGNATURE REDACTED
FOREPERSON

UNITED STATES ATTORNEY

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Feds Recommend 18 Month Sentence For Bobby DeLaughter

Judge DeLaughter Pleads Guilty To Federal Charge...



Associated Press and Staff Reports
Published: July 30, 2009
Updated: July 30, 2009

Hinds County Circuit Judge Bobby DeLaughter has pleaded guilty in court to a federal charge against him in Aberdeen. The government has dropped the other 4 counts against him. The government has recommended an 18 month sentence, however the charge carries a maximum sentence of 20 years. The judge won't sentence him until a presenting report is completed in about 5 weeks. Also this morning DeLaughter handed in his resignation from the court to Gov. Haley Barbour this morning.

The charge DeLaughter pleaded guilty to was for lying to an FBI agent who was investigating a judicial corruption case involving former prominent lawyer Richard "Dickie" Scruggs.

An indictment accused DeLaughter of attempting to obstruct, influence and impede an official proceeding while being interviewed. Prosecutors accused DeLaughter of ruling in favor of Scruggs, a once powerful Mississippi lawyer who is now in prison, in hopes that Scruggs would use his connections to help DeLaughter get appointed to a federal judgeship.

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THURSDAY, JULY 30, 2009

Mississippi Judge Bobby DeLaughter Admits He Lied to FBI

Mississippi judge Bobby DeLaughter pleads guilty to lying to FBI agent

Miss. — Mississippi judge Bobby DeLaughter pleaded guilty to an obstruction of justice charge after lying to an FBI agent during an investigation into corruption.

In return for DeLaughter admitting guilt, conspiracy and mail fraud charges were dropped by prosecutors.

Previously, DeLaughter had been accused of giving an unfair advantage to former attorney Richard Richard "Dickie" Scruggs; who won millions from asbestos lawsuits.

(Scruggs, father and son, are in prison.)

Prosecutors recommended an 18-month prison sentence for Delaughter.

To make a report on other judges, see USAJudges.com or, KillerJudges.com

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FamilyLawCourts.com - Exposing the Divorce Industry - One County at a Time.

USAjudges.com - Public information useful during an election year.

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House votes to impeach federal judge from Louisiana

STORY HIGHLIGHTS

- Judge G. Thomas Porteous Jr. was impeached by U.S. House of Representatives
- Porteous is from U.S. District Court for the Eastern District of Louisiana
- Rep. Adam Schiff: Porteous "participated in a pattern of corrupt conduct for years"

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- Bill Clinton

Washington (CNN) -- The House of Representatives voted unanimously Thursday to impeach Judge G. Thomas Porteous Jr. of U.S. District Court for the Eastern District of Louisiana, making him the nation's 15th federal judge ever impeached.

"Our investigation found that Judge Porteous participated in a pattern of corrupt conduct for years," said U.S. Rep. Adam Schiff, D-California, chairman of the House Judiciary Committee Task Force on Judicial Impeachment.

"Litigants have the right to expect a judge hearing their case will be fair and impartial, and avoid even the appearance of impropriety. Regrettably, no one can have that expectation in Judge Porteous' courtroom."

After the impeachment vote, Schiff and Rep. Bob Goodlatte, R-Virginia, were named the lead impeachment managers for the Senate trial, which will decide whether to remove Porteous from the bench.

"Today's vote marks only the second time in over 20 years that this has occurred," Goodlatte said in a House news release. "However, when evidence emerges that an individual is abusing his judicial office for his own advantage, the integrity of the entire judicial system becomes compromised."

In a statement, Porteous' lawyer Richard W. Westling said the Justice Department had decided not to prosecute because it did not have credible evidence.

"Unfortunately, the House has decided to disregard the Justice Department's decision and to move forward with impeachment. As a result, we will now turn to the Senate to seek a full and fair hearing of all of the evidence."

In a telephone interview, Westling said he did not know when the Senate trial would be held. "There are no clear rules that dictate timing," he said.

Last year, the Task Force on Judicial Impeachment held evidentiary hearings that led to unanimous approval of the four articles of impeachment, citing evidence that Porteous "intentionally made material false statements and representations under penalty of perjury, engaged in a corrupt kickback scheme, solicited and accepted unlawful gifts, and intentionally misled the Senate during his confirmation proceedings," the House release said.

Porteous was appointed to the federal bench in 1994.

In 2007, after an FBI and federal grand jury investigation, the Justice Department alleged "pervasive misconduct" by Porteous and evidence "that Judge Porteous may have violated federal and state criminal laws, controlling canons of judicial conduct, rules of professional responsibility, and conducted himself in a manner antithetical to the constitutional standard of good behavior required of all federal judges."

EXHIBIT 12

The complaint said the department opted not to seek criminal charges for reasons that included issues of statute of limitations and other factors. But Westling said the statute of limitations was not applicable.

An Impeachment Task Force held four hearings late last year that focused on allegations of misconduct by Porteous, including:

-- Involvement in a corrupt kickback scheme

-- Failure to recuse himself from a case he was involved in

-- Allegations that Porteous made false and misleading statements, including concealing debts and gambling losses

-- Allegations that Porteous asked for and accepted "numerous things of value, including meals, trips, home and car repairs, for his personal use and benefit" while taking official actions on behalf of his benefactors

-- Allegations that Porteous lied about his past to the U.S. Senate and to the FBI about his nomination to the federal bench "in order to conceal corrupt relationships," Schiff said in his floor statement as prepared for delivery

Porteous was invited to testify, but he declined to do so, Schiff said. "His long-standing pattern of corrupt activity, so utterly lacking in honesty and integrity, demonstrates his unfitness to serve as a United States District Court judge," he said.

Porteous, 63, has not worked as a judge since he was suspended with pay in the fall of 2008, Westling said.

The last federal judge impeachment occurred last year, when Judge Samuel B. Kent of the U.S. District Court for the Southern District of Texas resigned after being impeached on charges of sexual assault, obstructing and impeding an official proceeding, and making false and misleading statements, according to the Web site of the Federal Judicial Center.

The Senate, sitting as a court of impeachment, dismissed the articles.

Before then, Judge Walter L. Nixon of U.S. District Court for the Southern District of Mississippi was impeached in 1989 on charges of perjury before a federal grand jury. The Senate convicted him and removed him from office that year.

Find this article at:
http://www.cnn.com/2010/POLITICS/03/11/louisiana.judge.impeached/index.html?iref=allsearch

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Senate Begins Impeachment Trial of Federal Judge

Published September 13, 2010 | Associated Press

WASHINGTON -- A federal judge from Louisiana is corrupt and unfit to serve on the bench, House members said Monday as they began a rare congressional impeachment trial by laying out their case against the jurist.

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Playing the role of prosecutors, Reps. Adam Schiff, D-Calif., and Bob Goodlatte, R-Va., used their opening statements to a Senate impeachment panel to outline what they called a decades-long pattern of unethical behavior by New Orleans-area U.S. District Judge G. Thomas Porteous.

They said that included taking cash, expensive meals and gifts from lawyers and a bail bondsman, lying to Congress and filing for bankruptcy under a false name.

"It is the unanimous view of the House of Representatives that his conduct is not only wrong but so violative of the public trust that he cannot be allowed to remain on the bench without making a mockery of the court system," Schiff said.

Porteous' attorney, Jonathan Turley, denied some allegations but acknowledged others such as accepting meals, which he said is perfectly legal. He said the judge's behavior, while perhaps reflecting poor judgment, doesn't meet the high crimes and misdemeanors standard set in the Constitution for impeachment.

"Judge Porteous has never been indicted, let alone convicted, of any crime," Turley said. "What the Congress has impeached this judge for is an appearance of impropriety."

Turley also said much of the conduct in question occurred when Porteous was a state judge and that Congress would be breaking from precedent by convicting him for behavior that occurred before he joined the federal bench.

The Senate trial is the first since the 1999 case against former President Bill Clinton. Porteous, who was appointed by Clinton in 1994, would be just the eighth judge to be impeached and convicted by Congress.

The House voted unanimously in March to impeach Porteous. A two-thirds vote is needed in the Senate to convict him.

Senators hearing the case appear ready to resolve it quickly, scheduling a series of all-day hearings this week and next.

Porteous' behavior was uncovered in a five-year FBI investigation in Jefferson Parish dubbed "Operation Wrinkled Robe." Although the sting netted convictions against more than a dozen others, Porteous was never charged with a crime. He was, however, suspended from the bench.

Turley said Porteous, 63, plans to retire next year regardless of what happens.

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The Washington Post

Senate opens impeachment trial against judge

By BEN EVANS
The Associated Press
Monday, September 13, 2010; 5:16 PM

WASHINGTON -- A federal judge from Louisiana is corrupt and unfit to serve on the bench, House members said Monday as they began a rare congressional impeachment trial by laying out their case against the jurist.

Playing the role of prosecutors, Reps. Adam Schiff, D-Calif., and Bob Goodlatte, R-Va., used their opening statements to a Senate impeachment panel to outline what they called a decades-long pattern of unethical behavior by New Orleans-area U.S. District Judge G. Thomas Porteous. They said that included taking cash, expensive meals and other gifts from lawyers and a bail bondsman, lying to Congress and filing for bankruptcy under a false name.

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The Washington Post

Senate opens impeachment trial against judge

bring charges. A two-thirds vote is needed in the Senate to convict him.

The Senate panel hearing the case, chaired by Sen. Claire McCaskill, D-Mo., appears ready to resolve it quickly, scheduling a series of all-day hearings this week and next.

House investigators who spent months investigating say Porteous was struggling with drinking and gambling and had racked up more than $150,000 in credit card debt by 2000, mostly for cash advances spent in casinos.

Most of Monday's testimony involved a close relationship that Porteous maintained with t wo attorneys who once worked with the judge, Robert Creely and Jacob Amato.

As they did earlier before House investigators, the two acknowledged giving Porteous thousands of dollars in cash going back to the 1980s, including about $2,000 stuffed in an envelope in 1999, just before Porteous decided a major civil case in their client's favor. They also acknowledged taking him on trips such as one to Las Vegas for a bachelor party for the judge's son, at which Creely said he helped pay for an expensive meal, a hotel room and dancing at a strip club.

Creely and Amato, however, said they never received favorable treatment from Porteous and that they gave him money only because he was a longtime friend who needed help.

Porteous' behavior was uncovered in a five-year FBI investigation in Jefferson Parish dubbed "Operation Wrinkled Robe." Although the sting netted convictions against more than a dozen others, Porteous was never charged with a crime. He was, however, suspended from the bench, and the Judicial Conference of the United States recommended that Congress consider impeachment.

Turley said Porteous, 63, plans to retire next year regardless of what happens.

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John Pickering, U.S. District Court for the District of New Hampshire.
Impeached by the U.S. House of Representatives on March 2, 1803, on charges of mental instability and intoxication on the bench; Convicted by the U.S. Senate and removed from office on March 12, 1804.

Samuel Chase, Associate Justice, Supreme Court of the United States.
Impeached by the U.S. House of Representatives on March 12, 1804, on charges of arbitrary and oppressive conduct of trials; Acquitted by the U.S. Senate on March 1, 1805.

James H. Peck, U.S. District Court for the District of Missouri.
Impeached by the U.S. House of Representatives on April 24, 1830, on charges of abuse of the contempt power; Acquitted by the U.S. Senate on January 31, 1831.

West H. Humphreys, U.S. District Court for the Middle, Eastern, and Western Districts of Tennessee.
Impeached by the U.S. House of Representatives, May 6, 1862, on charges of refusing to hold court and waging war against the U.S. government; Convicted by the U.S. Senate and removed from office, June 26, 1862.

Mark W. Delahay, U.S. District Court for the District of Kansas.
Impeached by the U.S. House of Representatives, February 28, 1873, on charges of intoxication on the bench; Resigned from office, December 12, 1873, before opening of trial in the U.S. Senate.

Charles Swayne, U.S. District Court for the Northern District of Florida.
Impeached by the U.S. House of Representatives, December 13, 1904, on charges of abuse of contempt power and other misuses of office; Acquitted by the U.S. Senate February 27, 1905.

Robert W. Archbald, U.S. Commerce Court.
Impeached by the U.S. House of Representatives, July 11, 1912, on charges of improper business relationship with litigants; Convicted by the U.S. Senate and removed from office, January 13, 1913.

George W. English, U.S. District Court for the Eastern District of Illinois.
Impeached by the U.S. House of Representatives, April 1, 1926, on charges of abuse of power; resigned office November 4, 1926; Senate Court of Impeachment adjourned to December 13, 1926, when, on request of the House manager, impeachment proceedings were dismissed.

Harold Louderback, U.S. District Court for the Northern District of California.
Impeached by the U.S. House of Representatives, February 24, 1933, on charges of favoritism in the appointment of bankruptcy receivers; Acquitted by the U.S. Senate on May 24, 1933.

Halsted L. Ritter, U.S. District Court for the Southern District of Florida.
Impeached by the U.S. House of Representatives, March 2, 1936, on charges of favoritism in the appointment of bankruptcy receivers and practicing law while sitting as a judge; Convicted by the U.S. Senate and removed from office, April 17, 1936.

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Harry E. Claiborne, U.S. District Court for the District of Nevada.
Impeached by the U.S. House of Representatives, July 22, 1986, on charges of income tax evasion and of remaining on the bench following criminal conviction; Convicted by the U.S. Senate and removed from office, October 9, 1986.

Alcee L. Hastings, U.S. District Court for the Southern District of Florida.
Impeached by the U.S. House of Representatives, August 3, 1988, on charges of perjury and conspiring to solicit a bribe; Convicted by the U.S. Senate and removed from office, October 20, 1989.

Walter L. Nixon, U.S. District Court for the Southern District of Mississippi.
Impeached by the U.S. House of Representatives, May 10, 1989, on charges of perjury before a federal grand jury; Convicted by the U.S. Senate and removed from office, November 3, 1989.

Samuel B. Kent, U.S. District Court for the Southern District of Texas.
Impeached by the U.S. House of Representatives, June 19, 2009, on charges of sexual assault, obstructing and impeding an official proceeding, and making false and misleading statements; Resigned from office, June 30, 2009. On July 20, 2009, the U.S. House of Representatives agreed to a resolution not to pursue further the articles of impeachment, and on July 22, 2009, the Senate, sitting as a court of impeachment, dismissed the articles.

G. Thomas Porteous, Jr., U.S. District Court for the Eastern District of Louisiana.
Impeached by the U.S. House of Representatives, March 11, 2010, on charges of accepting bribes and making false statements under penalty of perjury.

Articles of Impeachment Against United States District Court Judge G. Thomas Porteous, Jr.

From Wikisource

Impeaching G. Thomas Porteous, Jr., judge of the United States District Court for the Eastern District of Louisiana, for high crimes and misdemeanors.
United States House Committee on the Judiciary

Introduced by Representative John Conyers, Jr. on January 21, 2010.

RESOLUTION

Resolved, That G. Thomas Porteous, Jr., a judge of the United States District Court for the Eastern District of Louisiana, is impeached for high crimes and misdemeanors, and that the following articles of impeachment be exhibited to the Senate:

Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and all of the people of the United States of America, against G. Thomas Porteous, Jr., a judge in the United States District Court for the Eastern District of Louisiana, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

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Article I

G. Thomas Porteous, Jr., while a Federal judge of the United States District Court for the Eastern District of Louisiana, engaged in a pattern of conduct that is incompatible with the trust and confidence placed in him as a Federal judge, as follows:

Judge Porteous, while presiding as a United States district judge in Lifemark Hospitals of Louisiana, Inc. v. Liljeberg Enterprises, denied a motion to recuse himself from the case, despite the fact that he had a corrupt financial relationship with the law firm of Amato & Creely, P.C. which had entered the case to represent Liljeberg. In denying the motion to recuse, and in contravention of clear canons of judicial ethics, Judge Porteous failed to disclose that beginning in or about the late 1980s while he was a State court judge in the 24th Judicial District Court in the State of Louisiana, he engaged in a corrupt scheme with attorneys, Jacob Amato, Jr., and Robert Creely, whereby Judge Porteous appointed Amato's law partner as a `curator' in hundreds of cases and thereafter requested and accepted from Amato & Creely a portion of the curatorship fees which had been paid to the firm. During the period of this scheme, the fees received by Amato & Creely amounted to approximately $40,000, and the amounts paid by Amato & Creely to Judge Porteous amounted to approximately $20,000.

Judge Porteous also made intentionally misleading statements at the recusal hearing intended to minimize the extent of his personal relationship with the two attorneys. In so doing, and in failing to disclose to Lifemark and its counsel the true circumstances of his relationship with the Amato & Creely law firm, Judge Porteous deprived the Fifth Circuit Court of Appeals of critical information for its review of a petition for a writ of mandamus, which sought to overrule Judge Porteous's denial of the recusal motion. His conduct deprived the parties and the public of the right to the honest services of his office.

Judge Porteous also engaged in corrupt conduct after the Lifemark v. Liljeberg bench trial, and while he had the case under advisement, in that he solicited and accepted things of value from both Amato and his law partner Creely, including a payment of thousands of dollars in cash. Thereafter, and without disclosing his corrupt relationship with the attorneys of Amato & Creely PLC or his receipt from them of cash and other things of value, Judge Porteous ruled in favor of their client, Liljeberg.

By virtue of this corrupt relationship and his conduct as a Federal judge, Judge Porteous brought his court into scandal and disrepute, prejudiced public respect for, and confidence in, the Federal judiciary, and demonstrated that he is unfit for the office of Federal judge.

Wherefore, Judge G. Thomas Porteous, Jr., is guilty of high crimes and misdemeanors and should be removed from office.

Article II

G. Thomas Porteous, Jr., engaged in a longstanding pattern of corrupt conduct that demonstrates his unfitness to serve as a United States District Court Judge. That conduct included the following: Beginning in or about the late 1980s while he was a State court judge in the 24th Judicial District Court in the State of Louisiana, and continuing while he was a Federal judge in the United States District Court for the Eastern District of Louisiana, Judge Porteous engaged in a corrupt relationship with bail bondsman Louis M. Marcotte, III, and his sister Lori Marcotte. As part of this corrupt relationship, Judge Porteous solicited and accepted numerous things of value, including meals, trips, home repairs, and car repairs, for his personal use and benefit, while at the same time taking official actions that benefitted the Marcottes. These official actions by Judge Porteous included, while on the State bench, setting, reducing, and splitting bonds as requested by the Marcottes, and improperly setting aside or expunging felony convictions for two Marcotte employees (in one case after Judge Porteous had been confirmed by the Senate but before being sworn in as a Federal judge). In addition, both while on the State bench and on the Federal bench, Judge Porteous used the power and prestige of his office to assist the Marcottes in forming relationships with State judicial officers and individuals important to the Marcottes' business. As Judge Porteous well knew and understood, Louis Marcotte also made false statements to the Federal Bureau of Investigation in an effort to assist Judge Porteous in being appointed to the Federal bench.

Accordingly, Judge G. Thomas Porteous, Jr., has engaged in conduct so utterly lacking in honesty and integrity that he is guilty of high crimes and misdemeanors, is unfit to hold the office of Federal judge, and should be removed from office.

Article III

Beginning in or about March 2001 and continuing through about July 2004, while a Federal judge in the United States District Court for the Eastern District of Louisiana, G. Thomas Porteous, Jr., engaged in a pattern of conduct inconsistent with the trust and confidence placed in him as a Federal judge by knowingly and intentionally making material false statements and representations under penalty of perjury related to his personal bankruptcy filing and by repeatedly violating a court order in his bankruptcy case. Judge Porteous did so by--

(1) using a false name and a post office box address to conceal his identity as the debtor in the case;

(2) concealing assets;

(3) concealing preferential payments to certain creditors;

(4) concealing gambling losses and other gambling debts; and

(5) incurring new debts while the case was pending, in violation of the bankruptcy court's order.

In doing so, Judge Porteous brought his court into scandal and disrepute, prejudiced public respect for and confidence in the Federal judiciary, and demonstrated that he is unfit for the office of Federal judge.

Wherefore, Judge G. Thomas Porteous, Jr., is guilty of high crimes and misdemeanors and should be removed from office.

Article IV

In 1994, in connection with his nomination to be a judge of the United States District Court for the Eastern District of Louisiana, G. Thomas Porteous, Jr., knowingly made material false statements about his past to both the United States Senate and to the Federal Bureau of Investigation in order to obtain the office of United States District Court Judge. These false statements included the following:

(1) On his Supplemental SF-86, Judge Porteous was asked if there was anything in his personal life that could be used by someone to coerce or blackmail him, or if there was anything in his life that could cause an embarrassment to Judge Porteous or the President if publicly known. Judge Porteous answered `no' to this question and signed the form under the warning that a false statement was punishable by law.

(2) During his background check, Judge Porteous falsely told the Federal Bureau of Investigation on two separate occasions that he was not concealing any activity or conduct that could be used to influence, pressure, coerce, or compromise him in any way or that would impact negatively on his character, reputation, judgment, or discretion.

(3) On the Senate Judiciary Committee's `Questionnaire for Judicial Nominees', Judge Porteous was asked whether any unfavorable information existed that could affect his nomination. Judge Porteous answered that, to the best of his knowledge, he did `not know of any unfavorable information that may affect [his] nomination'. Judge Porteous signed that questionnaire by swearing that `the

information provided in this statement is, to the best of my knowledge, true and accurate'.

However, in truth and in fact, as Judge Porteous then well knew, each of these answers was materially false because Judge Porteous had engaged in a corrupt relationship with the law firm Amato & Creely, whereby Judge Porteous appointed Creely as a `curator' in hundreds of cases and thereafter requested and accepted from Amato & Creely a portion of the curatorship fees which had been paid to the firm and also had engaged in a corrupt relationship with Louis and Lori Marcotte, whereby Judge Porteous solicited and accepted numerous things of value, including meals, trips, home repairs, and car repairs, for his personal use and benefit, while at the same time taking official actions that benefitted the Marcottes. As Judge Porteous well knew and understood, Louis Marcotte also made false statements to the Federal Bureau of Investigation in an effort to assist Judge Porteous in being appointed to the Federal bench. Judge Porteous's failure to disclose these corrupt relationships deprived the United States Senate and the public of information that would have had a material impact on his confirmation.

Wherefore, Judge G. Thomas Porteous, Jr., is guilty of high crimes and misdemeanors and should be removed from office.

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DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

February 6, 2009

VIA U.S. MAIL & FACSIMILE: (513) 579-1418
Schwartz Manes Ruby & Slovin, LPA
Attn: David Meranus, Esq.
2900 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202

RE: ***Stor-All Alfred, LLC v. Denise V. Newsome;*** **Hamilton County Municipal Court-Hamilton County, Ohio; Case No. 09CV01690**

Dear Mr. Meranus:

This will confirm the Court hearing on today in regards to the above referenced matter. As you know, this case has been transferred to the Common Pleas Court as my counterclaim exceeds the Municipal Court's jurisdiction.

This will confirm that during the signing of the attached *Magistrate's Decision*, you brought to my attention **your knowledge of legal actions** brought by me in New Orleans, Louisiana. Information I believe a reasonable mind will conclude has no bearing on the above referenced lawsuit. *I gather your bringing of this information was done to* ***blackmail*** *and/or* ***extort*** *monies from me* – thinking I was going to drop my Counter-Claim against your client. I gathered from the way you presented the information to me, you that I was going to back down. To your disappointment, I advised you that I had a feeling that there were illegal motives behind the filing of this lawsuit on behalf of your client (Stor-All Alfred, LLC). It also appears your *arrogance* got the best of you. At least I now have additional information as to the reason and ill motives behind you and/or your client contacting Wood & Lamping and the reasons underlying my termination (along with the Conflict of Interest – Thomas J. Breed's relationship with Schwartz Manes Ruby & Slovin – my working directly with Breed at Wood & Lamping and the conflict that would arise if Wood & Lamping were to represent me in this matter. So to appease you and your client, my employment with Wood & Lamping was terminated and I was denied rights under the Family & Medical Leave Act, etc.) SHAME, SHAME, SHAME!!!!!!

I advised you that I was just up in Washington, D.C. in December 2008 addressing concerns of such unlawful/criminal acts committed by you and/or your client. ***This stalking, harassing, etc. me from state-to-state, job-to-job (CONTACTING MY EMPLOYER),*** *is clearly prohibited by laws/statutes and clearly in violation of my Constitutional Rights (Ohio and United States), Civil Rights, Landlord & Tenant Act, etc.* Thanks for confirming my beliefs as to Wood & Lamping's motives. This is well deserved information.

EXHIBIT 13

While you seemed to be comfortable in advising me that it is the insurance company that is going to pay the liability, what you failed to understand is that the divulgence of your knowledge of matters regarding me in New Orleans, Louisiana opens the doors for additional claims of and against you, your law firm (Schwartz Manes Ruby & Slovin), Stor-All Alfred, LLC, Wood & Lamping and who knows who else. I THANK YOU, THANK YOU, THANK YOU. . . . . for such good news. I shared during my trip to Washington, D.C. continued concerns of conspiracies to destroy my life, liberties and pursuit of happiness, etc. and such willful, malicious and wanton acts as that committed by you and others to continue to cause me irreparable harm/injury.

My termination from employment with Wood & Lamping, LLP, your acknowledgment in Court today in efforts of extorting and/or blackmailing me, (along with other reasons known to you) etc. is clearly UNACCEPTABLE!!!! Your acts which not only violate the Ohio Rules of Civil Procedure, but that of the Ohio Code of Professional Conduct and/or other statutes/laws governing such matters. You are aware that I have filed the appropriate Motion for Sanctions and through this motion am I not only seeking sanctions but, if possible, your disbarment. When you use your profession to interfere with the life of another for unlawful/illegal gain; moreover, for **racial** and/or **prejudicial** reasons, I do not believe as an *"officer of the court"* that you uphold neither the integrity nor the respect of the Court and/or judicial process. The criminal/civil wrongs you, your client and others have committed against me have cause irreparable injury/harm and such acts which cannot go unaddressed.

Again, **THANK YOU, THANK YOU, THANK YOU, THANK YOU, THANK YOU.** . . . You know this is news/information that needs to be shared. This was the nail I needed to expose and shine the light on such criminal/civil wrong. Did you and others in cohort with you not understand the message sent on November 4, 2008 (Presidential Election) – **CHANGE**, **NOT MORE OF THE SAME!!!!**

Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Denise Newsome

Denise Newsome

cc: Paul R. Berninger, Esq. (Wood & Lamping- via facsimile & email)
Andrea Griffith (Wood & Lamping – via email)
C. J. Schmidt, Esq. (Wood & Lamping-via email)
U.S. Legislature/Congress (Via Facsimile & Mail)
Personal File

Hamilton County Municipal Court
HAMILTON COUNTY, OHIO

Entered

IMAGE

STOR ALL ALFRED LLC VS. DENISE V NEWSOME

CASE #: 09CV01690 G2

MAGISTRATE'S DECISION

☐ E023 Case called: Trial had: Defendant(s) found guilty as charged. Plaintiff is granted restitution of the premises as described in the statement of claim, plus costs. The claim for money is continued for the filing of an answer or default judgment.

☐ E025 The first cause of action is dismissed without prejudice at Plaintiff's cost. The claim for money is continued for answer or default judgment.

☐ E028 Case called: Trial had: Defendant(s) found guilty as charged. Plaintiff is granted restitution of the premises as described in the statement of claim, plus costs.

☐ E126 For good cause shown and by consent of the court, this case is continued to _____.

☐ E135 For good cause shown and by consent of the court, this case is continued to _____. If Plaintiff prevails, the magistrate's decision shall be submitted to the court _____ days thereafter.

☐ E005 This action is dismissed without prejudice at the Plaintiff's cost.

☐ E073 Case called: Trial had: Judgment for the defendant, case dismissed.

☐ E074 Case called: Trial had: Judgment for the defendant. First cause of action is dismissed; the claim for money is continued for answer or default judgment.

☐ E136 Case called: Trial had: Defendant(s) found guilty as charged. Plaintiff is granted restitution of the premises as described in the statement of claim, plus costs. The magistrate's decision shall be submitted to the court _____ because _____.

☐ E029 Bond in this action is set at $_____ payable _____ with an additional amount of $_____ due on the _____ of each month beginning _____ during pendency of this action.

☑ MISC This case is hereby transferred to the Common Pleas Court as counterclaim exceeds jurisdiction of this Court

date 02/06/2009

plaintiff/attorney

defendant/attorney

ORDER:
Notice Mailed
To Parties
On: _____
Int: _____

Magistrate

THE MAGISTRATE'S DECISION IS ADOPTED.

Judge

CMSR5201

TRANSMISSION VERIFICATION REPORT

TIME : 02/06/2009 12:10
NAME : FEDEX KINKO'S 0125
FAX : 513--241-0584
TEL : 5132413366
SER.# : 000J7N205312

DATE,TIME	02/06 12:09
FAX NO./NAME	5135791418
DURATION	00:01:10
PAGE(S)	03
RESULT	OK
MODE	STANDARD ECM

TRANSMISSION VERIFICATION REPORT

TIME : 02/07/2009 16:33
NAME : FEDEX KINKO'S #2138
FAX : 5139610138
TEL : 5139610104
SER.# : 000J7N199268

DATE,TIME	02/07 16:32
FAX NO./NAME	5134196488
DURATION	00:01:41
PAGE(S)	03
RESULT	OK
MODE	STANDARD

DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

February 6, 2009

VIA U.S. MAIL & FACSIMILE: (513) 579-1418
Schwartz Manes Ruby & Slovin, LPA
Attn: David Meranus, Esq.
2900 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202

RE: ***Stor-All Alfred, LLC v. Denise V. Newsome;*** **Hamilton County Municipal Court-Hamilton County, Ohio; Case No. 09CV01690**

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ORIGINAL

IN THE SUPREME COURT OF OHIO 09-1690

DENISE V. NEWSOME Post Office Box 14731 Cincinnati, Ohio 45250 Plaintiff/Relator	:	SUPREME COURT CASE NO.: _____
vs.		
HAMILTON COUNTY MUNICIPAL COURT and **JUDGE NADINE L. ALLEN** 1000 Main Street Cincinnati, OH 45202 Defendants	:	In the Hamilton County Municipal Court Case No. 09CV01690

FILED
SEP 18 2009
CLERK OF COURT
SUPREME COURT OF OHIO

RECEIVED
SEP 18 2009
CLERK OF COURT
SUPREME COURT OF OHIO

EMERGENCY WRIT OF PROHIBITION AND SUPPORTING AFFIDAVITS

COMES NOW Plaintiff/Relator, named as Denise V. Newsome ("Plaintiff" and/or "Relator") and files this instant ***EMERGENCY WRIT OF PROHIBITION*** in the Supreme Court of Ohio. In further support thereof, Defendant states:

1. The Relator is the defendant in an eviction/civil action that was originally filed bearing the Docket/Case No. 09CV0160 which was instituted on or about January 20, 2009, in the Hamilton County Municipal Court in order to have the Defendant evicted.

2. An action in which party (Stor-All Alfred, LLC) is attempting to have Relator evicted from property in which is already in illegal/unlawful possession of.

3. The Defendants are the Hamilton County Municipal Court in Hamilton County, Ohio (hereinafter called "the Municipal Court") and the judges of said court.

4. On or about January 23, 2009, the Relator was served with process and copy of the complaint in that action.

5. Thereafter, the Relator on or about January 29, 2009, moved to have the matter transferred to the Hamilton County Court of Common Pleas on the ground that the Municipal Court *lacked jurisdiction* in that the amount sought through her compulsory[1] Counterclaim exceeded the

[1] *Defendant's Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim and Demand for Jury Trial.*

EXHIBIT 14

Municipal Court's jurisdiction. Therefore, the Municipal Court lacked jurisdiction over that action but it is the Hamilton County Court of Common Pleas who has jurisdiction over the subject matter of the action.

6. An eviction action which was properly met with a compulsory Counterclaim which exceeds the Municipal Court's jurisdiction.[2]

7. On February 6, 2009, the Magistrate Judge in the Municipal Court granted Relator's Motion to Transfer matter to the Hamilton County Court of Common Pleas. Said action by the Magistrate Judge was in compliance with the statutes/laws governing said matters in that the relief sought through the original compulsory Counterclaim exceeded the Municipal Court's jurisdiction.[3] The parties to the action executed and agreed to the Magistrate's Decision to have the matter transferred to the Hamilton County Court of Common Pleas. See **EXHIBIT "1"** attached hereto and incorporated by reference.

8. The transfer of this matter to the Hamilton County Municipal Court is in compliance with the statutes/laws governing said matters.[4]

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[2] **65 Ohio Jur.3d § 164 – *Notice to vacate; bringing possessory action*:**

A notice by the landlord that the tenancy is being terminated, combined with a demand by him or her for possession of the premises, and voluntary compliance therewith by the tenant without protest, *is not an* eviction for which damages may be recovered. (*Greenberg v. Murphy*, 16 Ohio C.D. 359, 1904 WL 1147 (Ohio Cir. Ct. 1904)). **[Practice Guide: If the tenant is *rightfully in possession and entitled to remain*, the tenant SHOULD AWAIT legal proceedings that are threatened,** and make *defense* thereto, ***RATHER THAN COMPLY with the demand*, and then bring an action for alleged damages that perhaps never would have resulted.** (*Greenberg*)]

Where a tenant, upon request or notice to vacate, VOLUNTARILY abandons the premises without protest, **no action for damages against the landlord,** based on fraud or misrepresentations as to the reasons for such request **can be maintained under rights recognized by the common law, or any statute of Ohio.** (*Ferguson v. Buddenberg*, 87 Ohio App. 326, 42 Ohio Op. 488, 57 Ohio L. Abs. 473, 94 N.E.2d 568 (1st Dist. **Hamilton** County 1950)).

In an eviction action for nonpayment of rent brought by a landlord **pursuant to RC Ch 1923**, a *tenant MAY RESPOND by asserting any legal defense he has to that action*, pursuant to RC 1923.061(A), and/or **by filing a COUNTERCLAIM for damages** caused by the landlord's breach of the rental agreement and/or the landlord's breach of his duties under RC 5321.04. *Smith v. Wright* (Ohio App. 1979) 65 Ohio App.2d 101, 416 N.E.2d 655, 19 O.O.3d 59.

[3] *State ex rel. National Employee Ben. Services, Inc. v. Court of Common Pleas of Cuyahoga County*, 550 N.E.2d 941 (Ohio, 1990) - A municipal court is ***REQUIRED to dismiss*** an action when the initial pleading ***seeks relief BEYOND*** the statutory monetary restrictions. R.C. § 1901.17.

Grossman v. Mathless & Mathless, 620 N.E.2d 160 (Ohio.App. 10.Dist. 1993) - When municipal court is presented with claim in **excess** of monetary jurisdictional limits of court, claim *should be* ***DISMISSED***, or, **where appropriate, certified to common pleas court**. R.C. § 1901.13.

[4] *Ohio Farmers Ins. Co. v. McNeil*, 143 N.E.2d 727 (Ohio.App.1.Dist. **Hamilton**.Co.,1956) - In action by liability insurer of insured under right . . . where defendant filed a cross-petition in the Municipal Court claiming damages . . . arising out

9. This matter is presently pending before the Hamilton County Municipal Court.

10. On or about April 29, 2009, the Hamilton County Court of Common Pleas entered and Entry Granting Bifurcation and Remand. Said entry was met with Relator's timely pleading entitled, *"Defendant's Request/Motion for Findings of Fact and Conclusion of Law; Motion to Vacate April 29, 2009 Entry Granting Bifurcation and Remand"* – a copy of said pleading which was provided to the Municipal Court with Relator's June 26, 2009 filing entitled, *"DEFENDANT'S NOTIFICATION TO THE COURTS OF APPEAL PROCESS BEGUN – TRANSFER/REMAND IS IN ERROR – Court of Common Pleas' Engagement in Criminal Activity."* The Municipal Court was also provided with a copy of Relator's pleading entitled, *"Defendant's Rebuttal/Opposition to Plaintiff's Memorandum in Opposition to Defendant's April 24, 2009 Request/Motion for Findings of Fact and to Vacate April 17, 2009, Order; Motion for rule 11 Sanction."*

11. The filing of Relator's Request/Motion for Findings of Fact and Conclusion of Law is still pending before the Hamilton County Court of Common Pleas and to date, there has been no filing of findings of fact and conclusion of law by the Hamilton County Court of Common Pleas.

12. Relator's filing of Request/Motion for Findings of Fact and Conclusion of Law was timely submitted and provided for purposes of appeal if necessary.

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of the collision involved, the *Municipal Court thereupon lost* ALL *jurisdiction and was* ***REQUIRED*** *to certify the case to the Court of Common Pleas.* R.C. § 1901.22.

Ohio Farmers Ins. Co. v. McNeil, 135 N.E.2d 797 (Ohio.Com.Pl., 1956) - Where defendant in action commenced in a municipal court files a claim for an amount in excess of the jurisdictional limit of such court, it becomes the MANDATORY duty of such court under statute to certify entire case to court of common pleas for determination. R.C. § 1901.22(E).

[n. 5] The law *frowns upon* ***multiplicity*** of actions.

Swiers v. Smith, 150 N.E.2d 517 (Ohio.Mun.,1958) - Action in forcible entry and detention did not exceed the monetary limitation of Municipal Court's jurisdiction where *there was* ***no*** *prayer in petition for any money* other than court costs, though each party had an equity in the property involved which exceeded the monetary limitation. R.C. § 1901.17.

Grossman v. Mathless & Mathless, 620 N.E.2d 160 (Ohio.App.10. Dist. 1993) - When municipal court is presented with claim ***in*** EXCESS of monetary jurisdictional limits of court, ***claim should be dismissed***, or, where appropriate, certified to common pleas court. R.C. § 1901.13.

State, ex rel. Penn v. Swain, 486 N.E.2d 1187 (Ohio.App.11.Dist. 1984) - Where *counterclaims* EXCEEDED *jurisdictional amount of municipal court,* entire case HAD *to be* ***certified*** *to the court of common pleas under R.C. § 1901.22(E) and Rules Civ.Proc., Rule 13(J).*

13. The Municipal Court's record will support that on June 26, 2009, Relator filed with the Municipal Court a timely pleading entitled, *"DEFENDANT'S NOTIFICATION TO THE COURTS OF APPEAL PROCESS BEGUN – TRANSFER/REMAND IS IN ERROR – Court of Common Pleas' Engagement in Criminal Activity."*

14. The Municipal Court's record will support that on or about August 1, 2009, Relator filed with the Municipal Court a timely pleading entitled, "NOTIFICATION: DEFENDANT'S REITERATION OF NON-WAIVER TO JURISDICTION."

15. Despite Relator's repeated efforts to notify the Municipal/Judge Nadine L. Allen that it lacked jurisdiction, such efforts failed.

16. The action was scheduled for a hearing on the plaintiff's (Stor-All Alfred, LLC) Motion for Summary Judgment on September 9, 2009, in the Municipal Court.

17. In learning of the September 9, 2009 hearing on Stor-All Alfred, LLC's Motion for Summary Judgment to be held in the Municipal Court, Relator timely, properly and adequately notified said court that it lacked jurisdiction over the subject matter. The record evidence of said Court will support that on August 27, 2009, Relator filed her *"NOTIFICATION: DEFENDANT'S REITERATION OF NON-WAIVER TO JURISDICTION – DEFENDANT WILL NOT BE ATTENDING HEARING SCHEDULED FOR SEPTEMBER 9, 2009; REQUEST TO KNOW WHEATHER PROHIBITION ACTION WILL BE NECESSARY."* See proof from **excerpt** *only (Title page & signature page*) of said filing attached hereto at **EXHIBIT "2"** and incorporated by reference.

18. On September 9, 2009, the Municipal Court/Judge Nadine L. Allen executed a *Writ of Execution.* A copy of which is attached as **EXHIBIT "3"** and incorporated herein by reference. Judge Nadine L. Allen executing said Writ of Execution with knowledge that she and/or said court lacked jurisdiction/subject matter jurisdiction.

19. On or about September 9, 2009, the Municipal Court/Judge Nadine L. Allen executed an *ENTRY GRANTING WRIT OF IMMEDIATE POSSESSION AND PARTIAL SUMMARY JUDGMENT.* A copy of said Entry is attached hereto at **EXHIBIT "4"** and incorporated herein.

Judge Nadine L. Allen executing said Writ of Execution with knowledge that she and/or said court lacked jurisdiction/subject matter jurisdiction.

20. Prior to rendering the September 9, 2009 ruling and/or executing said *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*, Judge Nadine L. Allen was timely, properly and adequately placed on notice that she and/or the Municipal Court lacked jurisdiction.

21. Prior to rendering the September 9, 2009 ruling and/or executing *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*, Judge Nadine L. Allen knew and/or should have known that her actions would not be protected under JUDICIAL IMMUNITY.[5] Moreover, that any injury sustained by her unlawful acts and lack of jurisdiction would be met with a civil legal action.[6] With said knowledge, Judge Nadine L. Allen has knowingly

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[5] Ohio Jurisprudence 3rd Courts and Judges: **§110 – Generally; Acts Within Scope of Jurisdiction:** . . . Conversely, in order to be subject to civil liability, the judge must lack jurisdiction, either personal or subject matter, and take some action in a judicial capacity violating the rights of a party to a lawsuit . . .

Ohio Jurisprudence 3rd Courts and Judges: **§111 – Acts Wholly Without Jurisdiction or Authority:** Judges are liable for those acts regarding matters with respect to which they are entirely without jurisdiction [*Wilson v. Neu*, 12 Ohio St.3d 102, 465 N.E.2d 854 (1984); Stahl v. Currey, 135 Ohio St. 253, 14 Ohio Op. 112, 20 N.E.2d 529 (1939); Hopkins v. INA Underwriters Ins. Co., 44 Ohio App.3d 186, 542 N.E.2d 679 (4th Dist. Pickaway County 1988)] or in clear absence of all jurisdiction [*Borkowski v. Abood*, 2008 WL 636728 (Ohio 2008); *Condit v. Planned Parenthood Assn. of Cincinnati*, 118 Ohio App.3d 384, 692 N.E.2d 1081 (1st Dist. Hamilton County 1997)]. An absence of all jurisdiction exists subjecting judge to civil liability when the judge lacks either personal or subject matter jurisdiction over the controversy, but, nevertheless, takes action in a judicial capacity and violates the rights of a party to the lawsuit. [*Borkowski v. Abood*, 2008-Ohio-857, 2008 WL 636728 (Ohio 2008)].

While acting without jurisdiction or beyond his or her official duties or in contravention of the law, a judge is accountable in the same manner as a private citizen. [*Maxey v. Gather*, 94 Ohio App. 115, 51 Ohio Op. 310, 114 N.E.2d 607 (9th Dist. Summit County 1952)]

[6] *Borkowski v. Abood*, 884 N.E.2d 7 (Ohio, 2008) - Interval between filing of notice of removal and . . . court's remand is equivalent to an "absence of jurisdiction" as to a part of the proceedings, and, thus, judge's actions in this interval are in excess of jurisdiction and do not deprive judge of immunity from civil liability.

Civil liability attaches if a judge acts in an absence of all jurisdiction.

An absence of all jurisdiction exists subjecting judge to civil liability when the judge lacks . . . subject matter jurisdiction over the controversy, *but, nevertheless, takes action in a judicial capacity that* ***violates the rights of a party to the lawsuit***.

A judge will be subject to civil liability for actions while presiding in a case only if (1) the judge's actions were not judicial in nature, or **(2) the judge acted in a clear absence of jurisdiction**.

Where a ***judge knows that he lacks jurisdiction****, or acts in the face of clearly valid statutes or case law expressly depriving him of jurisdiction, he acts in a "clear absence of jurisdiction" and, as a result,* ***judicial immunity is LOST***.

and willingly subjected herself to be sued in her individual capacity for any injury harm sustained from her actions.[7]

22. The actions of the Hamilton County Municipal Court/Judge Nadine L. Allen was willful, malicious and wanton and done with deliberate intent to cause the Relator injury/harm; moreover, deprive Relator rights secured to her under the Constitution, Civil Rights Act, Landlord & Tenant Act, Ohio Rules of Civil Procedure, Ohio Revised Code, etc.

23. The actions of the Hamilton County Municipal Court/Judge Nadine L. Allen was done in retaliation of her being timely, properly and adequately notified that a PROHBITION ACTION would be sought. Therefore, in an effort of depriving Relator said right, on September 9, 2009, Judge Nadine L. Allen entered *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*.

24. The actions of Judge Nadine L. Allen has breached the integrity of this Court; moreover, compromised the integrity of the court.

25. Relator is in receipt of the Supreme Court of Ohio's August 31, 2009 letter – a copy of which is attached hereto at **EXHIBIT "5"** and incorporated by reference. Therefore, Relator will be moving to file the appropriate actions for disqualification against the appropriate Judge(s) and/or disciplinary action against the proper counsel/attorney(s) through the appropriate process as well.

---

[7] *McBride v. Gould,* 16 Ohio Dec. 241 (Ohio.Com.Pl.,1905) - Where a judge acts without jurisdiction he *is a trespasser and is not entitled to immunity from civil liability*.

Condit v. Planned Parenthood Assn. of Cincinnati, 692 N.E.2d 1081 (Ohio.App.1.Dist.**Hamilton**.Co.,1997) - Judges are extended immunity when acting in their official capacity, forfeited only when judges act in clear absence of all jurisdiction.

Dalhover v. Dugan, 560 N.E.2d 824 (Ohio.App.1.Dist.**Hamilton.** Co.,1989) - Judge is immune from civil liability for actions taken in his judicial capacity when jurisdiction is proper.

Borkowski v. Abood, 861 N.E.2d 872 (Ohio.App.6.Dist. 2006) - Judge who presided over eviction action involving tenant was not entitled to dismissal of tenant's claims against him based on statutory immunity for public employees and officers, given that tenant made allegations that judge acted in bad faith in eviction proceeding for which statutory immunity did not apply. R.C. § 9.86.

26. The Hamilton County Municipal Court has acted in a matter to which it has no jurisdiction. Therefore, requiring the issuance of the relief sought through this instant Writ of Prohibition.

27. The Relator has no plain and adequate remedy in the ordinary course of the law.

28. Under the direction of the Supreme Court of Ohio, Relator makes herself available to provide said Court with any additional evidence and/or legal conclusions (Brief) if this honorable Court deems necessary to sustain this instant EMERGENCY WRIT OF PROHIBITION.

WHEREFORE, PREMISES CONSIDERED, the Relator prays that a Writ of Prohibition issue directing and restraining the Defendants from usurping jurisdiction *or* that an alternative writ be issued directing and restraining the Defendants from usurping jurisdiction and rendering any such rulings/orders/entry of said Court NULL/VOID for lack of jurisdiction and for any and all other purposes known to the Supreme Court of Ohio for the granting and issuance of Writ of Prohibition; moreover, ordering Defendants to show cause before this court at a specified time and place why the writ should not be made permanent.

Respectfully submitted this **10TH** day of **September, 2009.**

Denise Newsome, *Defendant Pro Se*
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the forgoing pleading has been mailed via first-class U.S. Mail or as follows:

VIA PRIORITY U.S. MAIL [redacted]
Supreme Court of Ohio
Attn: Honorable Kristina D. Frost – *Clerk of Court*
65 South Front Street
Columbus, Ohio 43215-3431
Delivery Confirmation No.: 0308204000021988814

VIA U.S. MAIL & FACSIMILE: (513) 946-5157
Hamilton County Municipal Court
Attn: Patricia M. Clancy – *Clerk of Court*
Judge Nadine L. Allen - *Judge*
1000 Main Street
Cincinnati, OH 45202

VIA U.S. MAIL
Schwartz Manes Ruby & Slovin, LPA
Attn: David Meranus, Esq.
2900 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202

Dated this **10TH** day of **September, 2009.**

Denise Newsome

STATE OF ~~OHIO~~ Kentucky)
COUNTY OF ~~HAMILTON~~ Campbell) ss:

AFFIDAVIT OF DENISE NEWSOME

The undersigned, being duly sworn, says that the facts stated in the foregoing *Writ of Prohibition* are true as she verily believes.

Denise Newsome
DENISE NEWSOME

Sworn to before me and signed in my presence at 53 Donnermeyer Dr., ~~Cincinnati, Ohio,~~ Bellevue, KY this **10th** day of **September 2009**.

Brian Craft
NOTARY PUBLIC & Seal

My Commission Expires:

BRIAN CRAFT
Notary Public, Kentucky State at Large
My Commission Expires Feb. 23, 2011

STATE OF ~~OHIO~~ Kentucky)
COUNTY OF ~~HAMILTON~~ Campbell) ss:

AFFIDAVIT OF INDIGENCY IN LIEU OF FEES

The undersigned, being duly sworn, says that the facts stated in the foregoing *Writ of Prohibition* are true as she verily believes. Affiant further states that at this time she does not have sufficient funds to pay the filing fee (if any) or security deposit (if any) because she is presently unemployed. Affiant further states that the Writ of Prohibition to which this Affidavit accompanies has been filed in good faith and is not submitted for purposes of delay, harassment, hindering proceedings, embarrassment, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, etc. and is filed to *protect* and *preserve* the rights of Relator guaranteed and/or secured under the Ohio Revised Code, Ohio Rules of Civil Procedure, Ohio Constitution, United States Constitution and other statutes/laws governing said matters.

Denise Newsome
DENISE NEWSOME

Sworn to before me and signed in my presence at 53 Donnermeyer Dr., ~~Cincinnati,~~ Ohio, this **10th** day of **September 2009**.
Bellevue, KY

Brian Craft
NOTARY PUBLIC & Seal

My Commission Expires:

BRIAN CRAFT
Notary Public, Kentucky State at Large
My Commission Expires Feb. 23, 2011

Hamilton County Municipal Court
HAMILTON COUNTY, OHIO

Entered

IMAGE

STOR ALL ALFRED LLC VS. DENISE V NEWSOME

CASE #: 09CV01690 G2

MAGISTRATE'S DECISION

☐ E023 Case called: Trial had: Defendant(s) found guilty as charged. Plaintiff is granted restitution of the premises as described in the statement of claim, plus costs. The claim for money is continued for the filing of an answer or default judgment.

☐ E025 The first cause of action is dismissed without prejudice at Plaintiff's cost. The claim for money is continued for answer or default judgment.

☐ E028 Case called: Trial had: Defendant(s) found guilty as charged. Plaintiff is granted restitution of the premises as described in the statement of claim, plus costs.

☐ E126 For good cause shown and by consent of the court, this case is continued to _____.

☐ E135 For good cause shown and by consent of the court, this case is continued to _____. If Plaintiff prevails, the magistrate's decision shall be submitted to the court _____ days thereafter.

☐ E005 This action is dismissed without prejudice at the Plaintiff's cost.

☐ E073 Case called: Trial had: Judgment for the defendant, case dismissed.

☐ E074 Case called: Trial had: Judgment for the defendant. First cause of action is dismissed; the claim for money is continued for answer or default judgment.

☐ E136 Case called: Trial had: Defendant(s) found guilty as charged. Plaintiff is granted restitution of the premises as described in the statement of claim, plus costs. The magistrate's decision shall be submitted to the court _____ because _____.

☐ E029 Bond in this action is set at $_____ payable _____ with an additional amount of $_____ due on the _____ of each month beginning _____ during pendency of this action.

☑ MISC This case is hereby transferred to the Common Pleas Court as counterclaim exceeds jurisdiction of this Court

date 02/06/2009

plaintiff/attorney

defendant/attorney

ORDER:
Notice Mailed
To Parties
On: _____
Int: _____

Magistrate

THE MAGISTRATE'S DECISION IS ADOPTED.

Judge

CMSR5201

EXHIBIT

HAMILTON COUNTY MUNICIPAL COURT
HAMILTON COUNTY, OHIO

PATRICIA M. BLACKWELL
CLERK OF COURTS
HAMILTON COUNTY, OH
2009 AUG 27 P 2:25

STOR-ALL ALFRED, LLC		:	CASE NO.: 09CV01690
	Plaintiff	:	
vs.		:	JUDGE:
		:	
Denise V. Newsome		:	
	Defendant	:	

NOTIFICATION: DEFENDANT'S REITERATION OF NON-WAIVER TO JURISDICTION – DEFENDANT WILL NOT BE ATTENDING HEARING SCHEDULED FOR SEPTEMBER 9, 2009;[1] REQUEST TO KNOW WHETHER PROHIBITION ACTION WILL BE NECESSARY

COMES NOW Defendant, named as Denise V. Newsome ("Defendant" and/or "Newsome") **without** *submitting to the jurisdiction of this court and without waiving her right to appeal* the Hamilton County Court of Common Pleas' FINAL Judgment – ***when*** ENTERED in that **no** Final Judgment was ever entered prior to the remand/transferring of this matter to the Hamilton County Municipal Court – granting bifurcation and/or remand/transfer of Case No. A0901302 to the Hamilton County Municipal Court as Case No. 09CV01690. This instant pleading hereby NOTIFIES said Court that Defendant **WILL NOT** be attending the September 9, 2009 hearing on *Plaintiff's Motion for Summary Judgment* in that this Court lacks jurisdiction. A copy of this Court's August 5, 2009, *Entry* notifying of September 9, 2009 hearing on *Plaintiff's Motion for Summary Judgment* is attached hereto at **EXHIBIT "A"** and is incorporated herein by reference. While Plaintiff filed a Complaint against the Defendant, it was disappointed when said Complaint was met with *Defendant's Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim and Demand for Jury Trial* of January 29, 2009, as well as DISCOVERY REQUESTS: (a) *Defendant's Requests for Admission to Plaintiff – to which Plaintiff **willingly** and **knowingly** failed to respond*; (b) *Defendant's First Set of Interrogatories Propounded*

[1] Boldface, Italics and Underline added for emphasis. Legal Resource materials utilized: WestLaw, Ohio Jurisprudence 3d, West's Ohio Digest, Ohio Rules of Civil Procedure, Ohio Revised Code, etc.

EXHIBIT

remand/transfer and/or attempt by Judge John Andrew West to grant bifurcation of the lawsuit filed. Defendant is entitled to appeal any such FINAL Judgment once entered. Defendant has filed the required *Request/Motion for Findings of Fact and Conclusion of Law* and *Motion to Vacate* which is **presently** *pending* in the Hamilton County Court of Common pleas; therefore, **precluding/prohibiting** *the transfer/remand or bifurcation of this lawsuit to the Hamilton County Municipal Court*; moreover, renders the Hamilton County Municipal Court with VOID/LACK OF JURISDICTION over the subject matter.

PLEASE ADVISE DEFENDANT WHETHER **PROHIBITION** ACTION WLL BE NECESSARY.

Respectfully submitted this **27TH** day of **August, 2009.**

Denise Newsome, *Defendant Pro Se*
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the forgoing pleading has been mailed via first-class U.S. Mail or as follows:

VIA U.S. PRIORITY MAIL: DELIVERY CONFIRMATION TRACKING NO. 0307179000007318092 3
Supreme Court of Ohio
Attn: Thomas J. Moyer – *Chief Justice*
65 South Front Street
Columbus, Ohio 43215-3431

VIA HAND DELIVERY
Schwartz Manes Ruby & Slovin, LPA
Attn: David Meranus, Esq.
2900 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202

Dated this **27TH** day of **August, 2009.**

Denise Newsome

WRIT OF EXECUTION ** Forthwith 0 days ** CASE NUMBER: 09CV01690

STATE OF OHIO
HAMILTON COUNTY ss. To the Bailiff of the Hamilton County Municipal Court: GREETING:
CINCINNATI, OHIO

Whereas, in a certain action for the forcible detention of the following described premises, to-wit: Situated in the County of Hamilton, and State of Ohio, and known as:

1109 ALFRED ST UNIT 173
CINCINNATI, OH 45214

together with the lot of land on which said premises is situated, lately tried before our Hamilton County Municipal Court, wherein

STOR ALL ALFRED LLC was plaintiff, and DENISE V NEWSOME defendant,

judgment was rendered on September 9,2009 that the plaintiff have restitution of said premises; and also that he/she recover costs.

YOU ARE THEREFORE HEREBY COMMANDED to cause the defendant(s) to be removed from said premises and the said plaintiff(s) to have restitution of the same; also, that you levy of the goods and chattels of said defendant(s), and make the costs aforesaid, and all accruing costs.

And of this Writ make legal service and due return.

Witness, my hand and the seal of said court, at Hamilton County, on September 9,2009

Judge

case number : 09CV01690

STOR ALL ALFRED LLC
vs.
DENISE V NEWSOME

Plaintiff's costs $
Defendant's costs $
Increase costs $

Total $

DAVID MERANUS
(513)579-1414

Plaintiff's Attorney

Received this Writ

[ ] PHYSICAL EVICTION
[ ] TIME EXPIRED
[ ] CANCELLED AT REQUEST OF PLAINTIFF
[ ] PREMISES VACATED

PATRICIA M. CLANCY, Clerk of Courts

By _____, Deputy Bailiff

CMSN2020

EXHIBIT
tabbies

HAMILTON COUNTY MUNICIPAL COURT
CINCINNATI, OHIO

D84990904 09/09/2009

StorALL ALFRED, LLC
Plaintiff

Case No. 09 CV 01690

(N. Allen, J.)

vs

Denise V. Newsome
Defendant

ENTRY GRANTING WRIT OF Immediate Possession and PARTIAL SUMMARY JUDGMENT

The Court, having considered Plaintiff, Stor-ALL ALFRED LLC's Motion for Partial Summary Judgment, said motion being uncontested, and all other relevant pleadings filed in this matter and Defendant having failed to appear for hearing September 9, 2009 finds said motion to be well taken and hereby orders restitution of the premises to Plaintiff and further grants a Writ forthwith.

NADINE L. ALLEN, JUDGE
Date:

0055701
Attorney for Plaintiff

Judge

EXHIBIT
tabbies

The Supreme Court of Ohio

OFFICE OF THE CLERK
65 SOUTH FRONT STREET, COLUMBUS, OH 43215-3431

CHIEF JUSTICE
THOMAS J. MOYER

JUSTICES
PAUL E. PFEIFER
EVELYN LUNDBERG STRATTON
MAUREEN O'CONNOR
TERRENCE O'DONNELL
JUDITH ANN LANZINGER
ROBERT R. CUPP

CLERK OF THE COURT
KRISTINA D. FROST

TELEPHONE 614.387.9530
FACSIMILE 614.387.9539
www.supremecourt.ohio.gov

August 31, 2009

Denise V. Newsome
P. O. Box 14731
Cincinnati, OH 45250

Dear Ms. Newsome:

The enclosed document was forwarded to the Clerk's Office for a response. Because the Supreme Court has limited jurisdiction as defined by Article IV, Section 2(B) of the Ohio Constitution, the Court cannot provide legal advice or advocate for any particular person or entity. Additionally, it does not have the authority to directly intercede in a matter not formally before the Court.

An attorney can provide you with legal advice and advocacy. Enclosed is a copy of the Lawyer Referral & Information Services registered with the Supreme Court of Ohio.

Although the Clerk's Office is not permitted to offer legal advice, we can provide guidance with filing in accordance with the Rules of Practice of the Supreme Court of Ohio. Enclosed with this letter are a copy of the rules and a list of frequently asked questions. For guidance in preparing an original action, please refer to Rules VIII, X, XIV and XV.

If you are seeking the disqualification of a common pleas judge, you may file an affidavit of disqualification with the Clerk's Office pursuant to R.C. 2701.03. Enclosed with this letter is information on filing an affidavit of disqualification. Please note that affidavits of disqualification against municipal court judges cannot be filed here.

Sincerely,

JoElla

JoElla
Deputy Clerk

Enclosures

EXHIBIT
tabbies

IN THE
SUPREME COURT OF OHIO

ORIGINAL

State ex rel. DENISE V. NEWSOME	:	SUPREME COURT CASE NO.: **09-1690**
RELATOR	:	
vs.	:	ORIGINAL ACTION IN PROHIBITION
	:	**EMERGENCY FILING**
HAMILTON COUNTY MUNICIPAL COURT	:	
	:	Out of the Hamilton County Municipal Court
and	:	Case No. 09CV01690
Hon. NADINE L. ALLEN	:	
Judge, Hamilton County Municipal Court	:	
RESPONDENTS	:	

RELATOR'S REBUTTAL/OPPOSITION TO MOTION TO DISMISS AND MEMORANDUM IN SUPPORT OF MOTION TO DISMISS OF RESPONDENTS; AND REQUEST/MOTION FOR SANCTIONS

DENISE V. NEWSOME
Post Office Box 14731
Cincinnati, Ohio 45250

RELATOR

RECEIVED
OCT 21 2009
CLERK OF COURT
SUPREME COURT OF OHIO

Joseph T. Deters, 0012084
Prosecuting Attorney
Hamilton County, Ohio

Christian J. Schaefer, 0015494
Assistant Prosecuting Attorney
230 E. Ninth Street, Suite 4000
Cincinnati, Ohio 45202-2174
DDN: (513) 946-3041
FAX: (513) 946-3018

ATTORNEYS FOR RESPONDENTS

FILED
OCT 21 2009
CLERK OF COURT
SUPREME COURT OF OHIO

EXHIBIT 15

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IN THE
SUPREME COURT OF OHIO

State ex rel. DENISE V. NEWSOME	:	SUPREME COURT CASE NO.: **09-1690**
RELATOR	:	
vs.	:	
HAMILTON COUNTY MUNICIPAL COURT	:	ORIGINAL ACTION IN PROHIBITION **EMERGENCY FILING**
and	:	
Hon. NADINE L. ALLEN Judge, Hamilton County Municipal Court	:	Out of the Hamilton County Municipal Court Case No. 09CV01690
RESPONDENTS	:	

RELATOR'S REBUTTAL/OPPOSITION TO MOTION TO DISMISS AND MEMORANDUM IN SUPPORT OF MOTION TO DISMISS OF RESPONDENTS; AND REQUEST/MOTION FOR SANCTIONS

COMES NOW Relator, Denise V. Newsome ("Relator" or "Newsome"), **without** *submitting to the jurisdiction of Hamilton County Municipal Court and without waiving her right to appeal* the Hamilton County Court of Common Pleas' FINAL Judgments on her pending motions[1] – ***when***

[1] ***(a) Motion to Strike*** *Pleading (Statements and Supporting Documents) of Plaintiff's Motion to Bifurcate Claim and Remand to Municipal Court; and Motion for Rule 11 Sanctions – Jury Trial Demanded In this Action* – submitted for filing on or about February 17, 2009; **(b)** ***Motions to Strike*** *Plaintiff's Motion for Leave to File Memorandum in Opposition to Motion for Rule 11 Sanctions – Submitted by Attorneys David Meranus and Molly G. Vance on Behalf of Plaintiff; and Requests for Rule 11 Sanctions (Jury Trial Demanded in this Action)* – submitted for filing on or about February 25, 2009; **(c)** *Request/Motion for* ***Findings of Fact and Conclusion of Law****; Motion to* ***Vacate*** *(If Permissible) March 2, 2009 Entry Granting Motion of Stor-All Alfred, LLC for Enlargement of Time; and Supporting Memorandum Brief* – submitted for filing on or about March 10, 2009; **(d)** *Request/Motion for* ***Findings of Fact and Conclusion of Law****; Motion to* ***Vacate*** *(If Permissible) March 2, 2009 Entry Granting Motion of Stor-All Alfred, LLC for Leave to File Memorandum in Opposition to Motion for Rule 11 Sanctions; and Supporting Memorandum Brief* – submitted for filing on or about March 10, 2009; **(e)** ***Motion to Strike*** *Plaintiff's Motion for Protective/Restraining Order Against Defendant Denise V. Newsome; Request for Rule 11 Sanctions; and Memorandum in Support (Jury Trial Demanded in this Action)* – submitted for filing on or about March 19, 2009 **(f)** *Motion for Default Judgment of and Against Stor-All Alfred, LLC for Failure to Answer or Otherwise Plead; and Memorandum in Support (Jury Trial Demanded in this Action)* – submitted for filing on or about March 19, 2009; **(g)** *Defendant's* ***Motion to Strike*** *Plaintiff's Answer to Defendant's Counterclaim; Jury Demand Endorsed Hereon; Request for Rule 11 Sanctions; and Memorandum in Support (Jury Trial Demanded in this Action)* – submitted for filing on or about March 26, 2009; **(h)** *Request/Motion for* ***Findings of Fact and Conclusion of Law****; Motion to* ***Vacate*** *April 17, 2009 Order Granting Plaintiff's Motion for Partial Stay (Jury Trial Demanded in this Action)*- submitted for filing on or about April 24, 2009; **(i)** *Request/Motion for* ***Findings of Fact and Conclusion of Law****; Motion to* ***Vacate*** *April 29, 2009 Order Granting Bifurcation and Remand* – submitted for filing on or about May 5, 2009; and any/all pending Motions of Defendant known to this Court.

ENTERED in that **no** Final Judgments on Relator's pending motions for Findings of Fact and Conclusion of Laws and Motions to Strike were ever entered prior to the unlawful remand/transferring of this matter to the Hamilton County Municipal Court – granting bifurcation and/or remand/transfer of Case No. A0901302 in the Hamilton County Court of Common Pleas to the Hamilton County Municipal Court as Case No. 09CV01690 – and hereby files this *Relator's Rebuttal/Opposition To Motion To Dismiss and Memorandum In Support of Motion To Dismiss of Respondents; and Request For Sanctions* ("R/OTMTD") in accordance with S. Ct. R. XIV, Section 4 to Respondents' Motion to Dismiss ("RespMTD") and moves through this **EMERGENCY** filing that the original action in Prohibition/Mandamus be **GRANTED**. Moreover, RespMTD be DENIED. At the time of filing of ***Emergency*** *Writ of Prohibition and Supporting Affidavits*, Relator reserved her rights to file this instant pleading and also advised this honorable Court at Paragraph 28 of said Emergency Writ, *"Under the direction of the Supreme Court of Ohio, Relator makes herself available to provide said Court with an additional evidence and/or legal conclusion (Brief) if this honorable Court deems necessary to sustain this* ***EMERGENCY*** *WRIT OF PROHIBITION."*

Relator further moves this Court pursuant to S. Ct. R. XIV, Section 5 to issue the appropriate sanctions of and against Respondents and their prosecuting attorney, Christian J. Schaefer, in that RespMTD is sham/frivolous and has been submitted for delay, harassment, hindering proceedings, embarrassment, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, fraud, misrepresentation, deprivation of protected rights, in furtherance of conspiracy leveled against Relator, evil and malicious intent, other reasons known to Respondents and the prosecuting attorney; therefore sustaining that the Ohio Supreme Court *sua sponte* or on motion by party, award to Relator reasonable expenses, fees, costs or double costs and/or any other sanction (***i.e. including being found in contempt***) the Ohio Supreme Court deems just. In support thereof Relator further states:

1. This instant R/OTMTD is submitted in good faith and is not submitted for purposes of delay, harassment, hindering proceedings, embarrassment, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, etc. and is filed to protect and preserve the rights of Relator.

2. Relator's filing of ***Emergency*** *Writ of Prohibition* is timely submitted. While Respondents' counsel asserts that Relator was served on October 9, 2009, Relator was not served and/or copy of RespMTD was not mailed until approximately four (4) days later (September 13, 2009) – See **EXHIBIT "1"** attached hereto and incorporated by reference.

3. Relator's ***Emergency*** *Writ of Prohibition* is sought to **invalidate** Respondents' September 9, 2009 *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment.* Moreover, **arrest** continuing effect of order issued by court without authority – i.e. as plaintiff (Stor-All Alfred, LLC) in lower court actions is attempting to do. See **EXHIBITS "22"** and **"23"** respectively attached hereto and incorporated by reference.

4. For this Court to grant Respondents' Motion to Dismiss would be prejudicial to Relator, clearly go against prior decisions of the Ohio Supreme Court on the same issue(s) presented herein and/or known to this Court, deprive Relator rights secured/guaranteed under the Constitution (Ohio and United States), Rules of Practice of the Supreme Court of Ohio, Ohio Rules of Civil Procedure, Ohio Code of Judicial Conduct, and other statutes/laws governing said matters.

5. In further defense to RespMTD, Relator asserts averments/arguments contained in her *Supreme Court of Ohio Notice of Filing: Criminal Complaint With Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 of the Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes* submitted for filing with this Court on September 13, 2009, as if set forth in full herein.

6. Because Relator's Writ of Prohibition is neither frivolous nor obviously devoid of merit, this Court *is to **DENY** Respondents' Motion to Dismiss.*

7. The evidence in the record of this Court and that of the lower courts (Hamilton County Municipal Court/Case No. 09CV01690 and Hamilton County Court of Common Pleas/Case No. A0901302) will sustain that RespMTD is merely in furtherance of the ***many*** *vexatious* pleadings filed with the lower courts underlying this instant Prohibition action and has been filed with this Court for purposes of delay, harassment, hindering proceedings, embarrassment, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, fraud, misrepresentation, deprivation of protected rights, in furtherance of conspiracy leveled against Relator, evil and malicious intent, and other reasons known to Respondents, etc.

8. Respondents' Motion to Dismiss is frivolous and **IS NOT** reasonably well-grounded in facts, evidence or legal conclusion to sustain it and has **NOT** been presented in good faith. Respondents knew and/or should have known that prior to filing its RespMTD that they had no hope of succeeding on same.

9. Respondents' single issue/argument appears to be:

> *In order for a writ of prohibition to be issued, the relator must prove that (1) the lower court is about to exercise judicial authority, (2) the exercise of authority is not authorized by law, and (3) the relator either possesses no other adequate remedy in the ordinary course of law if the writ of prohibition is denied or the lack of jurisdiction of the lower court is patent and unambiguous.*

Said proposition of law set forth by Respondents in its Motion to Dismiss, has no merit to Relator's ***Emergency*** *Writ of Prohibition* and cannot be sustained under the statutes/laws governing said prohibition matters. Said proposition of law by Respondents is frivolous/sham and presented for purposes of delay, harassment, hindering proceedings, embarrassment, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, fraud, misrepresentation, deprivation of protected rights, in furtherance of conspiracy leveled against Newsome, evil and malicious intent, other reasons known to Respondents, etc.

10. The legal conclusions – i.e. *Isaiah's Wings, LLC v. McCourt,* 2006 WL 1901015, (Ohio App. Fifth Dist.) No. 2005-CA-39 and *Lyons v. Link,* 2003 WL 21213656 (Ohio App. 5 Dist.), 2003 –Ohio- 2706 – have no merits to this instant prohibition action and have been provided for frivolous/sham intent for purposes of delay, harassment, hindering proceedings, embarrassment, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, fraud, misrepresentation, deprivation of protected rights, in furtherance of conspiracy leveled against Relator, evil and malicious intent, other reasons known to Respondents, etc.

11. The facts, evidence and legal conclusions set forth in this instant pleading, the record of this honorable Court and the lower courts will support that Relator can move forward with this instant ***Emergency*** *Writ of Prohibition* action against Judge Nadine L. Allen and/or the Hamilton County Municipal Court because the FACTUAL allegations in the record of the courts will sustain:

(a) Judge Allen used her judicial powers in the underlying proceeding to which she had no legal authority to use;

(b) Hamilton County Municipal Court patently and unambiguously lacked jurisdiction to act and issue/execute the September 9, 2009 *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* rendered by Judge Allen;

(c) The Ohio Supreme Court's issuance of Writ is warranted to correct results of the Respondents' September 9, 2009 execution of *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* and to restore Relator to same position she occupied before excesses occurred;

(d) Judge Allen's exercise of said power was unauthorized under the law;

(e) Judge Allen issued a NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary*

Judgment to which she was not legally authorized under the laws to execute;

(f) Because Judge Allen lacked jurisdiction over the subject-matter any assertion by Respondents that Relator "has an adequate remedy at law" is moot/immaterial;

(g) Unless the Writ issues, Relator will suffer and incur damages to which there is no adequate legal remedy;

(h) ***Emergency Writ of Prohibition is to issue*** in that plaintiff (Stor-All Alfred, LLC) in the lower courts' actions is attempting to use NULL/VOID rulings of Judge Allen's *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* in the Hamilton County Court of Common Pleas action (Case No. A0901302) to support its filing of *Motion to Lift the Court Order Stay* on or about September 10, 2009 and to support its filing of *12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached* on or about September 18, 2009. Said filings by Stor-All which have been timely, properly and adequately met by Relator's:

(i) *Rebuttal/Response to Plaintiff Stor-All Alfred LLC's Motion to Lift the Court Ordered Stay* submitted for filing on/or about September 24, 2009;

(ii) *Motion to Strike Plaintiff Stor-All Alfred LLC's 12(B)(6) Motion to Dismiss And/Or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached; Request for Rule 11 Sanctions; and Memorandum in Support (Jury Trial Demanded in this Action) on or about October 1, 2009; and*

(iii) *Rebuttal To Plaintiff's Reply To Defendant's Motion To Strike Plaintiff's Motion To Dismiss/Summary Judgment And Memorandum In Support (Served October 1, 2009); Motion For Attorney Fees and/or Rule 11 Sanctions And Hearing Request;* ***Request for Rule 11 Sanctions, Fees Costs Pursuant to Ohio Revised Code §2323.51, Ohio Rules of Civil Procedure Rule 56(G) and Stor-All's Counsel be Found in Contempt of Court*** submitted for filing on or about October 15, 2009.

> A relator can go forward in a writ of prohibition action against a judge only if her factual allegations are sufficient to satisfy the following three elements: (1) respondent had used, or intended to use, his judicial power in the underlying proceeding, (2) respondent's exercise of his power was unauthorized under the law, and (3) unless a writ is issued, relator will incur damages for which there is no adequate

legal remedy. *State ex rel. Kister-Welty v. Hague*, 827 N.E.2d 846 (Ohio.App.11.Dist.,2005)

12. ***Emergency*** *Writ of Prohibition* is to issue to prevent the Hamilton County Municipal Court from exercising jurisdiction it knew that it did not have.

> A writ of prohibition is an extraordinary writ issued to prevent a court from proceeding in a judicial matter in which it seeks to exercise jurisdiction it does not have under the law. *State ex rel. Jason V. v. Cubbon,* 2009 -Ohio- 267 (Ohio.App.6.Dist. 2009)
>
> A writ of prohibition is a preventive measure that is designed to prevent a tribunal from proceeding in a matter which it is not authorized to hear and determine. *State ex rel. Roberts v. Winkler,* 2008 -Ohio- 2843 (Ohio.App.1.Dist.**Hamilton**.Co.,2008)

The record evidence of the lower courts will support:

(a) That on February 6, 2009 a parties to the lawsuit brought by Stor-All appeared at hearing held before Magistrate Judge in the Hamilton County Municipal Court regarding Relator's Motion to Transfer – said Magistrate Judge granted Relator's Motion to Transfer. *Parties and/or their counsel to the action* ***agreed*** *to Magistrate Judge's Motion to Transfer and* ***executed*** *same.* While Stor-All could have appealed Magistrate Judge's ruling, it elected not to and proceeded to litigate matter in the Hamilton County Court of Common Pleas ("HCCOCP") and to date continues to do so in the Court of Common Pleas – See **EXHIBIT "2"** attached hereto and incorporated by reference;

(b) On or about February 13, 2009, Stor-All filed its **NON**-Rule 12 motion entitled, *"Motion to Bifurcate Claim and Remand to Municipal Court"* which was met by Relator's timely and properly submitted *Motion to Strike Pleading (Statements and Supporting Documents) of Plaintiff's Motion to Bifurcate Claim and Remand to Municipal Court; and Motion for Rule 11 Sanctions – Jury Trial Demanded In this Action* on February 17, 2009. See **EXHIBIT "2"** – HCCOCP Docket Sheet Case Summary attached hereto and incorporated by reference.

(c) On or about March 10, 2009 there was a hearing on Stor-All's Motion to Bifurcate. The record evidence and court transcript will support that Relator made an appearance to argue her *Motion to Strike Pleading (Statements and Supporting Documents) of Plaintiff's Motion to Bifurcate Claim and Remand to Municipal Court; and Motion for Rule 11 Sanctions – Jury Trial Demanded In this Action*; however, Judge West acknowledged he was not aware of Relator's filing of said motion to strike. See **EXHIBIT "2"** – HCCOCP Docket Sheet Case Summary attached hereto and incorporated by reference. The record evidence and court transcript will support that Judge John Andrew West came to March 10, 2009 hearing without knowledge that Relator had filed her motion to strike bifurcation motion. *Therefore, a reasonable mind may conclude that Judge West's lack of knowledge of her filing of Motion to*

Strike may have been influenced by unlawful/illegal means of opposing party (i.e. Stor-All, its counsel and/or representatives).

IMPORTANT TO NOTE: Relator found the following information regarding Judge West's former Bailiff, Damon Ridley, being indicted by a Grand Jury for *Theft in Office*, *Bribery*, and *Attempted Bribery* **VERY DISTRUBING**. In light of the September 9-10, 2009 criminal actions carried out as a direct and proximate result of Judge West's and Judge Allen's aiding and abetting of such crimes on said dates, a reasonable mind may conclude that decisions rendered in underlying lawsuit regarding this matter may have been unlawfully/illegally influenced – clearly sustaining and appearance of impropriety. During the March 2009 hearing on Stor-All's Motion to Bifurcate, the record evidence will support that Judge West was not familiar with Newsome's Motion to Strike Stor-All's Bifurcation Motion; moreover, was not familiar with the facts, evidence and legal defense Newsome was asserting. In light of Mr. Ridley's recent indictment in May, Judge West's lack of knowledge of Newsome's filing of Motion to Strike, Judge West's aiding and abetting Stor-All's criminal actions carried out on or about September 9-10, 2009, a reasonable mind may conclude ***the apple*** (Damon Ridley) ***did not fall too far from the tree (Judge West)***. Moreover, raising valid and serious concerns as to what role (if any) this Bailiff (Ridley) had during his employment that would influence cases handled in Judge West's courtroom. Moreover, whether or not Stor-All's knowledge of Ridley information afforded it with the leverage it needed to influence decisions by Judge West through bribery, blackmail, etc. Furthermore, sufficient information that a reasonable mind may conclude is pertinent to determine whether or not Judge West and others engaged in the crimes that have been filed against them with the FBI. *This is **PERTINENT** information and worthy of being passed on to the FBI as well as the Ohio Supreme Court Justices.*

(d) On or about April 29, 2009, the Hamilton County Court of Common Pleas filed its *Entry Granting Bifurcation and Remand.* Said entry provided no facts, evidence or legal conclusion to sustain it and can be defeated by facts, evidence and legal conclusions in the record of said court; moreover, is contrary to laws governing said matters. Furthermore, Entry Granting Bifurcation was met with Relator's timely and properly submitted, *Request/Motion for Findings of Fact and Conclusion of Law; Motion to Vacate April 29, 2009 Order Granting Bifurcation and Remand* pursuant to Ohio Rules of Civil Procedure ("ORCP") Rule 52; ORCP Rule 12(G) governing matters regarding consolidation of defenses and objections; and ORCP Rule 60 governing relief from entry/judgment/order. See **EXHIBIT "2"** – HCCOCP Docket Sheet Case Summary attached hereto and incorporated by reference. As a matter of law, ***to date this matter is still legally and lawfully pending before said court***. Moreover, said post-motion (as a matter of law) **tolls** the time for Relator to file Notice of Appeal. *Relator has requested to know the status of said filing; however, to date Judge John Andrew West **has REFUSED** to provide her with same; therefore may warrant further intervention by the Ohio Supreme Court through prohibition/mandamus action.*

13. Pursuant to Ohio Rules of Appellate Procedure Rule 4(B)(2)[2] a timely request for findings of fact and conclusions of law under OCRP 52 **tolls** the time for filing a notice of appeal **until an order disposing of the request is entered. App. R. 4(B)(2);** *State ex rel. Papp v. James*, 69 Ohio St. 3d 373, 1994-Ohio-86, 632 N.E.2d 889 (1994); *Hansen v. ABC Seamless Siding & Windows, Inc.*, 2002-Ohio-3967, 2002 WL 1787930 (Ohio Ct. App. 6th Dist 2002); ***Alloway Testing v. Murray Murphy Moul & Basil, LLP**, 2002-Ohio-3398, 2002 WL 1433779 (Ohio Ct. App. 3rd Dist. 2002); *Booth ex rel. Estate of Hendershot v. Hendershot*, 2002-Ohio-989, 2002 WL 358647 (Ohio Ct. App. 5th Cir. 2002); *In re Aldridge*, 2000 WL 126601 (Ohio Ct. App. 7th Dist. 2000); *Carter v. Carter*, 1999-Ohio-904, 1999 WL 955909 (Ohio Ct. App. 3rd 1999); *Keish v. Russell*, 1996 WL 530006 (Ohio Ct. App. 4th 1996); *Redman v. Strittmatter*, 1996 WL 210770 (Ohio Ct. App. 11th Dist. 1996). Also see ***Walker v. Doup**, 36 Ohio St. 3d 229, 231, 522 N.E.2d 1072 (1988) -- ***EXHIBITS "24"** and **"25"** respectively attached hereto and incorporated by reference.

> Until a court files its findings of fact and conclusions of law, an appellant has no opportunity to determine the basis for an appeal. Requiring an appellant to perfect an appeal without having findings and conclusions before him would deter [*sic*] judicial economy, for it would guarantee **two** trips to the appellate court – *first*, **to compel the findings and conclusions**, and *second*, **to review the decision on the merits.**

Therefore, as a matter of law, the filing of Relator's *Request/Motion for Findings of Fact and Conclusion of Law; Motion to Vacate April 29, 2009 Order Granting Bifurcation and Remand* **TOLLS** the time in which Relator is required to file her Notice of Appeal and/or begin the appeal process.[3] A reasonable mind may conclude that lower court's

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[2] In a civil case or juvenile proceeding, if a party files a timely motion for judgment under Civ. R. 50(B), a new trial under Civ. R. 59(B), vacating or modifying a judgment by an objection to a magistrate's decision under Civ. R. 53(E)(4)(c) or Rule 40(E)(4)(c) of the Ohio Rules of Juvenile Procedure, or findings of fact and conclusions of law under Civ. R. 52, the time for filing a notice of appeal begins to run as to all parties when the order disposing of the motion is entered.

[3] *Walker v. Doup*, 36 Ohio St.3d 229, 522 N.E.2d 1072 (Ohio,1988) - When timely motion for findings of fact and conclusions of law has been filed, time period for filing notice of appeal does not commence to run until the trial court files its findings of fact and conclusions of law. Rules Civ.Proc., Rule 52.

. . . .The issue presented in this case is whether a timely motion for separate findings of fact and conclusions of law under Civ.R. 52 prevents an otherwise final judgment from becoming final for purposes of App.R. 4 until the findings of fact and conclusions of law are filed by the trial court. FN1 For the reasons discussed below, we hold in the affirmative, and reverse the decision of the court of appeals. . . .

Appellant argues that the trial court's judgment entry was not a final order for purposes of commencing the time for filing a notice of appeal because the entry did not contain findings of fact and conclusions of law. **Because appellant made a timely request under Civ.R. 52 for such findings and conclusions, he contends that the court's decision did not become "final" for appeal purposes until its findings of fact and conclusions of law were filed.**

Appellant relies on Reineck, supra, in support of his argument that the **filing of a motion for findings and conclusions after the issuance of a judgment entry precludes the commencement of the time period for filing a notice of appeal until the trial court files its findings and conclusions.** The court of appeals below rejected that argument in favor of the holding in Price, supra.

In Price, the appellant filed a timely motion for separate findings of fact and conclusions of law after the trial court had filed its judgment entry. The appellant filed his notice of appeal within thirty days of the filing of the court's findings of fact and conclusions of law, but more than thirty days after the court filed its judgment entry. The court of appeals dismissed the appeal on the ground that the notice of appeal was not timely filed as required under App.R. 4(A). The court held:

"The filing of findings of fact and conclusions of law does not extend the time for filing a notice of appeal." Id. at paragraph two of the syllabus.

failure to provide the facts, evidence and legal conclusions in its April 29, 2009 entry, was arbitrary and capricious. Moreover, in furtherance of the role Judge John Andrew West was to play in the aiding and abetting of crimes carried out on September 9-10, 2009, against Relator.

14. The record evidence will sustain that the Hamilton County Municipal Court/Judge Allen was timely, properly and adequately notified that said court/she lacked jurisdiction to proceed through Relator's filings:

(a) On or about June 26, 2009, *"**DEFENDANT'S NOTIFICATION TO THE COURTS OF** APPEAL PROCESS **BEGUN – TRANSFER/REMAND IS IN ERROR** – Court of Common Pleas' **Engagement in Criminal Activity.**"*

(b) On or about August 1, 2009, "NOTIFICATION: DEFENDANT'S REITERATION OF NON-WAIVER TO JURISDICTION."

(c) On or about August 27, 2009, *"NOTIFICATION: DEFENDANT'S REITERATION OF NON-WAIVER TO JURISDICTION – DEFENDANT WILL NOT BE ATTENDING HEARING SCHEDULED*

In Reineck, supra, the Court of Appeals for Sandusky County considered the same issue, but declined to rule as did the court in Price. The court in Reineck, applying our reasoning in *State v. Mapson* (1982), 1 Ohio St.3d 217, 1 OBR 240, 438 N.E.2d 910, to the provisions of Civ.R. 52, held:

"Where a timely motion for findings of fact and conclusions of law has been filed in accordance with Civ.R. 52, the time period for filing a notice of appeal does not commence to run until the trial court files its findings of fact and conclusions of law." (Emphasis added.) Id. at syllabus.

In Mapson, supra, the issue was the timeliness of an appeal from the denial of a petition for post-conviction relief. We held that an appeal from a denial of such a petition is timely if it is filed within thirty days of the filing of the ***statutorily*** *required* findings of fact and conclusions of law and that, since R.C. 2953.21 mandates that a judgment denying post-conviction relief include findings of fact and conclusions of law, *a judgment filed **without** such findings and conclusions is incomplete and **does not** commence the running of the time period for filing an appeal therefrom.* In addition to the statutory basis for that decision, however, we noted that there were important policy considerations underlying our decision:

" * * * The obvious reasons for requiring findings are ' * * * to apprise petitioner of the grounds for the judgment of the trial court and to enable the appellate courts to properly determine appeals in such a cause.' *Jones v. State* (1966), 8 Ohio St.2d 21, 22 [37 O.O.2d 357, 222 N.E.2d 313]. The existence of findings and conclusions [is] essential in order to prosecute an appeal. Without them, a petitioner knows no more than he lost and hence is effectively precluded from making a reasoned appeal. In addition, the failure of a trial judge to make the requisite findings prevents any meaningful judicial review, for it is the findings and the conclusions which an appellate court reviews for error. [Footnote omitted]." Id. at 219, 1 OBR at 242, 438 N.E.2d at 912.

The same policy considerations that underlie Mapson apply in this case. **Until a trial court files its findings of fact and conclusions of law, an appellant has no opportunity to determine the basis for an appeal**. *Requiring an appellant to perfect an appeal without having findings and conclusions before him would deter judicial economy, for it would guarantee two trips to the appellate court-first, to compel the findings and conclusions and second, to review the decision on the merits.*

We believe that there are compelling reasons for adopting the rule set forth in Reineck, supra. Therefore, *we hold that when a timely request for findings of fact and conclusions of law has been filed in accordance with Civ.R. 52, the time period for filing a notice of appeal does not commence to run until the trial court files its findings of fact and conclusions of law.*

For the foregoing reasons, the judgment of the court of appeals is reversed, and this cause is remanded to that court for further proceedings.

Judgment reversed and cause remanded. See **EXHIBIT "1"** attached hereto and incorporated by reference.

FOR SEPTEMBER 9, 2009; REQUEST TO KNOW WHEATHER PROHIBITION ACTION WILL BE NECESSARY."

Despite Relator's repeated efforts to notify the Municipal/Judge Nadine L. Allen that it lacked jurisdiction, such efforts and notifications were ignored. The Hamilton County Municipal Court patently and unambiguously lacked jurisdiction to act and issue/execute the September 9, 2009 *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* rendered by Judge Allen. Moreover, Judge Allen made a conscience, willful, deliberate and intentional decision to proceed with knowledge that she and/or said court lacked subject-matter jurisdiction. In so doing, Judge Allen has usurped judicial power and therefore, the *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* executed on September 9, 2009 is NULL/VOID and CANNOT be enforced or is of NO effect; moreover plaintiff (Stor-All) in that action cannot act upon said rulings. Therefore, sustaining that Relator's relief for ***Emergency*** *Writ of Prohibition* is to issue and any sham/frivolous defense asserted by Respondents alleging Relator *"has an adequate remedy at law"* is unacceptable and lacks merits to sustain RespMTD. The Hamilton County Municipal Court's assumption of subject-matter jurisdiction where none existed is an usurpation of judicial power and any assertion that Respondents may attempt to assert that Relator *"has an adequate remedy at law"* and/or *"no patently and unambiguously improper exercise of jurisdiction is alleged"* is sham/frivolous and may be defeated by the above filings in the Hamilton County Municipal Court – See **EXHIBIT "3"** – Hamilton County Municipal Court's Docket Sheet ("HCMC") attached hereto and incorporated by reference; moreover, the plaintiff's (Stor-All's) in lower court action is attempting to use said September 9, 2009 rulings of Judge Allen to sustain its *Motion to Lift the Court Order Stay* submitted for filing on or about September 10, 2009 and in support of its filing of *12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached* submitted for filing on or about September 18, 2009 – therefore, ***warranting the issuance of Relator's Emergency*** *Writ of Prohibition.*

> *State ex rel. Osborn v. Jackson,* 46 Ohio St.2d 41, 346 N.E.2d 141 (Ohio 1976) - **[n.6]** Where court, in deciding its own jurisdiction, attempts to confer jurisdiction upon itself where in fact no jurisdiction whatsoever exists, such improper assumption of jurisdiction is usurpation of judicial power and any order made by such court pursuant to such usurpation of judicial power ***is void*** *and of* ***no*** *force or effect.* **[n.7]** Where trial court's action is usurpation of judicial power and any order it makes is, therefore, *void, superior court* ***will not*** *deny extraordinary writ upon ground that person seeking writ has plain and adequate remedy in ordinary course of law by way of appeal.* **[n.8]** Court . . . was without jurisdiction to act with regard to appeal taken . . .seeking review of order . . . court's assumption of jurisdiction where none existed was usurpation of judicial power and orders made by court pursuant to such attempted appeal were void.
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> [5] [6] [7] The answer to that question is that a superior court will afford an inferior court the opportunity to decide its own jurisdiction before granting an extraordinary writ (*State ex rel. Mansfield Telephone Co. v. Mayer* (1966), 5 Ohio St.2d 222, 215 N.E.2d 375), ***but where the court, in deciding its own jurisdiction attempts to***

confer jurisdiction upon itself where in fact no jurisdiction whatsoever *51 ***exists, such an improper assumption of jurisdiction is a usurpation of judicial power and any order made . . . pursuant to such a usurpation of judicial power is void and of no force or effect***. Where, as in the instant cause, *the trial court's action is a usurpation of judicial power and any order it makes is, therefore, void, a superior court* ***will not*** *deny an extraordinary writ upon the ground that the relator has a plain and adequate remedy in the ordinary course of the law by way of appeal. State ex rel. Northern Ohio Telephone Co. v. Winter* (1970), 23 Ohio St.2d 6, 260 N.E.2d 827; *State ex rel. Adams v. Gusweiler* (1972), 30 Ohio St.2d 326, 285 N.E.2d 22; and *Cincinnati v. Whitman* (1975), 44 Ohio St.2d 58, 337 N.E.2d 773.

In Winter, supra, Justice Duncan stated, at pages nine and ten:

'***We hold that the action of the Court of Common Pleas is unauthorized by law and amounts to a usurpation of judicial power.*** * * *

'* * * The order of the Court of Common Pleas, insofar as it enjoined the discontinuance of service by relator, in effect suspended the commission's order, and was not authorized by law.

'Respondent relies upon the case of **148 *State ex rel. Mansfield Telephone Co. v. Mayer,* 5 Ohio St.2d 222, 215 N.E.2d 375, arguing that a Court of Common Pleas must have the opportunity to decide its own jurisdiction, subject to the right of appeal. However, in the Mansfield case it was held that a writ of prohibition would not issue before the Court of Common Pleas was given an opportunity to decide its own jurisdiction. The instant case differs from the Mansfield case in that, in this case, the Court of Common Pleas had such an opportunity, and decided the jurisdictional question.'

In *Gusweiler, supra, Justice Schneider stated,* 30 Ohio St.2d at page 329, 285 N.E.2d at page 24:

'**If an inferior court is without jurisdiction whatsoever***52 **to act,** *the* ***availability or adequacy of a remedy*** *of appeal to prevent the resulting injustice* ***is immaterial*** *to the exercise of supervisory jurisdiction by a superior court to prevent usurpation of jurisdiction by the inferior court.*'

Winter, supra, and Gusweiler, supra, were prohibition cases.

15. Respondents' Motion to Dismiss appears to hinge on such sham/frivolous defenses – i.e. Relator has an adequate remedy at law (at pg. 5 of RespMTD).

16. Respondents are attempting to use its Motion to Dismiss to circumvent the statutes/laws and deprive Relator the relief sought through her *Request/Motion for Findings of Fact and Conclusion of Law; Motion to Vacate April 29, 2009 Order*

Granting Bifurcation and Remand. Relator, as a matter of law, is entitled to findings of fact and conclusion of laws timely requested; therefore, Hamilton County Court of Common Pleas was **WITHOUT** legal authority to file its *Entry Granting Bifurcation and Remand* and in so doing deprived Relator's rights secured to her under the Constitution, Ohio Rules of Civil Procedure and other statutes/laws governing said matters. Further sustaining that Hamilton County Municipal Court lacked jurisdiction to act and was timely, properly and adequately notified of Court of Common Pleas reversible error; moreover, pending motion for findings of fact and conclusions of law necessary to begin the appeal process. Therefore, clearly PROHIBITING the bifurcation and remand of matter to the Hamilton County Municipal Court. ***EXHIBIT "26"** attached hereto and incorporated by reference.

> ***State ex rel. Adams v. Gusweiler***, 30 Ohio St.2d 326, 285 N.E.2d 22 (Ohio 1972) - **[n.2]** If inferior court is **without** jurisdiction whatsoever to act, *availability or adequacy of remedy of appeal to prevent resulting injustice* ***is immaterial*** to exercise of supervisory jurisdiction by superior court to prevent usurpation of jurisdiction by inferior court. **[n.3]** Court which has jurisdiction to issue writ of prohibition as well as writs of procedendo and mandamus has plenary power not only to prevent excesses of lower tribunals, but to correct results thereof and to restore parties to same position they occupied before excesses occurred. **[n.4]** Prohibition lay to arrest continuing effect of order issued by court without authority.
>
> [2] If an inferior court is without jurisdiction whatsoever to act, **the availability or adequacy of a remedy of appeal to prevent the resulting injustice is immaterial to the exercise of supervisory jurisdiction by a superior court to prevent usurpation of jurisdiction by the inferior court.** See *State ex rel. Northern Ohio Telephone Co. v. Winter* (1970), 23 Ohio St.2d 6, 260 N.E.2d 827. See, also, *Hall v. American Brake Shoe Co.* (1968), 13 Ohio St.2d 11, 13, 233 N.E.2d 582.
>
> It should be clearly understood that where language seemingly to the contrary appears in our prior decisions, the inferior court had at least basic statutory jurisdiction to proceed in the case. See, for example, *State ex rel. Dickison v. Court of Common Pleas* (1971), 28 Ohio St.2d 179, 277 N.E.2d 210 (declaratory judgment). . .
>
> The final question for us arises from the alternative reason upon which the Court of Appeals based its dismissal of the action, i. e., that the Court of Common Pleas had acted prior to the filing of the complaint for a writ of prohibition.
>
> This reasoning is supported by the second sentence of the third paragraph of the syllabus of *State ex rel. Frasch v. Miller* (1933), 126 Ohio St. 287, 185 N.E. 193; the second paragraph of the syllabus of *march v. Goldthorpe (*1930), 123 Ohio St. 103, 174 N.E. 246; and the fifth paragraph of the syllabus of *State ex rel. Brickell v. Roach* (1930), 122 Ohio St. 117, 170 N.E. 866. However, **in none of those cases was the rule, that prohibition may be invoked only to prevent a future**

act and not to undo an act already performed, necessary to its disposition.

Our present opinion is that a strict adherence to that rule exalts form over substance, particularly where, as here, a total and ***complete want of jurisdiction by the lower court is presented and the issuance of the writ will serve to arrest the authority to act of the arbitrator appointed by that court.***

See *State ex rel. Northern Ohio Telephone Co. v. Winter, supra* (23 Ohio St.2d 6, 260 N.E.2d 827), in which, after an ultra vires temporary injunction had been issued by the Court . . ., **we granted a writ of prohibition which was effectual not only to prevent further action by that court but to invalidate the order already made**.

[3] [4] Thus, a court which has jurisdiction to issue the writ of prohibition as well as the writs of procedendo and mandamus has plenary power, not only to prevent excesses of lower tribunals, but to correct the results thereof and to restore the parties to the same position they occupied before the excesses occurred.

The judgment below is vacated and the writ prayed for is allowed.

Judgment vacated and writ allowed.

IMPORANT TO NOTE: The record evidence will sustain that the Hamilton County Municipal Court patently and unambiguously lacked jurisdiction to act and issue/execute the September 9, 2009 *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* rendered by Judge Allen. Therefore, as a matter of law this Court is to issue prohibition and mandamus to prevent any future unauthorized exercise of jurisdiction and to correct the results of Hamilton County Municipal Court's/Judge Allen's jurisdictionally unauthorized actions; moreover, Stor-All's attempts to act upon the NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* executed by Judge Allen. The sham/frivolous assertion made by Respondents that Relator ***"has an adequate remedy at law"*** and/or ***"no patently and unambiguously improper exercise of jurisdiction is alleged"*** is IMMATERIAL in this instant prohibition and mandamus action, because the Hamilton County Municipal Court patently and unambiguously lacked jurisdiction to act.[4] Moreover, the record will sustain that Hamilton County Municipal Court/Judge

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[4] *Rosen v. Celebrezze*, 883 N.E.2d 420 (Ohio,2008) - **[n.6]** If a lower court patently and unambiguously lacks jurisdiction to proceed in a cause, prohibition will issue to prevent any future unauthorized exercise of jurisdiction and to correct the results of prior jurisdictionally unauthorized actions. **[n.7]** Where jurisdiction is patently and unambiguously lacking, the requirement of the lack of an adequate remedy at law need not be proven in order to obtain writ of prohibition, because the availability of alternate remedies like appeal is immaterial.

[6] [7] {¶ 18} Regarding the remaining requirements, "[i]f a lower court patently and unambiguously lacks jurisdiction to proceed in a cause, prohibition * * * will issue to prevent any future unauthorized exercise of jurisdiction and to correct the results of prior jurisdictionally unauthorized actions." *State ex rel. Mayer v. Henson*, 97 Ohio St.3d 276, 2002-Ohio-6323, 779 N.E.2d 223, ¶ 12. In those cases where jurisdiction is patently and unambiguously lacking, **the requirement of the lack of an adequate remedy at law need not be proven, because the availability of alternate remedies like appeal is immaterial.** See *State ex rel. Florence v. Zitter*, 106 Ohio St.3d 87, 2005-Ohio-3804, 831 N.E.2d 1003, ¶ 16, and cases cited therein.

Allen was **REPEATEDLY**, timely, properly and adequately placed on notice of lack of jurisdiction and that Relator would not be waiving any such rights nor submitting to Municipal Court's jurisdiction. ***EXHIBIT "27"** attached hereto and incorporated by reference.

> ***State ex rel. Mayer v. Henson,*** 779 N.E.2d 223 (Ohio,2002) - If a lower court patently and unambiguously lacks jurisdiction to proceed in a cause, prohibition and mandamus will issue to prevent any future unauthorized exercise of jurisdiction and to correct the results of prior jurisdictionally unauthorized actions. **[n.3]** If a lower court patently and unambiguously lacks jurisdiction to proceed in a cause, prohibition and mandamus will issue to prevent any future unauthorized exercise of jurisdiction and to correct the results of prior jurisdictionally unauthorized actions. **[n.5]** Appeal is immaterial in prohibition and mandamus actions, where the court patently and unambiguously lacks jurisdiction to act.
>
> [2] [3] {¶ 12} Mayer alleged in his complaint that Judge Henson patently and unambiguously lacked jurisdiction to issue his nunc pro tunc entry . . .. **If a lower court patently and unambiguously lacks jurisdiction to proceed in a cause, prohibition and mandamus will issue to prevent any future unauthorized exercise of jurisdiction and to correct the results of prior jurisdictionally unauthorized actions.** *State ex rel. Dannaher v. Crawford* (1997), 78 Ohio St.3d 391, 393, 678 N.E.2d 549.
>
> 279 {¶ 13} It does not appear beyond doubt, after construing the material factual allegations of Mayer's complaint most strongly in his favor, that Mayer's *complaint is either frivolous or obviously without merit.*
>
> [5] {¶ 17} Based on the foregoing, the court of appeals' **rationale that dismissal was warranted because of the availability of an adequate remedy by appeal to raise these claims is erroneous**. "**[A]ppeal is immaterial in prohibition and mandamus actions where the court patently and unambiguously lacks jurisdiction to act**." *State ex rel. Willacy v. Smith* (1997), 78 Ohio St.3d 47, 51, 676 N.E.2d 109. Because . . . *complaint for writs of mandamus and prohibition is neither frivolous nor obviously devoid of merit, the court of appeals erred in sua sponte dismissing his complaint.*

17. **IMPORTANT TO NOTE:** Even if Respondents would attempt to make such a defense that the *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* has been acted upon and eviction action has been carried out; therefore, making Relator's Writ of Prohibition action moot, **such defense(s) MUST also FAIL**. The Ohio Supreme Court *has found that a prohibition action is not necessarily rendered moot when the act sought to be prevented has occurred prior to the prohibition claim.* The record evidence will sustain that as early as **June 2009,** and as late as **August 2009**, Judge Allen/Hamilton County Municipal Court was notified that it was acting without jurisdiction; moreover, that Relator inquired as to whether or not a PROHIBITION action (i.e. through *NOTIFICATION: DEFENDANT'S REITERATION OF NON-WAIVER TO JURISDICTION – DEFENDANT WILL NOT BE*

ATTENDING HEARING SCHEDULED FOR SEPTEMBER 9, 2009; REQUEST TO KNOW WHEATHER PROHIBITION ACTION WILL BE NECESSARY) would be necessary. A reasonable mind may conclude from the sham/frivolous defenses set forth by Respondents that prior to its September 9, 2009 action, they may have prepared for such sham/frivolous defenses based upon knowledge of Relator's engagement in protected activities outside the lawsuit underlying this Prohibition action.

In **retaliation** to Relator's notification, Judge Allen retaliated and *consciously* knowingly, willingly and deliberately engaged in conspiracy initiated by Stor-All - aiding and abetting in criminal wrongs leveled against Relator ***needed to bring about the completion of the object/goal*** [i.e. **COVER-UP** and ***destroying evidence*** through criminal acts of Stor-All in the unlawful/illegal seizure of Relator's storage unit as **early as April 2008** and property without legal/lawful authority. Said *cover-up* of crimes and destroying of evidence **could not** be accomplished without: **(a)** Stor-All obtaining an unlawful/illegal *Entry Granting Bifurcation and Remand* by Judge West on or about April 29, 2009. ***Once Judge West completed his role in the conspiracy – with knowledge that Municipal Court lacked jurisdiction*** – *Stor-All* ***pounced on such criminal acts*** *of Judge West and filed in the Hamilton County Municipal Court* (Case No. 09CV01690) *its Motion for Partial Summary Judgment With Affidavit of Leslie Smart Attached*; and **(b)** Judge Allen on September 9, 2009, executed NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. ***Once Judge Allen completed her role in the conspiracy***, Stor-All and other Co-Conspirators moved swiftly to act on Judge Allen's rulings. As a direct and proximate result of Judge West's and Judge Allen's role in the conspiracy, they ***aided and abetted the commission of a series of crimes to be carried out by other Conspirators***. Judge West and Judge Allen aided and abetted with knowledge they were engaging in criminal activity – moreover, the record evidence will support that courts were timely, properly and adequately notified through filing of Relator of criminal acts. To no avail. Judge Allen and Judge West *consciously,* willingly and knowingly authorized the carrying out of criminal acts against Relator. Having the power to prevent, elected instead to engage in the crimes of Stor-All and Co-Conspirators.] ***which was accomplished.*** - - - Now Stor-All is attempting to use the NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* to support its motion requesting a **lifting of a court-ordered stay** and **dismissal of Relator's counterclaim**. Such efforts are memorialized in Stor-All's pleadings in the Hamilton County Court of Common Pleas (Case No. A0901302) submitted for filing: September 10, 2009 ***Motion to Lift the Court Ordered Stay*** and September 18, 2009 ***12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Relator's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached.***

Therefore, this instant Writ of Prohibition action is necessary to prevent further unauthorized exercise of jurisdiction over cause, future failure to prevent unauthorized exercise of jurisdiction, failure to perform ministerial duties owed and to correct the results of the previously jurisdictionally unauthorized actions – i.e. as that evidenced by the NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* and Stor-All's CONTINUED efforts to use VOID ruling to support further criminal/civil wrongs leveled against Relator. Respondents **have failed** to present any facts, evidence and legal conclusion to sustain that it had jurisdiction over the subject-matter. The record evidence further sustains that the Hamilton County Municipal Court on **TWO** occasions acknowledged that it lacked jurisdiction over the subject matter – i.e. **first** in the February 6, 2009, issuance of

Magistrate's Order agreed to by parties to action (See **EXHIBIT "4"** attached hereto and incorporated by reference as if set forth in full herein); and then again the **second** time on July 10, 2009, in the issuance of ***Order Granting Motion to Transfer For Jurisdiction***. (See **EXHIBIT "5"** attached hereto and incorporated by reference as if set forth in full herein). Nevertheless, **upon Judge Allen's learning of what her role was to be in the conspiracy** leveled against Relator and the need for the *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* to cover-up criminal acts of Stor-All, Judge Nadine L. Allen provided said **sham legal process** for purpose of carrying out crimes against Relator. Judge Allen knowingly, willingly and maliciously proceeded to execute same for purposes of aiding and abetting of criminal acts by Stor-All to cover-up the fact that it had unlawfully/illegally seized Relator's storage unit and property (**as early as April 2008**) without legal authority. Sustaining Judge Allen knew that she and/or the Hamilton County Municipal Court acted without subject-matter jurisdiction.

> *State ex rel. Brady v. Pianka,* 106 Ohio St.3d 147, 832 N.E.2d 1202 (Ohio,2005) - **[3] [4] [5]** {¶ 8} Nevertheless, Judge Pianka and Magistrate Roberts assert that this case is moot because they have now exercised jurisdiction over the forcible-entry-and-detainer action by evicting Brady and ordering the sale of the house. But "a prohibition action is not necessarily rendered moot when the act sought to be prevented occurs before a court can rule on the prohibition claim." *State ex rel. Consumers' Counsel v. Pub. Util. Comm.*, 102 Ohio St.3d 301, 2004-Ohio-2894, 809 N.E.2d 1146, ¶ 11. " '[W]here an inferior court patently and unambiguously lacks jurisdiction over the cause, prohibition will lie both to prevent the future unauthorized exercise of jurisdiction and to correct the results of previous jurisdictionally unauthorized actions.' " (Emphasis sic.) *State ex rel. Rogers v. McGee Brown* (1997), 80 Ohio St.3d 408, 410, 686 N.E.2d 1126, quoting *149 *State ex rel. Litty v. Leskovyansky* (1996), 77 Ohio St.3d 97, 98, 671 N.E.2d 236. Therefore, Brady's prohibition claim is not moot.
>
> **[6]** {¶ 9} Nevertheless, regarding the remaining requirements for a writ of prohibition, " '[i]n the absence of a patent and unambiguous lack of jurisdiction, a court having general subject-matter jurisdiction can determine its own jurisdiction, and a party challenging that jurisdiction has an adequate remedy by appeal.' " *State ex rel. United States Steel Corp. v. Zaleski,* 98 Ohio St.3d 395, 2003-Ohio-1630, 786 N.E.2d 39, ¶ 8, quoting *State ex rel. Nalls v. Russo,* 96 Ohio St.3d 410, 2002-Ohio-4907, 775 N.E.2d 522, ¶ 18.

18. **IMPORTANT TO NOTE:** Plaintiff in the lower court actions (Hamilton County Municipal Court and Hamilton County Court of Common Pleas) **moved *swiftly*** and is attempting to use the NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* for purposes of obtaining a ruling on its September 10, 2009, *Motion to Lift the Court Order Stay* and in support to its filing of September 18, 209, *12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached.* Said filings have been met by Relator's timely *Motion to Strike Plaintiff Stor-All Alfred LLC's 12(B)(6) Motion to Dismiss And/Or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and*

Lori Whiteside Attached; Request for Rule 11 Sanctions; and Memorandum in Support (Jury Trial Demanded in this Action) and *Rebuttal To Plaintiff's Reply To Defendant's Motion To Strike Plaintiff's Motion To Dismiss/Summary Judgment And Memorandum In Support (Served October 1, 2009); Motion For Attorney Fees and/or Rule 11 Sanctions And Hearing Request;* ***Request for Rule 11 Sanctions, Fees Costs Pursuant to Ohio Revised Code §2323.51, Ohio Rules of Civil Procedure Rule 56(G) and Stor-All's Counsel be Found in Contempt of Court.*** See **EXHIBIT "3"** – HCCOCP Docket Sheet Case Summary attached hereto and incorporated by reference.

> *McGhan v. Vettel,* 2009 -Ohio- 2884 (Ohio, 2009) - If a lower court patently and unambiguously lacks jurisdiction to proceed in a cause, prohibition will issue to prevent any future unauthorized exercise of jurisdiction and to correct the results of prior jurisdictionally unauthorized actions.

19. Relator is entitled issuance of prohibition in that: **(a)** to prevent the Hamilton County Municipal Court from illegally usurping jurisdiction regardless as to whether or not Respondents have ruled and/or carried out forcible entry and detainer action; and **(b)** prevent Stor-All and others from acting upon and/or attempting to enforce NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* executed by Judge Allen and/or issued by the Hamilton County Municipal Court.

> "Prohibition" issues from court of superior jurisdiction to prevent inferior court from illegally usurping jurisdiction. *State ex rel. Mahler v. Buse,* 163 N.E. 565 (Ohio.App.1.Dist.**Hamilton.**Co.,1928)
>
> Prohibition should not issue unless court has no jurisdiction of subject-matter. *State ex rel. Cincinnati,* N.O. & T.P. Ry. Co. v. Roettinger, 151 N.E. 777 (Ohio.App.1.Dist.**Hamilton.**Co.,1926)
>
> Although Ohio courts of general jurisdiction have authority to determine their own jurisdiction, when court patently and unambiguously lacks jurisdiction to consider matter, writ of prohibition will issue to prevent assumption of jurisdiction, regardless of whether lower court has ruled on question of its jurisdiction. *State ex rel. Barclays Bank PLC v.* ***Hamilton Cty. Court of Common Pleas,*** 660 N.E.2d 458 (Ohio,1996)
>
> Where an inferior court patently and unambiguously lacks jurisdiction over the cause, prohibition will lie to prevent any future unauthorized exercise of jurisdiction and to correct the results of prior jurisdictionally unauthorized actions. *State ex rel. Flynt v. Dinkelacker,* 807 N.E.2d 967 (Ohio.App.1.Dist.**Hamilton.**Co.,2004)

20. Respondents' defense asserting that Relator's *Writ of Prohibition* is to be dismissed because she ***"has an adequate remedy at law"*** and/or ***"no patently and unambiguously improper exercise of jurisdiction is alleged"*** is sham/frivolous and immaterial in that the Hamilton County Municipal Court patently and unambiguously lacked jurisdiction – having sufficient facts, evidence and legal conclusions to sustain that said court was timely, properly and adequately placed on notice that it lacked

subject-matter jurisdiction. Nevertheless, proceeded to usurp jurisdiction and ENGAGE in conspiracy leveled against Relator and aid and abet in criminal wrongs against her.

> Where a court's jurisdiction to take an action is patently and unambiguously lacking, a relator **need *not*** establish the lack of an adequate remedy at law to be entitled to a writ of prohibition to prevent the action, because the availability of alternate remedies like appeal would be immaterial. *State ex rel. Cordray v. Marshall,* 2009 WL 3151861 (Ohio,2009)

21. **IMPORTANT TO NOTE:** The lower courts (Hamilton County Municipal Court and Hamilton County Court of Common Pleas) were timely, properly and adequately placed on notice through Relator's ***Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim and Demand for Jury Trial*** and her subsequent filings that there was **NO** rental agreement between Stor-All and Relator. The Respondents will **NOT** be able to produce documentation/evidence to sustain that Stor-All and Relator had a Rental Agreement/Contract, because none existed. Moreover, the record evidence sustains that Stor-All was notified via written correspondence that Relator did not wish to enter into a contract with it. Nevertheless, Stor-All filed its forcible entry and detainer action for purposes of malicious prosecution/intent, fraud, misrepresentation, obstruction of administration of justice, and other reasons known to it. Then Stor-All in furtherance of its conspiracy leveled against Relator induced judges (Judge Allen and Judge West) in the lower courts to provide them with rulings for purposes of obtaining the object pursued – i.e. cover-up of criminal actions.

> *Department of Administrative Services, Office of Collective Bargaining v. State Employment Relations Bd.,* 562 N.E.2d 125 (Ohio,1990) - When a court patently and unambiguously lacks jurisdiction to consider a matter, a writ of prohibition will issue to prevent assumption of jurisdiction regardless of whether the lower court has ruled on the question on its jurisdiction; overruling *State ex rel. Osborn v. Jackson,* 46 Ohio St.2d 41, 75 O.O.2d 132, 346 N.E.2d 141, and *State ex rel. Mansfield Tel. Co. v. Mayer,* 5 Ohio St.2d 222, 34 O.O.2d 428, 215 N.E.2d 375.
>
> An action of forcible entry and detainer is an action at law based upon contract. *Gvozdanovic v. Woodford Corp.,* 742 N.E.2d 1145 (Ohio.App.1.Dist.**Hamilton.**Co.,2000)
>
> An action of forcible entry and detainer is a remedy which is purely statutory and which is unknown at common law, and it may be defined as a summary civil proceeding provided by statute in certain enumerated cases, intended to affect only the question of possession of real property. R.C. § 1923.01 et seq. *Gvozdanovic v. Woodford Corp.,* 742 N.E.2d 1145 (Ohio.App.1.Dist.**Hamilton.**Co.,2000)
>
> Forcible entry and detainer is a possessory action and determines only the right to immediate possession. *State ex rel. Jenkins v. Hamilton County Court, Area No. Eight,* 173 N.E.2d 186 (Ohio.App.1.Dist.**Hamilton.**Co.,1961)

> Forcible-entry-and-detainer actions are intended to serve as an expedited mechanism by which an aggrieved landlord may recover possession of real property. Rules Civ.Proc., Rule 53. *Steadman v. Nelson,* 800 N.E.2d 775 (Ohio.App.1.Dist.**Hamilton.**Co.,2003)

Said Complaint for Forcible Entry and Detainer was met with Relator's ***Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim and Demand for Jury Trial*** and Discovery demands: **(a)** Request for Admissions; **(b)** Interrogatories; and **(c)** Request for Production of Documents.

22. The record evidence sustains that Relator is entitled to issuance of Prohibition; moreover, clear and indisputable right to the relief sought through said action based upon Respondents' judicial usurpation of power and Stor-All's attempts to rely upon such usurpation of power in furtherance of conspiracy leveled against Relator and the covering up of criminal activities. Moreover, to preserve the existing status of lawsuit pending in the Hamilton County Court of Common Pleas (Case No. A0901302) which is still an active lawsuit based upon the timely filings of Relator to preserve rights secured/guaranteed to her under Constitution (Ohio and U.S.) and applicable statutes/laws governing said matters.

> "Prohibition" is an extraordinary writ issued by a higher court to a lower court or tribunal to prevent usurpation or exercise of judicial powers or functions for which the lower court or tribunal lacks jurisdiction. *Dental Care Plus, Inc. v. Sunderland,* 735 N.E.2d 19 (Ohio.App.2.Dist.1999)
>
> Remedies of mandamus and prohibition are drastic ones, to be invoked only in extraordinary situations where petitioner can show clear and indisputable right to relief sought and only in circumstances amounting to judicial usurpation of power. *In re Gregory,* 181 F.3d 713 (6th Cir. 1999)
>
> One of the purposes of an alternative writ of prohibition is to preserve the existing status of a proceeding. *State ex rel. Allstate Ins. Co. v. Gaul,* 722 N.E.2d 616 (Ohio.App.8.Dist. 1999)

23. **IMPORTANT TO NOTE:** Relator believes an investigation into the lower courts' (Hamilton County Municipal Court as well as Hamilton County Court of Common Pleas) will sustain that Judges (Nadine L. Allen and John Andrew West) handled Relator's counterclaim in a matter that *conflicts with prior rulings by them and/or* ***clearly contradict*** *decisions rendered by their courts and higher courts on the same subject matter.* The record evidence will sustain that Relator has been prejudiced by Respondents' unlawful/illegal actions in the handling of the underlying lawsuit. Moreover, Respondents *subjected Relator to discriminatory and prejudicial treatment in the handling of her compulsory counterclaim and subsequent filings.* Therefore, a reasonable mind may conclude that Respondents and/or lower courts acts are arbitrary and capricious and were done with malicious intent to deprive Relator equal protection of the laws, due process of laws, rights secured under the Constitution (Ohio and U.S.) and other statutes/laws governing said matters. Further sustaining the need for issuance of Prohibition in this matter.

> The prohibition against the denial of equal protection of the laws requires that the law shall have an equality of operation on persons according to their relation; so long as the laws are applicable to all persons under like circumstances and do not subject individuals to an arbitrary exercise of power and operate alike upon all persons similarly situated, it suffices the constitutional prohibition. U.S.C.A. Const.Amend. 14; Const. Art. 1, § 2. *Pickaway Cty. Skilled Gaming, L.L.C. v. Cordray,* 2009 -Ohio- 3483 (Ohio.App.10.Dist. 2009)
>
> Equal protection clause does not prevent all classification; it simply forbids laws that treat persons differently when they are otherwise alike in all relevant respects. U.S.C.A. Const.Amend. 14. *State v. Alfieri,* 724 N.E.2d 477 (Ohio.App.1.Dist.**Hamilton.**Co.,1998)

24. Relator believes that an investigation into Respondents' handling of underlying lawsuit and its discriminatory/prejudicial handling thereof in the issuance of *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* is a direct and proximate result of knowledge of Relator's engagement in protected activities in unrelated matters outside lawsuit and efforts by Respondents in its aiding and abetting Stor-All to infringe/impinge on the constitutionally protected rights of Relator. Respondents' placing of said obstacles and aiding and abetting in Stor-All's criminal activities without justification and in retaliation to Realtor's *NOTIFICATION: DEFENDANT'S REITERATION OF NON-WAIVER TO JURISDICTION – DEFENDANT WILL NOT BE ATTENDING HEARING SCHEDULED FOR SEPTEMBER 9, 2009; REQUEST TO KNOW WHEATHER PROHIBITION ACTION WILL BE NECESSARY.* Moreover, said acts by Respondents were for purposes of providing Stor-All with an undue/unlawful/illegal advantage in underlying lawsuit and to conceal/cover-up criminal acts known to Respondents. In so doing, Respondents have compromised the *integrity of court* and supports an *appearance of impropriety.* Further supporting the issuance of Prohibition relief sought through this instant action before the Ohio Supreme Court.

> Government may not place obstacles in path of a person's exercise of a constitutionally protected right by impinging on the right, absent a compelling justification, but government does not in any constitutionally significant way impinge on a constitutional right when it refuses to remove obstacles "not of its own creation" to exercise of a constitutional right. *Toledo Area AFL-CIO Council v. Pizza,* 154 F.3d 307 (6th Cir. Ohio,1998)
>
> Under Constitution, there are no absolutes; each right, no matter how fundamental or basic it may appear to be, must be balanced against rights of others, including rights of public generally. *Preterm Cleveland v. Voinovich,* 627 N.E.2d 570 (Ohio.App.10.Dist.,1993)

I. FORCIBLE ENTRY AND DETAINER

> Ohio Jurisprudence 3d 65: Landlord and Tenant – Rental of Storage Space in Self-Service Storage Facility § 504 Generally: In 1980, legislation was enacted governing the rental of storage space in self-service storage facilities. The owner of a self-service storage facility is given a lien on personal property stored in the facility, and upon default of an occupier, the owner may ***regain possession of the rented space by bringing an action of forcible entry and detainer.*** (Ohio Jur.3d, Ejectment and Related Remedies).

Forcible Entry and Detainer Defined:

a) The act of *violently* **taking** and **keeping** *possession of lands and tenements* ***without legal*** *authority.*

b) A quick and simple legal proceeding for ***regaining*** *possession* of real property from someone who has wrongfully taken, or refused to surrender, possession.[5]

Respondents' Motion to Dismiss asserts that it had jurisdiction to proceed over Stor-All's forcible entry and detainer action – when in fact did not. Respondents have failed to provide any facts or evidence to sustain that **Relator was in possession** of the storage unit and property asserted to be **re**possessed and/or **re**gained through the fraudulent Complaint for Forcible Entry and Detainer filed by Stor-All. The record evidence further supports:

> 25. The record evidence will support that Stor-All prior to bringing said vexatious Complaint for Forcible Entry and Detainer, was **already** in unlawful/illegal possession of Relator's storage unit and property without legal process – i.e. court order – **as early as April 2008**. See **EXHIBIT "6"** attached hereto and incorporated by reference as if set forth in full herein. The record evidence will sustain that Relator had not wrongfully taken possession of her storage unit and property. Information Respondents failed to obtain because it lacked jurisdiction and because it knew and/or should have known that discovery had not been conducted to support the sham/frivolous motion brought by Stor-All upon which it acted.

> 26. **UNDISPUTABLE:** There is **no** written or verbal contract between Relator and Stor-All under which Stor-All can sustain its forcible entry and detainer action against Relator. This is information in the records of the lower courts and available to **Judge Nadine L. Allen** and/or the Hamilton County Municipal Court. Stor-All's malicious intent for bringing forcible entry and detainer action *was to cover-up its criminal action in the unlawful/illegal seizure* of Relator's property obtained without legal process and/or court order.

[5] Black's Law Dictionary – Ninth Edition.

> An action of forcible entry and detainer is an action at law based upon contract. R.C. § 1923.01 et seq. *Gvozdanovic v. Woodford Corp.*, 742 N.E.2d 1145 (Ohio.App.1.Dist.**Hamilton.**Co.,2000)

27. **UNDISPUTED:** The lawsuit brought by plaintiff Stor-All underlying this instant action, is for forcible entry and detainer; however, Stor-All prior to bringing its lawsuit, Stor-All ***was already in unlawful/illegal possession*** of Relator's storage unit and property – therefore, said forcible entry and detainer action was MOOT. Stor-All was timely, properly and adequately placed on notice that Relator did not want to enter a contract (i.e. rental agreement) with it. The record evidence in the lower courts will sustain Judge Nadine Allen/lower courts having sufficient information that no contract existed between Relator and Stor-All – i.e. for instance first being raised in ***Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim and Demand for Jury Trial*** and in said Counterclaim filed as well as in subsequent pleadings filed by Relator. The record evidence will sustain that Stor-All repeatedly provided document entitled, **"Bill of Sale"** however, has ***repeatedly*** **failed** to present a written contract between it and Relator because no said contract existed. Presentation of said Bill of Sale is in furtherance of covering up its criminal action. Moreover, said Bill-Of-Sale *information* ***is immaterial i***n that a forcible entry and detainer action is for purpose of **obtaining** possession or **re**possession of real property which had been transferred based upon contract and **is not** ***an action to determine ownership of the title of the property.***

> An action of forcible entry and detainer is an action to obtain possession or repossession of real property which had been transferred from one to another pursuant to contract; it is not an action to determine ownership of the title to the property. R.C. § 1923.01 et seq. *Gvozdanovic v. Woodford Corp.*, 742 N.E.2d 1145 (Ohio.App.1.Dist.**Hamilton.**Co.,2000)

28. **IMPORTANT TO NOTE:** The record evidence will support that Stor-All knew that it was in illegal/unlawful possession of Relator's storage unit and property; however, in furtherance of conspiracy it needed Judge Allen to aid and abet in the covering up of it crimes. Moreover, in obtaining the object of its conspiracy – i.e. receipt of *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* for purposes of COVERING UP the unlawful/illegal seizure of Relator's storage unit and property without legal authority. Moreover, for purposes of EXTORTING/BLACKMAILING monies from Relator to which Stor-All is not entitled. When Stor-All included its claims of "**UNPAID** RENT" (i.e. not just seeking possession and/or repossession of property) in the sham/frivolous forcible entry and detainer action it opened the door for Relator's compulsory counterclaim and the relief sought therein.

> Forcible entry and detainer is a possessory action and determines only the right to immediate possession. *State ex rel. Jenkins v. Hamilton County Court, Area No. Eight,* 173 N.E.2d 186 (Ohio.App.1.Dist.**Hamilton.**Co.,1961)

29. Relator's compulsory Counterclaim is one that existed at the time of her being served with Stor-All's forcible entry and detainer lawsuit and said Counterclaim arises out of transaction or allegations and is the subject matter of Stor-All's forcible entry and detainer action. *See* ***Rettig v. Koehler*** at n. 1 and 2. See **EXHIBIT "7"** attached hereto and incorporated by reference. The record evidence clearly supporting that Relator's Counterclaim set forth the *Counts*/Claims that are clearly ***dependent*** upon the subject matter of Stor-All's forcible entry and detainer action:

Count One – ***Abuse of Process***
Count Two – ***Wrongful Eviction***
Count Three – *Loss of Enjoyment/Disturbance*
Count Four – *Extortion*
Count Five – *Retaliation*
Count Six – *Intentional Infliction of Emotional Distress*
Count Seven – *Action for Neglect to Prevent*
Count Eight – *Negligence*
Count Nine – *Negligent Infliction of Emotional Distress*

Stor-All was already unlawfully/illegally in possession of Relator's storage unit and property and has refused to return said property unless Relator pay monies it is attempting to unlawfully/illegally *extort* from her and/or deprive Relator of the damages/liability she has sustained. Stor-All had already unlawfully/illegally seized Relator's storage unit and property without legal or statutory authority – ***WITHOUT*** *court order*. On September 9, 2009, Respondent (Judge Nadine L. Allen) executed *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* for purposes of COVERING UP the unlawful/illegal seizure of Relator's storage unit and property by Stor-All.

30. **IMPORTANT TO NOTE**: Through Stor-All's forcible entry and detainer action a reasonable mind may conclude that it is asserting to be an aggrieved landlord; however, there is no contract (written or verbal) between Relator and Stor-All to sustain such a claim. Stor-All's Complaint for Forcible Entry and Detainer was timely met and opposed by Relator's compulsory counterclaim (***Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim and Demand for Jury Trial***).

> Forcible-entry-and-detainer actions are intended to serve as an expedited mechanism by which an aggrieved landlord may recover possession of real property. Rules Civ.Proc., Rule 53. *Steadman v. Nelson,* 800 N.E.2d 775 (Ohio.App.1.Dist.**Hamilton.**Co.,2003)

To further support the Hamilton County Municipal Court's lack of jurisdiction over the subject-matter the record evidence will support that Stor-All filed its Motion to Bifurcate Claim and Remand to Municipal Court. Said bifurcation motion was met by Relator's timely ***Motion to Strike*** *Pleading (Statements and Supporting Documents) of Plaintiff's Motion to Bifurcate Claim and Remand to Municipal Court; and Motion for Rule 11 Sanctions – Jury Trial Demanded In this Action.* The record evidence sustains that Relator's ***Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim and Demand for Jury Trial*** is a

compulsory counterclaim within meaning of the Ohio Supreme Court's decision in ***Rettig Ent., Inc. v. Koehler*** (1994), 68 Ohio St.3d 274, 626 N.E.2d 99.

IMPORTANT TO NOTE: Relator provided Judge John Andrew West with a copy of the Supreme Court's ruling in *Rettig* during the March 10, 2009 hearing supporting her defense and argument for Motion to Strike. Then when Judge West entered his April 29, 2009 *Entry Granting Bifurcation and Remand*, said entry was met with Relator's *Request/Motion for* ***Findings of Fact and Conclusion of Law****; Motion to* ***Vacate*** *April 29, 2009 Order Granting Bifurcation and Remand* and the Ohio Supreme Court's decision in *Rettig* was provided at **Exhibit 7** of said filing. Therefore, a reasonable mind may conclude that the lower courts were timely, properly and adequately notified that bifurcation of lawsuit was prohibited by law; moreover, could not be sustained by the facts evidence and legal conclusions. Moreover, because of Judge West's inability to defeat arguments raised by Relator, he elected to engage in criminal/civil wrongs leveled against Relator by Stor-All and others. The Counts set forth in Relator's compulsory counterclaim to sustain Stor-All's forcible entry and detainer action could not be bifurcated in that they are **all a part of a single transaction** (i.e. Complaint for Forcible Entry and Detainer) and Stor-All has claimed "UNPAID RENT." are as follows:

Malicious prosecution sustaining that Stor-All was already in unlawful/illegal possession of Relator's storage unit and property without legal authority and/or court order to sustain it. Stor-All's forcible entry and detainer action sought relief claiming "unpaid rent" which was met by Relator's compulsory counterclaim and the relief Relator sought clearly and well exceeded the jurisdiction of the Hamilton County Municipal Court. Therefore, a reasonable mind may conclude based upon the evidence in the record of the lower courts, said judges (Judge Nadine L. Allen and Judge John Andrew West) acted **arbitrarily** and **capriciously** in the handling of matters before it for purposes of retaliation, aiding in abetting Stor-All in covering up its crime of unlawfully/illegally seizing Relator's storage unit and property without legal authority; moreover, knowledge of Relator's engagement in protected activities. In fact the appellant court in ***Sherman v. Pearson,*** 673 N.E.2d 643 (Ohio.App.1.Dist.**Hamilton.**Co.,1996) found:

> Forcible entry and detainer is action at law based on contract, and is subject to counterclaim by tenant. R.C. § 5321.04(A)(3).
>
> [n.3]Purpose of *logical relation test applied in determining what transactions constitute compulsory counterclaims is to avoid multiplicity of actions and to achieve just resolution requiring in one lawsuit litigation of all claims arising from common matters*, and to that end, in *determining whether claims arise from same transaction or occurrence and involve common matters*, ***courts employ liberal construction favoring compulsory counterclaims***. Rules Civ.Proc., Rule 13.
>
> [2] [3] Counterclaims in Ohio are governed by Civ.R. 13, which provides:
>
> "(A) A *pleading shall state as a counterclaim any claim which at the time of serving* the pleading the pleader has against any opposing party, *if it* ***arises out of the transaction*** *or occurrence that is the subject matter of the opposing party's claim* and does not require for its

adjudication the presence of third parties of whom the court cannot acquire jurisdiction * * *."

In defining what transactions constitute a compulsory counterclaim, the Ohio Supreme Court has adopted the "logical relation" test. *73 ***Rettig Ent., Inc. v. Koehler*** (1994), 68 Ohio St.3d 274, 626 N.E.2d 99. The *purpose behind the test is "to avoid multiplicity of actions and to achieve a just resolution by requiring in one lawsuit the litigation of all claims arising from common matters."* Id. at 278, 626 N.E.2d at 103. To this end, i*n determining whether claims arise from the same transaction or occurrence, i.e., involve "common matters," Ohio courts employ a liberal construction favoring compulsory counterclaims* under Civ.R. 13(A), as do their federal counterparts under Fed.R.Civ.P. 13(a). *Maduka v. Parries* (1984), 14 Ohio App.3d 191, 192, 14 OBR 209, 211, 470 N.E.2d 464, 466.

Although one of many different standards employed by courts to determine whether a counterclaim is compulsory, the logical-relation test is recognized to be the most flexible in its approach.

"Unlike [the other tests], under the [logical-relation test] * * * the principal consideration in determining whether a counterclaim is compulsory rests on the efficiency or economy of trying the counterclaim in the same litigation as the main claim. As a result, t*he convenience of the court, rather than solely the counterclaim's relationship to the facts or issues of the opposing claim, will be controlling in counterclaim classification.* The hallmark of this approach, therefore, is flexibility. Although the [logical-relation] test has been criticized for being overly broad in scope and uncertain in application, it has by far the widest acceptance among the courts." Friedenthal, Civil Procedure (1985) 352, Section 6.7.

Emphasizing the flexibility afforded by the logical-relation test, the ***court in Rettig*** noted:

" ' **"Transaction" is a word of flexible meaning.** It may comprehend a series of many occurrences, depending not so much upon the immediateness of their connection as upon their logical relationship. * * * *That they* ***are not precisely identical, or that the counterclaim embraces additional allegations*** * * * ***does not matter****. To hold otherwise would be to rob this branch of the rule of all serviceable meaning, since the facts relied upon by the plaintiff rarely, if ever, are, in all particulars, the same as those constituting the defendant's counterclaim.' Moore v. New York Cotton Exchange* (1926), 270 U.S. 593, 610, 46 S.Ct. 367, 371, 70 L.Ed. 750, 757." Rettig, supra, 68 Ohio St.3d at 278-279, 626 N.E.2d at 103.

See **EXHIBIT "8"** - ***Sherman v. Pearson*** attached hereto and incorporated by reference.

31. **IMPORTANT TO NOTE:** Respondents are attempting to **PREMATURELY** bring matters regarding bifurcation issue before the Supreme Court prematurely. The record evidence will sustain that Relator has timely, properly and adequately presented her claims and defenses to bifurcation action through the *Request/Motion for Findings of Fact and Conclusion of Law; Motion to Vacate April 29, 2009 Order Granting Bifurcation and Remand* pursuant to Ohio Rules of Civil Procedure ("ORCP") Rule 52; ORCP Rule 12(G) governing matters regarding consolidation of defenses and objections; and ORCP Rule 60 governing relief from entry/judgment/order filed in the Hamilton County Court of Common Pleas Case No. A0901302 and is presently pending said ruling of Request/Motion. Relator has briefed and provided facts and EVIDENCE to sustain her Request/Motion. The issue before this Court through Relator's instant Emergency Writ of Prohibition is whether Respondents has usurped jurisdiction; if so, the applicable relief allowed under the governing statutes/laws to correct such injustices.

II. PATTERN-OF-PRACTICE/PATTERN-OF-CONDUCT

In support of this issue, Relator incorporates the arguments and defenses set forth in this instant filing and supporting Exhibits, her *Emergency Writ of Prohibition and Supporting Affidavits* and supporting Exhibits, *Supreme Court of Ohio Notice of Filing: Criminal Complaint With Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 of the Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes* and supporting Exhibits, the record of the lower courts (Hamilton County Municipal Court Case No. 09CV01690 and Hamilton County Court of Common Pleas Case No. A0901302). Further in support of criminal actions filed against Judge Nadine L. Allen and others with the Federal Bureau of Investigation it is important to note the additional information regarding PATTERN-OF-PRACTICE/PATTERN-OF-CONDUCT to sustain criminal complaint and the need for issuance of the instant Writ of Prohibition:

32. Relator provided this Court with a copy of the Fifth Circuit Court of Appeals' decision in *Newsome v. Equal Employment Opportunity Commission*, 301 F.3d 227 because she knew that said information was pertinent to establish PATTERN-OF-PRACTICE/PATTERN-OF-CONDUCT to sustain the engagement in conspiracy leveled against her by Respondents and others. Said matter was a mandamus action brought by the Relator in a totally unrelated matter; however, is a matter Relator believe an investigation will yield influence the criminal/civil wrongs engaged in by judges of lower courts to aid and abet Stor-All in the covering up of its unlawful/illegal seizure of Relator's storage unit and property as early as April 2008. Moreover, said knowledge of Newsome v. EEOC encouraged Respondents to engage in such criminal acts of September 9-10, 2009, because they PREMEDITATED to use Newsome v. EEOC should a prohibition/mandamus action be brought. However, what Respondents, Stor-All

and other Conspirators/Co-Conspirators did not expect was that Relator would expose such conspiracy and their criminal acts against her. Respondents allowed Stor-All and/or its representatives to influence its decisions through the use of criminal acts – i.e. bribery, blackmail, etc. Moreover, Respondents allowed knowledge of Newsome v. EEOC to influence its decision in the Hamilton County Municipal Court and/or lower courts regarding the underlying lawsuit of this Writ of Prohibition action. In *Newsome v. EEOC*, the Fifth Circuit found:

> *Newsome also is not entitled to the writ because she has another adequate remedy available, i.e.* ***she could file suit in court against her employer****. . . .*

33. Relator believes a reasonable mind may conclude that Respondents allowed plaintiff (Stor-All) in the lower court matter to use such information for purposes of obtaining an undue/unlawful/illegal advantage in lawsuit underlying this Writ of Prohibition action. Moreover, an investigation by the FBI into the Stor-All's insurance Company's (**Liberty Mutual Insurance Company**) role through to use of its **financial wealth,** *vast legal resources,* has **REPEATEDLY** used such advantages in other lawsuits OUTSIDE the lawsuit underlying this Writ of Prohibition ***to influence the decisions of factfinders for purposes of obtaining an undue/unlawful/illegal advantage in matters involving Newsome.*** Moreover, that a reasonable mind may conclude that Respondents' counsel basing its Motion to Dismiss of Respondents on said knowledge of Fifth Circuit's ruling in *Newsome v. EEOC.* Therefore, counsel, Christian J. Schaefer, brought Motion to Dismiss of Respondents and asserts therein sham/frivolous grounds for dismissal because: **(i)** No patently and unambiguously improper exercise of jurisdiction is alleged – at pg. 4.; **(ii)** Relator has an adequate remedy at law – at pg. 5; and **(iii)** Relator is merely attempting to substitute the extra-ordinary writ of prohibition for a direct appeal. A writ of prohibition is not a substitute for an appeal – at pg. 5.

34. Respondents' counsel, Christian J. Schaefer, having over approximately 33 years in the legal profession. The Hamilton County Prosecuting Attorney, Joseph T. Deters, having approximately over 27 years in the legal profession – for a combined total of approximately 60 years of legal experience. Therefore, a reasonable mind may conclude that there was no excuse for the sham/frivolous filing of RespMTD in that it is a vexatious pleading submitted for purposes of delay, harassment, hindering proceedings, embarrassment, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, fraud, misrepresentation, deprivation of protected rights, in furtherance of conspiracy leveled against Relator, evil and malicious intent, and other reasons known to Respondents, etc.

35. A reasonable mind may conclude that the reason for which Respondents' counsel did not use *Newsome v. EEOC* information is because Relator exposed its knowledge of same through NOTIFICATION TO THE COURT(S) OF FILING OF CRIMINAL COMPLAINT WITH THE FEDERAL BUREAU OF INVESTIGATION submitted for filing in the lower courts on September 24, 2009. See EXHIBIT "3" attached hereto and incorporated by reference. Relator believes that based upon Respondents' counsel's knowledge of said filing, he may have attempted to obstruct the administration of justice and withhold filing of Respondents' Motion to Dismiss from Relator; however, upon learning of submittal of Relator's *Supreme Court of Ohio Notice of Filing: Criminal Complaint With Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 of the Ohio Code of Judicial Conduct and/or*

Applicable Statutes/Codes may have released mailing of Relator's a copy of Respondents' Motion to Dismiss approximately **four (4) days** AFTER (September 13, 2009) *allegedly certified* to have mailed and on the SAME date (September 13, 2009) that the Ohio Supreme Court filed Relator's Notice of Filing of the Criminal Complaint filed with FBI. Based upon said information, a reasonable mind may conclude that delay in mailing may have been done to obtain an undue/unlawful/illegal advantage in this Prohibition action. Even if Respondents' counsel may attempt to blame such delay on persons handling mail (inter-office mailroom), it is the duty of Respondents counsel to adhere to policies of the Prosecuting Attorney's Office and to assure that pleadings are mailed out as certified –i.e. especially if mailings are provided to mailroom for handling AFTER deadline of pickup.

36. Even if Respondents are relying upon *Newsome v. EEOC*, such defense is sham/frivolous in that the Fifth Circuit addresses matters brought against the EEOC and instructs Newsome of other options – i.e. suing her employer. In the lawsuit brought by Stor-All underlying this instant ***Emergency*** *Writ of Prohibition* action, Relator is the DEFENDANT and is the party that has been sued. Therefore, there is no merit to such defenses asserted Respondents for their Motion to Dismiss. Nevertheless, AGAIN, Relator must reiterate, that said ruling by the Fifth Circuit **is NOT** to be taken that the Fifth Circuit was saying that Relator cannot bring legal actions or prohibition/mandamus actions in the future. ***Neither*** *should said ruling be taken that ALL lawsuits brought by Relator will be frivolous.* **IMPORTANT TO NOTE:** The PATTERN-OF-PRACTICE/PATTERN-OF-CONDUCT of opposing parties/attorneys/insurance companies in matters involving Relator have **repeatedly** engaged in criminal/civil wrongs against Relator for purposes of obtaining an undue/unlawful/illegal advantage in lawsuits brought by her and/or against her. It is important to note that in ALL lawsuits Relator brought against employer(s) or nongovernment entities, she is represented by legal counsel; however, in this lawsuit underlying this instant ***Emergency*** *Writ of Prohibition* action, the record evidence will sustain Stor-All's engagement in criminal/civil wrongs (i.e. engagement in termination of Relator's employment with Wood & Lamping to eliminate CONFLICT OF INTEREST) for purposes of depriving Relator equal employment opportunities, equal protection of the laws, due process of laws, Constitutional/Civil Rights, etc.

37. **IMPORTANT TO NOTE:** The record evidence sustains opposing parties/attorneys/insurance companies in matter(s) involving Relator have sought ways to see that Relator is not represented by legal counsel – i.e. relying on unlawful/illegal practices (threats, attempts to paint her as a serial litigator, paranoid, etc.) behind the scene to get Relator's counsel to withdraw and to influence the decisions of judges; moreover, for purposes of obtaining an undue advantage. The record evidence sustains that Relator has been represented by counsel in other matters; however, said counsel is **REPEATEDLY** attacked and threatened by opposing parties' counsel if they did not abandon Relator. In *Castner v. Colorado Springs Cablevision,* 979 F.2d 1417, 1421 (1992), the decision whether to appoint counsel requires accommodation of two competing considerations. First, the court must consider Congress's "special . . . **concern with legal representation with Title VII actions.**" *Jenkins v. Chemical Bank,* 721 F.2d 876, 879 (2nd Cir. 1983). In enacting the attorney appointment provision of the Civil Rights Act of 1964 and later reaffirming the importance of that provision in the legislative history of the Equal Employment Opportunity Act of 1972, Congress demonstrated its awareness that . . . claimants might not be able to take advantage of the

federal remedy without appointment of counsel. As explained in House Report No. 92-238:

> By including this provision in the bill, the **committee emphasizes** *that the nature of Title VII actions more often than not pits parties of unequal strength and resources against each other. The* ***complainant, who is usually a member of the disadvantaged class, is opposed by an employer who . . . has at his disposal a vast of resources and legal talent.***

H.R. Rep. No. 238, 92nd Cong., 2d Sess., reprinted in 1972 U.S.C.C.A.N. 2137, 2148. Given the history behind the attacks on attorneys retained by Relator and the ***conflict of interest*** that existed in Stor-All's counsel's law firm (Schwartz Manes Ruby & Slovin) and Relator's former employer (Wood & Lamping), the record evidence sustains the conspiracy [Pattern-of-Practice/Pattern-of-Conduct] leveled against Relator by Stor-All and its counsel's proceeding in lawsuit in violation of the Ohio Code of Professional Conduct and/or governing statutes/law regarding said matters; moreover, Stor-All's role in Relator's termination of employment with Wood & Lamping for purposes of obtaining an undue/unlawful advantage in its **vexatious** forcible entry and detainer lawsuit filed against her. Further sustaining Stor-All's motive for bringing the vexatious lawsuit against Relator – i.e. or ill purposes: knowledge of Relator's engagement in protected activities in New Orleans, etc. See **EXHIBIT "9"** – February 6, 2009 letter to David Meranus attached hereto and incorporated by reference as if set forth in full herein. Relator believes there is sufficient evidence to sustain and conclude that her proceeding *pro se* and reliance upon equal protection of the laws, due process of laws and belief that justice will prevail and may sustain entitlement to the relief sought herein and through the FBI Criminal Complaint that has been filed.

38. **THE REASON RELATOR HAD TO ESTABLISH HISTORY OF HAVING LEGAL REPRESENATION IN** *Supreme Court of Ohio Notice of Filing: Criminal Complaint With Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 of the Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes,* **IS THAT,** what Respondents' counsel and Stor-All's counsel will fail to reveal its role and/or its insurance company's role in getting Relator's counsel to withdraw – i.e. tactics used in lawsuit underlying this instant ***Emergency*** *Writ of Prohibition* to see that Relator's employment with Wood & Lamping was terminated to eliminate the CONFLICT OF INTEREST that arose in Schwartz Manes Ruby & Slovin's representation of Stor-All because of Relator's employment with Wood & Lamping and working directly with Thomas J. Breed who was a former employee and attorney at Shwartz Manes Ruby & Slovin prior to his employment at Wood &Lamping. Moreover, to reveal to this Court that the United States Fifth Circuit Court of Appeals in **Case No. 00-30521** *ruled in favor of Relator* and the issue regarding appointment of counsel. See **EXHIBIT "10"** – July 12, 2000 Fifth Circuit Ruling attached hereto and incorporated by reference. **EVIDENCE TO SUSTAIN** Stor-All's Insurance Company's (**Liberty Mutual Insurance**) ability to see that ***Relator can be successful on appeal***; therefore, it became necessary for **Liberty Mutual** and others to resort to criminal actions for purposes of obstructing the administration of justice to obtain an undue/unlawful advantage in lawsuits brought by Relator against Liberty Mutual's insured's and/or Liberty Mutual Insured's against Relator. While Relator was faced with great opposition of such **MEGA GIANT EMPLOYERS** (i.e. as Entergy) with all its financial wealth, arsenal of attorneys and vast legal resources, she was able to obtain legal representation

(Michelle Bennett); however, Relator believes an investigation will support that unlawful/illegal actions were committed by opposing party's (Entergy/Liberty Mutual) counsel for purposes of obtaining an undue/illegal advantage in the matter. The record evidence will support that Relator indeed had a valid lawsuit; therefore, **in desperation** Entergy (i.e. as Stor-All and its counsel/representatives/**insurance company Liberty Mutual Insurance** in the instant lawsuit underlying this ***Emergency*** *Writ of Prohibition*), its counsel and others went to great lengths to see that the *scale of justice is tipped* in its favor through unlawful/illegal means, and deprived Relator equal protection of the laws, due process of laws, Constitutional/Civil Rights, etc. **As in the Mitchell, McNutt in Sams matter** addressed in *Supreme Court of Ohio Notice of Filing: Criminal Complaint With Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 of the Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes* [i.e. See EXHIBIT "C" at Exhibit "45" of said Notice of Filing] **in shutting down the Jackson, Mississippi office for purposes of damage control.** In fact Mitchell McNutt & Sams' representative **acknowledged under oath that employer subjected Relator to discriminatory and hostile treatment,** etc. See EXHIBIT "C" at Exhibit "44" of said Notice of Filing of October 13, 2009 with this Court. Entergy *terminated the employment of the persons involved in the Title VII/Civil Rights/Employment violations rendered Relator* ***shortly AFTER*** *her termination for purposes of damage control and to cover-up its legal wrongs against Relator*.

There is evidence to support that Relator's counsel (Michelle Bennett) in the Entergy matter was offered legal assistance from another law firm which Relator was employed; however, legal wrongs were committed to deprive Relator protected rights. A reasonable mind may conclude that when a law firm extends ***free*** legal assistance in representing Relator **PRO BONO** and said offer by Michelle Bennett is turned down that there is definitely something wrong with the picture. A former law firm at which Relator was employed offered said services to Michelle Bennett; however, rather than accept said offer, Bennett moved swiftly to withdraw as Relator's counsel. See **EXHIBIT "11"** – Excerpt of Docket in United States Eastern District Court and **EXHIBIT "12"** – *Affidavit* of Rajita I. Moss offering assistance PRO BONO attached hereto and incorporated by reference.

39. Relator believes an investigation by the Federal Bureau of Investigation may support that Stor-All's insurance company (**Liberty Mutual**) has used confidential and privileged information of its insured's to stalk and track Relator from job-to-job, employer-to-employer and state-to-state for malicious intent – i.e. in **retaliation** of Relator exercising protected rights and bringing lawsuits against Liberty Mutual insured's and for purposes of depriving Relator rights secured/guaranteed under the Constitution, Civil Rights Act and other governing statutes/laws. If Liberty Mutual has used information obtained from its insured's records for purposes of stalking Relator and engaging in criminal/civil wrongs against her, the appropriate FBI Criminal Complaint filed on September 24, 2009 against it and others has merits.

40. Given Stor-All's counsel's (David Meranus) February 6, 2009 admission to Relator, a reasonable mind may conclude that his arrogance got the best of him and knowledge of her engagement in protected activities was provided for ill purposes. Not only that, the **NEXUS** between the lawsuit underlying this instant ***Emergency*** *Writ of Prohibition* brought against Relator by Meranus on behalf of Stor-All because of the New Orleans matter – i.e. conspiracy leveled against Relator. Stor-All's counsel, Michael Lively, labeled such attacks on Relator as a ***"multi-state"*** conspiracy through its request

for Protective Order filed in this lawsuit – which Relator has timely moved to have stricken in accordance with the applicable statutes/laws. **IMPORTANT TO NOTE:** Evidence will support that those opposing Relator in legal action have had an arsenal *of attorneys* (**over 500***) at their disposal* against what appeared to be one person (Relator); however, ALL have been unable to close the deal. Therefore, they resort to criminal/civil wrongs (i.e. similar to crimes in which O.J. Simpson was found guilty of) to obtain a victory on their behalf of their clients and to cover-up criminal/civil wrongs. This is a classic example of the Biblical story David & Goliath. From said story, one may remember, *it only took **one ROCK*** (and the power therein – God) *to bring down the Giant (Goliath)*. On February 6, 2009, Stor-All's counsel, David Meranus, provided Relator with key information to open the door to many other crimes/civil wrongs leveled against her and that the **COMMON DENOMINATOR/LINK** is Stor-All's insurance company (Liberty Mutual Insurance).

41. **IMPORTANT TO NOTE:** A reasonable mind may conclude from the evidence contained in this instant pleading and the lawsuit underlying this ***Emergency Writ of Prohibition***, that like Stor-All, those who have opposed Relator have relied upon special relationships to key officials (JUDGES, court, government, etc.) for purposes of obtaining an undue/unlawful/illegal advantage over Relator in the defense of matters involving her. For example, it is important to note possible ties of Stor-All's insurance carrier's **(Liberty Mutual Insurance Company)** ties to law firms such as Baker Donelson (Entergy's counsel) – see **EXHIBIT "13"** attached hereto and incorporated by reference - and Schwartz Manes Ruby & Slovin/Markesbery & Richardson Co. (Stor-All's counsel) and its attempts to rely upon such defense tactics as that used by Entergy in the New Orleans matter that was addressed by Stor All's counsel (David Meranus) on February 6, 2009.[6] Therefore, a reasonable mind may conclude that Stor-All's lawsuit

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[6] How big is Baker Donelson? Its boasting of its legal arsenal is apparent. Moreover, its *vast* financial wealth/power, vast political ties/relationships to Washington, D.C, **ties/relationships to the courts** are prevalent, etc. No, Stor-All, its counsel, insurance provider (Liberty Mutual) relied upon such vast legal resources as that of Baker Donelson – a law firm with approximately 540 attorneys - against a sole single African-American female. Moreover, Liberty Mutual relying upon information perhaps obtained through other means (***confidential and protected*** sources, claims, insurance, etc.) to track the Defendant and embark on criminal sprees with others to destroy the Defendant's life. Criminal/Civil wrongs leveled against the Defendant which are clearly UNACCEPTABLE, in VIOLATION OF THE LAWS/STATUTES and worthy of an investigation.

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BAKER DONELSON
BEARMAN, CALDWELL & BERKOWITZ, PC

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
Size of Organization: 540
Year Established: 1888
Main Office: Memphis, Tennessee
Web Site: http://www.bakerdonelson.com

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, is ranked by The National Law Journal as one of the 100 largest law firms in the country. Through strategic acquisitions and mergers over the past century, the Firm has grown to include ***more than 540 attorneys*** and public policy and international advisors. Baker Donelson has offices located in five states in the southern U.S. **as well as Washington, D.C.,** plus a representative office in Beijing, China.

Current and former Baker Donelson attorneys and advisors include, among many other highly distinguished individuals, people who have served as: ***Chief of Staff to the President of the United States;*** **U.S. Senate Majority Leader; U.S. Secretary of State;**

was brought against Relator with ill/malicious intent; moreover, with knowledge that it was ***already*** *in UNLAWFUL/ILLEGAL possession* of Relator's *storage unit and property* ***without*** ***legal authority – i.e. without court order prior the September 9, 2009*** *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* because it was looking forward to being successful in its lawsuit in the use Liberty Mutual Insurance Company's playbook/practices used to defend matters involving Newsome. Therefore, it needed special favors from Judge Nadine L. Allen and Judge John Andrew West and others for purposes of obtaining an undue advantage and for purposes of covering up its criminal/civil wrongs.

III. OBSTRUCTION OF JUSTICE/INTERFERENCE WITH PROTECTED RIGHTS

42. As a matter of law, Relator is entitled to an explanation as to the reasons for Respondents' actions. While Respondents through their Motion to Dismiss is attempting to evade an investigation by the Ohio Supreme Court in the handling of the underlying lawsuit, Relator is entitled to know the reasons for Respondents actions. Therefore, RespMTD is to be DENIED. The record evidence sustains that Respondents were timely, properly and adequately provided with facts, evidence and legal conclusion to sustain that it lacked subject-matter jurisdiction; therefore, in the interest of justice and in the interest of the public, Relator demands and explanation for Respondents to justify its interference with Relator's freedom, life liberties and pursuit of happiness – infringement on Relator's rights. Relator is entitled to know the reasons for Respondents usurpation of jurisdiction. Said concerns of Realtor is of valid concerns not only to her but that of the public.

Members of the United States Senate; **Members of the United States House of Representatives**; Acting Administrator and Deputy Administrator of the Federal Aviation Administration; Director of the Office of Foreign Assets Control for the U.S. Department of the Treasury; **Director of the Administrative Office of the United States Courts**; Chief Counsel, Acting Director, and Acting Deputy Director of U.S. Citizenship & Immigration Services within the United States Department of Homeland Security; Majority and Minority Staff Director of the Senate Committee on Appropriations; a member of President's Domestic Policy Council; Counselor to the Deputy Secretary for the United States Department of HHS; ***Chief of Staff of the Supreme Court of the United States***; **Administrative Assistant to the Chief Justice of the United States**;[6] Deputy Under Secretary for International Trade for the U.S. Department of Commerce; Ambassador to Japan; Ambassador to Turkey; Ambassador to Saudi Arabia; Ambassador to the Sultanate of Oman; **Governor of Tennessee**; **Governor of Mississippi**; Deputy Governor and Chief of Staff for the Governor of Tennessee; Commissioner of Finance & Administration (Chief Operating Officer), State of Tennessee; Special Counselor to the Governor of Virginia; **United States Circuit Court of Appeals Judge**; **United States District Court Judges**; **United States Attorneys**; ***and Presidents of State and Local Bar Associations***.

Baker Donelson represents local, regional, national and international clients. The Firm provides innovative, results-oriented solutions, placing the needs of the client first. Our *state-of-the-art technologies* **seamlessly** **link** *all offices, provide* ***instant*** *information exchange, and* ***support clients nationwide*** *with secure access to our online document repository.*

Baker Donelson is a member of several of the largest legal networks that provide our attorneys quick access to legal expertise throughout the United States and around the world.

> Governmental body has heavy responsibility to justify its interference with a citizen's freedom, his right to enjoy liberty of decision and to seek happiness in his own way. Const. art. 1, § 1. *Jacobs v. Benedict,* 301 N.E.2d 723 (Ohio.Com.Pl.,1973)
>
> The "natural law" rights outlined the section of the State Constitution providing that all men, by nature, have rights to enjoy and defend "life and liberty, acquiring possessing and protecting property, and seeking and obtaining happiness and safety" at times yield to government intrusion when necessitated by the public good. Const. Art. 1, § 1. *State v. Williams,* 728 N.E.2d 342 (Ohio,2000)

43. **IMPORTANT TO NOTE:** Through Relator's *NOTIFICATION: DEFENDANT'S REITERATION OF NON-WAIVER TO JURISDICTION – DEFENDANT WILL NOT BE ATTENDING HEARING SCHEDULED FOR SEPTEMBER 9, 2009; REQUEST TO KNOW WHEATHER PROHIBITION ACTION WILL BE NECESSARY,* Respondents were timely, properly and adequately placed on notice that discovery had not been conducted in the underlying lawsuit pursuant to Rule 56 of the Ohio Rules of Civil Procedure.[7] Moreover, Stor-All had failed to respond to discovery propounded on it on or about January 29, 2009. Said Notification smoked out Stor-All's DELINQUENT responses (in support of its Motion t Dismiss/Summary Judgment) on or about September 23, 2009 (approximately **eight** months later– See **EXHIBIT "21"** Notice Of Service of Responses attached hereto.) in the Hamilton County Court of Common Pleas Case No. A0901302 pleadings and or discovery responses will sustain the following was provided for sham/frivolous/malicious intent:

> "On December 8, 2008 I had a telephone conversation with Newsome while I was working from my home, attempting to resolve this matter.

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[7] **RULE 56. Summary Judgment . . .**

(C) Motion and proceedings. The motion shall be served at least fourteen days before the time fixed for hearing. The adverse party, prior to the day of hearing, may serve and file opposing affidavits. *Summary judgment shall be rendered forthwith if the pleadings, **depositions, answers to interrogatories, written admissions,** affidavits, transcripts of evidence, and written stipulations of fact, if any, **timely filed in the action**, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.* No evidence or stipulation may be considered except as stated in this rule. *A summary judgment **shall not** be rendered unless it appears from the evidence* or stipulation, and ***only** from the evidence* or stipulation, *that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being **entitled to have** the evidence* or stipulation *construed **most strongly** in the party's favor.* A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages. . . .

(E) Form of affidavits; further testimony; defense required. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavit. Sworn or certified copies of all papers or parts of papers referred to in an affidavit shall be attached to or served with the affidavit. The court may permit affidavits to be supplemented or opposed by depositions or by further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the party's pleadings, but the party's response, by affidavit or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the party does not so respond, summary judgment, if appropriate, shall be entered against the party. . . .

(G) Affidavits made in bad faith. *Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to **pay to the other party the amount of the reasonable expenses** which the filing of the affidavits caused the other party to incur, **including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt**.*

At that time I told Ms. Newsome I would fax a letter confirming our conversation when I arrived at the office on December 9, 2008."

"On December 9, 2008, after I had prepared the letter to fax to Newsome, I realized I did not have her fax number with me. I ***called Ms. Newsome's work number which was listed as a contact*** *when we bought out Crown Self-Storage, and called that number. When* ***the receptionist answered****, I requested a fax number for Denise Newsome. The* ***receptionist provided me with a fax number*** *and I then faxed my correspondence to Ms. Newsome. My only intention in sending this fax was to follow through on my promise to Newsome by faxing a letter confirming our telephone conversation the previous evening."*

"The only motivation for initiating the forcible entry and detainer action against Denise Newsome was so that Stor-All may **re-acquire** its property. After several attempts to negotiate with Ms. Newsome, including offering the free use of StorAll Alfred's moving truck, driver, and gas, and reducing her balance due to $0.00, there was no other way for us to **re-acquire** Unit #173 from Ms. Newsome but court intervention. There was no ulterior motive or purpose for the forcible entry and detainer action."

A reasonable mind may conclude to ***re-acquire*** provides sufficient and adequate evidence that Stor-All asserts that Relator was in possession of the storage unit and property contained therein when it brought its forcible entry and detainer action – *wherein Relator was not.* Therefore, such statement by Stor-All's representative is false and/or misleading. Stor-All had already unlawfully/illegally seized Relator's storage unit and property *without legal authority and/or court order* as early as April 2008 – See **EXHIBIT "6"** attached hereto and incorporated by reference as if set forth in full herein. There is evidence to sustain that said witness acknowledges that she had a conversation with Relator on December 8, 2008. There is evidence to sustain that Stor-All had ***no*** *problem* contacting Relator the evening before the fax of December 9, 2008, and the motive behind sending to Relator's place of employment. Therefore, it is **IMPORTANT TO NOTE**:

(a) The **work** number Stor-All's representative may assert to have called **WAS NOT** *the phone number for the receptionist* and **was Relator's DIRECT phone number to her desk.** The receptionist **DID NOT** answer Relator's phone as Stor-All may attempt to assert. Relator's direct phone number had voicemail. Therefore, *a reasonable mind may conclude, if Stor-All's representative indeed called the work number provided, then why did representative not request number fax number again from Relator directly and/or leave voicemail message. Instead, Stor-All's representative advises she contacted Relator's employer's Receptionist to obtain Wood & Lamping's fax number.* See **EXHIBIT "14"** Wood & Lamping Telephone Directory attached hereto and incorporated by reference as if set forth in full herein.

(b) Wood & Lamping's telephone number is **(513) 852-6000** and *would be the telephone number at which the receptionist could be*

*reached **NOT** at the telephone number (513) 852-6053 that representative/Whiteside may assert was called to obtain fax number.* See **EXHIBIT "15"** attached hereto and incorporated by reference.

(c) *A reasonable mind may question why Stor-All's representative would **not FIRST** call the phone number in which she reached Relator on the night (December 8, 2008) prior if genuinely acting in good faith.* Stor-All's representative was provided with Relator's ***direct** facsimile* number on December 8, 2008; however, representative elected to act with malicious intent and purpose and submit fax to Wood & Lamping's main fax number for purposes of getting Relator terminated and/or cause problems with Relator's employer. Stor-All's representative resorting to such unlawful/illegal practices of sending the December 9, 2008, facsimile for purposes of placing Relator's employer on notice as to what was going on. See **EXHIBIT "16"** attached hereto and incorporated by reference as if set forth in full herein.

(d) This is ***discoverable** information – should Stor-All's representative/Whiteside continue to assert that she called Relator's work number, **there should be a telephone record/bill** in that this was a **LONG DISTANCE** CALL – representative calling from Kentucky.* While this Court can expect Stor-All to provide such testimony, then it is of PERTINENT and CRUCIAL concern that Stor-All be *required to **PROVE** such statement* by evidence and ***not** mere words by way of rebuttal to defend against the EVIDENCE Relator has provided to support her Motion to Strike MTDMFSJ.* Stor-All's counsel has **over ten (10) years** of experience; therefore, a reasonable mind may conclude that *he knew and/or should have known **that evidence is required to support Affidavit(s)*** was made in good faith; however, because **Affidavits provided** by Stor-All and its counsel ***were made in bad faith***, the record is silent on any such evidence to sustain relief sought through such perjured/sham/frivolous, etc. testimony.

44. **IMPORTANT TO NOTE:** Is the date and time of Lori Whiteside's **FIRST** December 9, 2008 facsimile to Relator showing **12/09/2008 10:19.** See **EXHIBIT "16"** – Whiteside's 12/09/2008 facsimile to Relator attached hereto and incorporated by reference. The ***date and time*** is important because it was sent in the later part of the morning and at a time in which Relator could have been reached had Whiteside truthfully called the ***work*** contact number alleged. Said fax of Whiteside was met with a responsive fax by Relator on December 9, 2009 – See **EXHIBIT "17"** attached hereto and incorporated by reference as if set forth in full herein.

45. There was a **SECOND** facsimile sent by Lori Whiteside to Relator on December 9, 2008, which will shed additional light on the PERJURY allegations and testimony provided by Relator which states in part:

1. When we spoke last night, I advised you I was working from home during our conversation. **You are correct, I asked for your fax number and you provided it to me**. When I left the office this morning, I failed to bring my notes with me but had promised you a letter this morning and was unable to go back home to obtain the number you provided. However, **since your work number was provided as a contact number**, *I figured the quickest way to get your fax number was to call your office – and* ***rather than bothering you*** *to let you know I forgot to bring your fax number with me,* ***I simply asked the receptionist for your fax number***. I would hope that you would see that I was using the means available to me (**your *work contact* number**) to follow through with my correspondence as promised. That's it. Nothing more to it. Frankly, ***I don't have time to play games and create unnecessary issues***. Like you, my schedule is crazy and I have way too many projects and a personal life as well. This error was unintentional and there is not now nor ever been any intention on my part or on the part of Stor All for any Stor All employees to cause you any distress.

> **IMPORTANT TO NOTE:** Through said fax, Whiteside affirms that she was provided with Relator's direct fax number of **(513) 419-6453** in response to Relator's fax of December 9, 2008, attached at **EXHIBIT "18."** While Whiteside alleges information provided the night before was left at home, a reasonable mind may question: **(a)** why Whiteside did not contact Relator at the same phone number **513-680-2922** that she contacted Relator on the night before in that this was also a contact number provided Stor-All. See **EXHIBIT "6"** – Ledger History(s) attached hereto and incorporated by reference; and **(b)** if explanation was genuine whether or not Whiteside could have contacted someone at her residence to provide her with information provided by Relator the night before.
>
> Whiteside's statement alleges that the contact number **(513) 852-6053** that was provided was the phone number ***she called and reached the Receptionist*** at Relator's place of employment (Wood & Lamping); however, said number is not the phone number for the Receptionist and was Relator's **direct number and one which had voicemail**. Wood & Lamping's main phone number is **(513) 852-6000**. Therefore, *for Whiteside to have reached the Receptionist, a reasonable mind may conclude (had she actually called as stated) that she would have had to call (513) 852-6000 phone number. If so, then where did Whiteside get the Receptionist number? Therefore, sustaining the willful, malicious and wanton acts of Stor-All.* **For PRETEXT Purposes:** This is discoverable information as to ***authenticity*** of the reason provided by Stor-All/Whiteside. Moreover, a reasonable mind may determine whether or not Stor-All's/Whiteside's

explanation was provided ***to cover-up an illegal animus.*** Stor-All's corporate office is in Kentucky; therefore, a reasonable mind may conclude that **there should be a phone record for the long-distance phone call Whiteside has alleged was made**. Said information will provide evidence as to what phone number was called (if any) by Whiteside to obtain Relator's work fax number. If no such phone record can be produced to sustain Whiteside's statement, a reasonable mind may conclude that her acts were willful, malicious and wanton – i.e. done with ill intent. Thus, supporting **PERJURY** and goes to **CREDIBIILTY** of witness; moreover sustaining acts are in furtherance of conspiracy, etc.

2. . . . I was shocked at your tone of correspondence. We have never dealt with each other prior to our telephone discussion of December 8, which I felt was of the utmost professionalism. I am not one to mix words, and ***I certainly have no personal issues with you.*** But *I was certainly shocked at your attack on me* ***as being malicious.*** . .

IMPORTANT TO NOTE: While Whiteside may want to appear she was shocked at the tone of correspondence, a reasonable mind (jury) may conclude Relator's response was justifiable given the facts, evidence and legal conclusions which sustains her Answer and Counterclaim. Moreover, that while Whiteside attempts to assert that there were no "personal issues," a reasonable mind may conclude that said acts were personal and based upon knowledge of Relator's engagement in protected activities – i.e. as that made known by Stor-All's counsel on February 6, 2009. (See **EXHIBIT "9"**). Furthermore, Stor-All/Whiteside being timely, properly and adequately placed on notice of its malicious acts rendered Relator.

4.. . . As I stated to you during our phone call on December 8, ***I have 20 years of experience in trial work and paralegal work in the State of Ohio***. You and I both know that no one is required to provide you with their grounds for a legal defense until suit is brought and an Answer is filed. *Providing the* ***documentation you have requested would not have to be done until discovery*** *once an action has been commenced. . . .*

IMPORTANT TO NOTE: A reasonable mind may conclude that based on Whiteside's admission, she *has* ***sufficient*** *legal experience to know and/or should have known that Stor-All was engaging in illegal/unlawful activities in the handling of Relator's account* – i.e. acknowledging Relator's background in the legal profession as well.

Relator knew that Whiteside's explanation provided on how she obtained Wood & Lamping's fax number was a LIE/FALSE. Nevertheless, Relator knew that in order to prove such that the discovery process (as mentioned by Whiteside) would have to be conducted. On January 29, 2009, Relator provided Stor-All with ***Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim and Demand for Jury Trial*** and discovery requests: (a) Admissions demand; (b) Interrogatories; and Request for Production of Documents.

TO SEAL HER FATE, STOR-ALL, its COUNSEL and others, Whiteside produced an Affidavit with *Stor-All's 12(B)(6) Motion to Dismiss And/Or Motion for Summary Judgment on Defendant Relator's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached.* This is information sustaining Stor-All's acts being **PRETEXT**.

5. Regarding your Item #4, ***you in fact told me how you felt about our lien foreclosure proceedings.*** I am not aware of the ***"emotional mental anguish, etc., harm/injury sustained by"*** you. ***I am aware that you did tell me how you felt****, at which time I told you that* ***we follow the requirements of the law***. . . What company would want to send out letters that are not required by law and waste their postage, toner, paper, and especially employee time if they were not required to do so? I can rest assure you that we would not!

IMPORTANT TO NOTE: Whiteside (as a representative of Stor-All) acknowledges from said affirmation that Stor-All was timely, properly and adequately placed on notice that the affect and/or impact Stor-All's actions have had on Relator. Moreover, that Whiteside (as a representative of Stor-All) acknowledged Stor-All ***"follow the requirements of the law."*** Therefore, supporting/sustaining that Stor-All upon receipt of facts, evidence and legal conclusions in its possession having knowledge that it was acting in violation of the statutes/laws governing said matters and was in unlawful/illegal possession of Relator's storage unit and property.

6. **I know you wish to seek legal counsel. I understand that.** But, this has been going on for quite some time and we are now down to the wire. I would hope that you would have had ample time to have done your research since May when correspondence transpired between you and our Director of Operations. . . .

IMPORTANT TO NOTE: Whiteside (as a representative of Stor-All) admits to knowledge that Relator would desire to have legal representation and her

understanding of such. Therefore, a reasonable mind may conclude that Stor-All knew and/or should have known that Relator may have requested legal representation from Wood & Lamping to represent her in legal action brought against her by Stor-All.

Regarding your closing paragraph, ***there may have been a misunderstanding regarding communication with our corporate counsel so let me be clear. I had spoken to corporate counsel prior to my call with you on December 8, 2008.*** *I have not spoken with them again.* ***During my conversation with corporate counsel PRIOR TO DECEMBER 8, 2008, our file on your unit, your correspondence and all of the tenant notes were reviewed at which time I was instructed to turn our files over to them for handling should you file suit.*** . . .

IMPORTANT TO NOTE: Whiteside (as a representative of Stor-All) admits through said statement that she was communicating with their corporate counsel – a reasonable mind may conclude was David Meranus and/or Schwartz Manes Ruby & Slovin – **PRIOR** to the December 8, 2008 phone conversation. Therefore, **PRIOR** to the December 9, 2008 fax that is in question. Moreover, Whiteside confirms that its corporate counsel was in possession of Stor-All's file regarding Relator. Therefore, a reasonable mind may conclude that Stor-All's corporate counsel had sufficient information available and/or that could have been obtained to determine the CONFLICT OF INTEREST that arose in its representation of Stor-All. *A reasonable mind may conclude that Stor-All's December 8, 2008 phone call to Relator and follow-up of December 9, 2008 faxes may have been done* ***under the advisement*** *of Stor-All's corporate counsel* (David Meranus and/or Schwartz Manes Ruby & Slovin). There is pertinent information in the record supporting PRETEXT and Stor-All's efforts to cover-up an illegal animus. Moreover, David Meranus' **admission** on February 6, 2009 of his and Stor-All's knowledge of Relator's engagement in protected activities. Now Stor-All's MTDMFSJ and ***PERJURED*** *testimony/****bad faith*** *Affidavits.*

Stor-All's counsel, Michael Lively, being certain and ***CAREFUL*** *not to provide the FAX COVER PAGES of Whiteside's faxes in documents provided with September 23, 2009, discovery documents provided Relator. Therefore, a reasonable mind may conclude from said factual information, Stor-All's legal counsel was fully aware of legal wrongs of its client.*

Lastly, ***I have changed your contact fax number*** *in Stor-All's system so that you will not receive faxes to the previous fax number* ***which I obtained in error****. This should ensure no further errors when faxing correspondence. . . .*

> **IMPORTANT TO NOTE:** Stor-All failed to provide evidence to sustain there was a contact fax number on file **PRIOR** to Whiteside's December 9, 2008 fax to Relator. *Neither has Stor-All produced any evidence to sustain that Whiteside obtained the (513) 852-6087 fax number in error and/or evidence to support how Whiteside came about obtaining fax number.* Therefore, a reasonable mind may conclude that reasons provided for Whiteside's actions of December 8, 2008, December 9, 2008 and thereafter, were for ill intent/malicious intent. Moreover, *was done under her own personal interest, interest of Stor-All and advisement of corporate counsel.*

See **EXHIBIT "18"** – December 9, 2008 facsimile from Whiteside to Relator attached hereto and corporate by reference as if set forth in full herein. Because of such damaging and crucial evidence, this Court will see that Stor-All and its counsel was in possession of Whiteside's SECOND fax of December 9, 2008, to Relator; however, *failed to provide said evidence because it knew contained INCRIMINATING evidence to sustain Relator's Counterclaim and its role in the conspiracy leveled against Relator.* A reasonable mind may conclude that Stor-All realizing that Whiteside's providing of December 9, 2008 fax was the rope which has lead to the ***death of their lawsuit*** and/or ***career suicide*** of those who engaged in the criminal/civil wrongs initiated by it against Relator. Stor-All and its representatives obtaining enough rope that they have hung themselves.

46. The record evidence will sustain Stor-All's counsel (i.e. such as Michael E. Lively) for example may be encouraged to file sham/frivolous pleadings for purposes of ***embellishing*** *perjured/false* and/or misleading testimony on behalf of his client which may for example allege:

> There is no evidence that Stor-All's forcible entry and detainer action was *'perverted in any way to accomplish an ulterior purpose for which it was not designed. . .* Newsome failed to make payments owed to Stor-All for use of a storage facility. Because of Newsome's **refusal to pay the rent** or **vacate the premises**, Stor-All properly set in motion a forcible entry and detainer action *so that it may **legally** reacquire the storage facility and begin leasing it out to other potential customers. . .* There is no evidence that ***the eviction action was initiated*** *for any purpose other than* ***to legally re-acquire its property.***
>
> Stor-All properly filed its motion for summary judgment in the Municipal Court. Presumably satisfied that all procedural and legal requirements had been met, Judge Allen ruled in Stor-All's favor on the forcible entry and detainer action, and entered a Writ of Possession September 9, 2009. . .
>
> Because Stor-All's forcible entry and detainer action was properly initiated, it was not pursued with an ulterior purpose other *than to re-acquire rental property* for which Newsome was not paying in violation of contract, and it was carried out to its authorized conclusion, Newsome's abuse of process claim is not appropriate and must fail as a matter of law.. . .

It should also be observed that Stor All never "obtained" Ms. Newsome's property. On September 10, 2009, Ms. Newsome's property was removed and set out of the storage facility in the course of the eviction of the same date, *said* ***eviction being attended by members of the Hamilton County Sheriff's Department.*** Ms. Newsome is **free to recover her property, as she was invited to do previously.**". . . .

"Newsome's only basis for her IIED[8] claim is that a representative from Stor-All, Lori Whiteside, sent a facsimile transmission on December 9, 2008 regarding Newsome's default on the storage unit to Newsome's place of employment, the law firm of Wood & Lamping.. . . Certainly, sending a fax is not 'extreme and outrageous' conduct, such that would give rise to an IIED claim."

or

"Lori Whiteside ("Whiteside"), contacted the Defendant via facsimile at Defendant's employer's fax number (513) 852-6087. Whiteside doing so **without** ***approval*** *of Defendant to fax her information at this (513) 852-6087*" - "Admit that fax was sent to (513) 852-6087 on December 9, 2008, but no known prior disapproval to use said number. **Defendant also sent Plaintiff faxes from this same number.**"

"On December 9, 2008, *Lori Whiteside, who sent the fax in question, was working from home, but did not have her hard copy file with her that contained the Defendant's fax number*. Ms. Whiteside did have the work number provided by the Defendant (513) 853-6053 [sic]. Ms. Whiteside called that number and requested the fax number from the receptionist and used said fax number (513-852-6087) for her first fax of the day. No prior notice of fax was given to Defendant because Ms. Whiteside did not know one would be required. Defendant's work fax number also appeared at the top of her responses faxed **12-19-08** and **12-23-08**[9] from Wood & Lamping."

Pleading of Stor-All's counsel is memorialized in the record of the Hamilton County Court of Common Pleas and is presently facing Relator's Motion to Strike. PERTINENT/UNDISPUTED FACTS further support:

(a) Lower courts **have not** required Stor-All to produce any factual evidence to sustain for example Relator *"refused to pay rent or vacate the premises."* The record evidence supports to the contrary. In fact, will support that as early as mid-2008, Relator had been trying to get her property back; however, said efforts were met with criminal actions and/or unlawful/illegal practices by Stor-All.

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[8]Intentional Infliction of Emotional Distress.

[9] **AFTER** receipt of December 9, 2008, did Stor-All receive faxes sent from 513-852-6087. This was not a fax number provided by receptionist as Stor-All may attempt to claim, because 513-852-6053 was Relator's direct phone number at work and **NOT** the receptionist's and/or Wood & Lamping's main phone number.

(b) The averments such as "There is no evidence that the eviction action was initiated for any purpose other than to **legally** *re-acquire* its property" will sustain Relator's defense that Stor-All and its counsel **knew** and/or should have known that it was **in unlawful/illegal possession without court order** *of Relator's storage unit and property.* Moreover, that Stor-All **failed to follow the laws** *in the taking of Relator's storage unit and property.* Further sustaining Relator's defense and claim to support the FBI Criminal Complaint that has been filed. Thus, a reasonable mind may conclude further *supporting* ***PRETEXT*** *and Stor-All's* ***efforts to shield an illegal animus***.

(c) A reasonable mind may conclude that based upon such knowledge of Stor-All and/or its counsel, its knowledge of being in unlawful/illegal possession of Relator's storage unit and property will sustain its need to obtain the NULL/VOID September 9, 2009 *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* executed by Judge Nadine L. Allen of the Hamilton County Municipal Court. The motive for obtaining said ruling being to **COVER-UP/MASK** an illegal animus – unlawful/illegal seizure of Relator's storage unit and property without court order.

(d) A reasonable mind may conclude for Stor-All and/or its counsel to repeatedly state its motive was to **re**-acquire rental property, that such information is provided for ill purposes: ***false and misleading***, delay, harassment, hindering proceedings, embarrassment, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, deprivation of rights, in furtherance of conspiracy leveled against Relator, other reasons known to it, etc. Thus, a reasonable mind may conclude further *supporting* ***PRETEXT*** *and Stor-All's* ***efforts to shield an illegal animus*** – i.e. cover-up criminal actions of unlawful/illegal seizure of Relator's storage unit and property without court order.

(e) A reasonable mind may conclude that statements made such as "eviction being attended by members of the Hamilton County Sheriff's Department" will sustain Relator's FBI Criminal Complaint. Moreover, that *such criminal action was carried out with guns/weapons present.* Stor-All and its counsel engaging in criminal activities similar to that in which O.J. Simpson was indicted of:

i. Conspiracy to Commit a Crime;
ii. Conspiracy to Commit Robbery;
iii. First Degree Kidnapping With Use of A Deadly Weapon;
iv. Burglary While in Possession of a Deadly Weapon;

v. Robbery With Use Of A Deadly Weapon; and

vi. Coercion With Use Of A Deadly Weapon.

See EXHIBIT "T" – **O. J. Simpson Criminal Complaint** provided in *Supreme Court of Ohio Notice of Filing: Criminal Complaint With Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 of the Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes* filed with this Court. And EXHIBIT "U" of said filing which supports:

> **In the O.J. Simpson Matter**: . . .believed he did nothing wrong. Glass, however, brushed his apology aside, saying his actions amounted to "**much more than stupidity**," and calling him both **arrogant** and **ignorant**.
>
> > "Earlier in this case, at a bail hearing, I said to Mr. Simpson, **I didn't know if he was arrogant, ignorant or both,**" Glass said. "During the trial and through this proceeding, I got the answer, and **it was both.**"
>
> **In O.J. Simpson Matter**: A jury convicted Simpson, 61, and Stewart, 54, on 12 charges including ***conspiracy to commit a crime***, ***robbery***, ***assault*** and ***kidnapping with a deadly weapon*** stemming from a September 13, 2007, incident at Las Vegas' Palace Station hotel and casino.
>
> **In O.J. Simpson Matter**: Prosecutors alleged that **Simpson** led a group of men who used **threats**, **guns** and **force** to take sports memorabilia from dealers . . .. Simpson claimed that *he was* ***attempting to recover items*** *that* ***belonged*** *to him.*

47. A reasonable mind may conclude that as during the March 2009 hearing, Stor-All's counsel (David Meranus) attempted to lure Relator onto its property for ill purposes and is evidence to sustain that Stor-All's counsel (Michael Lively) to date, is still attempting to do for purposes of getting Relator to waive protected rights by making such statements that she, ***"is free to recover her property, as she was invited to do previous. . ."*** A reasonable mind may conclude that such attempts to lure Relator onto its property were done for ill purposes (i.e. to subject her to injury/harm – murder, assault, etc.). Look what happened to another AFRICAN-AMERICAN tenant as recent as December 2008 when her WHITE landlord was claiming UNPAID RENT. Landlord murdered this tenant for such assertions. See **EXHIBIT "19"** attached hereto and incorporated by reference as if set forth in full herein. That Landlord took the laws into his own hands and subjected victim (tenant) to criminal acts. Resorting to criminal wrongs as Stor-All has done in the underlying lawsuit involving this ***Emergency*** *Writ of Prohibition*. Moreover, the record evidence will sustain Stor-All, its counsel and others stalking of Relator for ***malicious*** *intent* and the carrying out of criminal activities on or about September 10, 2009, with intent to cause her injury/harm. The record evidence sustains that this Court as well as Stor-All had sufficient facts, evidence and legal conclusion to sustain that removal of her property would have precluded her from bringing the Counterclaim she filed:

65 Ohio Jur.3d § 164 – *Notice to vacate; bringing possessory action*:

A notice by the landlord that the tenancy is being terminated, combined with a demand by him or her for possession of the premises, and voluntary compliance therewith by the tenant without protest, *is not an* eviction for which damages may be recovered. (*Greenberg v. Murphy,* 16 Ohio C.D. 359, 1904 WL 1147 (Ohio Cir. Ct. 1904)). [**Practice Guide:** If the tenant is *rightfully in possession and entitled to remain,* **the tenant SHOULD AWAIT legal proceedings that are threatened,** and make *defense* thereto, ***RATHER THAN COMPLY** with the demand,* **and then bring an action for alleged damages that perhaps never would have resulted.** (*Greenberg)*]

Where a tenant, upon request or notice to vacate, VOLUNTARILY abandons the premises without protest, **no action for damages against the landlord,** based on fraud or misrepresentations as to the reasons for such request **can be maintained under rights recognized by the common law, or any statute of Ohio.** (*Ferguson v. Buddenberg,* 87 Ohio App. 326, 42 Ohio Op. 488, 57 Ohio L. Abs. 473, 94 N.E.2d 568 (1st Dist. **Hamilton** County 1950)).

In an eviction action for nonpayment of rent brought by a landlord **pursuant to RC Ch 1923**, a *tenant MAY RESPOND by asserting any legal defense he has to that action,* pursuant to RC 1923.061(A), and/or **by filing a COUNTERCLAIM for damages** caused by the landlord's breach of the rental agreement and/or the landlord's breach of his duties under RC 5321.04. *Smith v. Wright* (Ohio App. 1979) 65 Ohio App.2d 101, 416 N.E.2d 655, 19 O.O.3d 59.

There is evidence to sustain Stor-All's counsel acknowledges "Defendant also sent Plaintiff faxes from this same number;" however, ***FAILS** to produce any FACTUAL evidence* to sustain that Relator provided Stor-All with any **faxes PRIOR** to the December 9, 2008 transmittal in question. Thus, a reasonable mind may conclude further *supporting **PRETEXT** and Stor-All's **efforts to shield an illegal animus**.* Moreover, Stor-All's counsel's (David Meranus) role in the sending of the December 9, 2008 fax that has come into question.

Stor-All's counsel alleges that "Lori Whiteside, who sent the fax in question, was working from home, but did not have her hard copy file with her that contained the Defendant's fax number;" however, *provides **NO** **FACTUAL** documentation to sustain Relator **prior** to the December 9, 2008 fax in question provided Stor-All with a fax number.* Counsel acknowledges that the **fax number used was obtained from faxes** alleged to have been received from Relator **of 12-19-08 and 12-23-08** – dates **AFTER** the December 9, 2008 fax and actions of Stor-All's representative that has been called into be questioned. Thus, a reasonable mind may conclude further *supporting **PRETEXT** and Stor-All's **efforts to shield an illegal animus**.*

IV. REQUEST FOR SANCTIONS

> *Disciplinary Counsel v. Davis,* 2009 -Ohio- 500 (Ohio,2009) - When imposing sanctions for attorney misconduct, the Supreme Court considers relevant factors, including the duties the respondent breached and the sanctions imposed in similar cases.
>
> *Warren Cty. Bar Assn. v. Marshall,* 2009 -Ohio- 501 (Ohio,2009) - When imposing sanctions for attorney misconduct, the Supreme Court considers relevant factors, including the duties the lawyer violated, the lawyer's mental state, and sanctions imposed in similar cases.
>
> *Disciplinary Counsel v. Zigan,* 2008 -Ohio- 1976 (Ohio,2008) - In determining the appropriate sanction to impose for attorney misconduct, the Supreme Court considers the duties violated, the actual or potential injury caused, the attorney's mental state, the existence of aggravating or mitigating circumstances, and sanctions imposed in similar cases.

Relator, through this instant filing *Request/Motion for Sanctions* of and against Respondents and/or their counsel, Christian J. Schaefer (#0015494) pursuant to S. Ct. R. XIV, Section 5 to issue the appropriate sanctions, in that RespMTD is sham/frivolous and has been submitted for delay, harassment, hindering proceedings, embarrassment, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, fraud, misrepresentation, deprivation of protected rights, in furtherance of conspiracy leveled against Relator, evil and malicious intent, other reasons known to Respondents and the prosecuting attorney; therefore sustaining that the Ohio Supreme Court *sua sponte* or on motion by party, award to Relator reasonable expenses, fees, costs or double costs and/or any other sanction the Ohio Supreme Court deems just..

Relator through this instant motion, request this Court exercise to also exercise its own discretion and/or accept this motion and issue the applicable sanctions (if permissible – via **"snapshot rule"** and **"inherent power,"** etc.) in that Respondents and/or their counsel knew and/or should have known that RespMTD lacked legal and evidentiary support and has been submitted for purposes of evading rule, annoyance, delay, sham, frivolousness, ill motive, bad faith, hindering proceedings, harassment, embarrassment, intimidation, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, deprivation of rights, deprivation of equal

protection of the laws, deprivation of due process of laws, etc. of Relator; therefore warranting sanctions pursuant to S. Ct. R. XIV, Section 5 and/or applicable statutes/laws governing said matters. In support thereof, the Relator states:

> *Skidmore Energy, Inc. v. KPMG,* 455 F.3d 564, 569-570 (2006) – Under the **"snapshot"** rule, sanctions based on a frivolous pleading were proper because the lack of legal and evidentiary support for the pleading at the time it was filed. The . . .court found the claims lacked both legal and factual support and imposed more than $500,000 in sanctions against plaintiffs and their counsel, based on defendants' reasonable expenses incurred in litigating against the claims. . . . This test focuses on the instant when the signature is placed on the document, and the state of mind of the signer at the time. The test ensures the Rule 11 liability is assessed only for violation existing at the moment of filing. The . . . court had clearly concluded that the pleadings were frivolous when filed. The fact that they continued to lack evidentiary support throughout the proceedings only underscored the violation.
>
> *Skidmore Energy, Inc. v. KPMG,* 455 F.3d 564 (2006) - **(n. 4)** Both client and attorney have duty to conduct reasonable inquiry into facts or law before filing lawsuit; **(n. 5)** In lawsuit addressing ongoing dispute . . .court did not abuse its discretion in awarding Rule 11 sanctions against plaintiffs; rather than sanctioning them for legally frivolous nature of pleadings, it sanctioned them for . . .factually groundless allegations in their complaint; and **(n. 7)** Fifth Circuit's "snapshot" rule/test ensures that Rule 11 liability is assessed only for a violation existing at moment of filing.
>
> Reasonable counsel fees for defending a suit pursued without justification was an appropriate sanction to be imposed against plaintiff, whose counsel was evidently operating in a flagrant disregard of norms of proper legal practice or in flagrant ignorance of legal principles easily discernible and relevant to the case. *Costanzo v. Plain Dealer Pub. Co.,* 715 F.Supp. 1380 (N.D. Ohio, 1989) (West Ohio Digest)

48. Just as Stor-All (who is plaintiff in underlying lawsuit of ***Emergency*** *Writ of Prohibition*) filed Complaint for Forcible Entry and Detainer for malicious intent, so has Respondents in the bringing of its Motion to Dismiss in this action. Respondents knew prior to brining its Motion to Dismiss, it had no hopes at success.

> Attorney's ethical obligation of zealous advocacy on behalf of his or her client does not amount to carte blanche to burden the . . .courts by pursuing claims that are frivolous on the merits, and, when attorney knows or reasonably should know that claim pursued is frivolous, or that his or her litigation tactics will needlessly obstruct the litigation of nonfrivolous claims, trial court does not err by assessing fees attributable to such actions against the attorney. *Wilson-Simmons v.*

Lake County Sheriff's Dept., 207 F.3d 818, 2000 Fed.App. 104P (6th Cir., Ohio 2000) (West Ohio Digest).

When attorney knows or reasonably should know that claim pursued is frivolous, or that his or her litigation tactics will needlessly obstruct litigation of nonfrivolous claims, assessment of fees attributable to such actions against attorney is proper. *Fifth Third Bank v. Boswell,* 125 F.R.D. 460 (S.D. Ohio, 1989) (West Ohio Digest)

Reasonable counsel fees for defending a suit pursued without justification was an appropriate sanction to be imposed against plaintiff, whose counsel was evidently operating in a flagrant disregard of norms of proper legal practice or in flagrant ignorance of legal principles easily discernible and relevant to the case. *Costanzo v. Plain Dealer Pub. Co.*, 715 F.Supp. 1380 (N.D. Ohio, 1989) (West Ohio Digest)

49. As a matter of law, Relator is entitled to relief from sanctions of and against Respondents and/or their counsel, Christian J. Schaefer (#0015494) for the bringing of this instant ***Emergency*** *Writ of Prohibition* and subsequent pleadings which fees/costs for bringing and defending is approximately **$14,768.75** (Time for Research/Drafting of pleadings - ***Emergency*** *Writ of Prohibition, Supreme Court of Ohio Notice of Filing: Criminal Complaint With Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 of the Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes* and now this instant filing of approximately **126.25 hours at $115 hr. = $14,518.75**; copying/postage/out-of-pocket expenses of approximately **$250**). The record evidence will sustain that Relator has filed the applicable Motions for Sanctions in the Hamilton County Court of Common Pleas Case No. 09CV01690 which are presently pending; however may need the Supreme Court's intervention through prohibition/mandamus and/or applicable statutes/laws known to said Court to assure issuance and granting of sanctions warranted to deter legal wrongs rendered Relator.

Roo v. Sain, 2005 -Ohio- 2436 (Ohio.App.10.Dist.,2005) - ***Landlord*** engaged in **habitually** persistent, *vexatious conduct*, as required ***to support*** *order declaring* ***landlord*** *vexatious litigator* and limiting future litigation against tenant; ***after tenant was granted summary judgment*** on grounds of res judicata in *landlord's action to recover* ***unpaid*** *rent that arose from same transaction that was basis for prior* ***unlawful*** *detainer action and judgment* was affirmed on appeal, *landlord appealed to Supreme Court, which* ***denied*** *jurisdiction* and *then* ***denied*** *reconsideration of jurisdiction issue,* ***granted*** **motions for sanctions**, ***denied*** **landlord's motion for relief from sanctions**, and *then* ***ordered further*** *sanctions when landlord renewed motion*. R.C. § 2323.52.

See **EXHIBIT "20"** attached hereto and incorporated by reference. The record evidence clearly sustains Stor-All's and its insurance company's (Liberty Mutual) knowledge of Relator's engagement in protected activities and said knowledge being the motive behind the criminal/civil wrongs leveled against Relator. Moreover, the bringing of the

malicious forcible entry and detainer action underlying this instant ***Emergency*** *Writ of Prohibition.*

50. Relator believes that the hourly rate charged considering history/pattern-of-practice/pattern-of-conduct to interfere with legal representation and/or obstructing Relator's access through legal representation for purposes of obtaining an undue/unlawful/illegal advantage in matters. Relator is college educated (B.S. Degree) and has experience in the legal profession.

51. Relator believes the record evidence further sustains that she is entitled to costs/fees/expenses associated with bringing of this Prohibition action and the defending thereof due to her indigent status that has been contributed to plaintiff's (Stor-All Alfred, LLC) and others actions in the lawsuit underlying this matter. The Complaint for Forcible Entry and Detainer was a malicious lawsuit brought against Relator for purposes of covering up its criminal/civil wrongs leveled against Relator. Once filed, Stor-All engaged the services of Respondents to aid and abet in the furtherance of criminal/civil wrongs leveled against Relator. Moreover, Stor-All relied upon unlawful/illegal practices to influence Respondents' decision; therefore, warranting the filing of this ***Emergency*** *Writ of Prohibition* for the reasons set forth herein.

52. Relator believes the record evidence will sustain that Stor-All and others (i.e. such as Respondents) continue to file vexatious pleadings for purposes of bankrupting Relator and causing her financial ruin/devastation; moreover, for purposes of preventing her from obtaining justice. Pitting its Respondents and Stor-All's and its representatives mega financial wealth, vast legal resources, arsenal of attorneys against the single pro se litigant (Relator) who is presently unemployed as a direct and proximate result of criminal/civil wrongs leveled against Newsome for purposes of obtaining an undue/unlawful/illegal advantage in the lawsuit underlying this ***Emergency*** *Writ of Prohibition.*

53. JUSTICE demands and due to public concerns, Relator is entitled to the sanctions she seeks of and against Respondents and their counsel for having to bring this instant ***Emergency*** *Writ of Prohibition.* Said filing has been submitted in good faith.

54. Should the Ohio Supreme Court grant ***Emergency*** *Writ of Prohibition* and the relief of sanctions, that it order that said fees/costs/expenses incurred by Relator be made payable approximately 15 days from the time of entry of granting to Prohibition relief.

CONCLUSION

This ***Emergency*** *Writ of Prohibition* action was brought as the direct and proximate result of the racial and malicious intent of the plaintiff, Stor-All Alfred, LLC, in the underlying lawsuit from which this action has been brought. Stor-All's and its insurance company's, Liberty Mutual Insurance's, knowledge of Relator's engagement in protected activities clearly outside this matter and unrelated, resulted in its bringing of Complaint for Forcible Entry and Detainer in the lower

court. Said Complaint was met with Relator's ***Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim and Demand for Jury Trial.*** Stor-All's bringing its forcible entry and detainer action was also for purposes of covering up its criminal/civil wrongs, in furtherance of conspiracy leveled against Relator, and other reasons known to Stor-All. The evidence contained in this ***Emergency*** *Writ of Prohibition* action and that in the records of the lower courts will support what African-Americans and/or people of color have known for quite some time:

a) Racial/Prejudicial biases in the application of the laws – the laws are *not* equally applied when whites are involved. Whites get more lenient sentences for criminal acts than that of African-Americans and/or people of color. However, Relator in her Criminal Complaint filed with the FBI out of the completion of additional crimes and/or furtherance of crimes and conspiracies – to obtain the object pursued - is requesting the maximum punishment (fine **and** imprisonment) under the laws for such egregious criminal acts rendered her by those found to be guilty of the September 9-10, 2009, crimes carried out against her. This instant pleading will further support how Stor-All has used its vast financial and legal resources for purposes of obtaining an undue/unlawful/illegal advantage in this lawsuit and has relied upon special favors by Respondents, Judge John Andrew West and others to obtain rulings in its favor that are contrary to statutes/laws governing said matters.

b) Racial profiling. Stalking of Relator, etc. for purposes of attempting to get her to commit a crime and/or crimes – i.e. which backfired and Stor-All, its representatives and others instead being those who have engaged in criminal activities similar to those in which O.J. Simpson was found guilty of.

c) Deprivation of rights, obstruction of justice, conspiracy to interfere with civil rights through the obstruction of justice. Deprivation of equal protection of the laws and due process of laws – rights secured under the Constitution (Ohio and United States), Civil Rights Act and other governing statutes/laws.

d) Racial discrimination, discrimination in employment, discrimination in the handling of judicial lawsuits, etc.

Such concerns which the United States President, Barack Obama, is fully aware of and has committed to addressing and NOT tolerating under his administration. Said commitment to said

causes is evidenced in his nomination of the United States Attorney General, Eric Holder, Supreme Court Justice, Sonia Sontomayer, Tom Perez, and others. Moreover, his concerns to see that the laws are **equally** *applied free of discrimination, prejudices and bias* – such concerns may be evidenced in his promise requested of Sontomayer:

> **CUT & PASTED 10/12/09 FROM:**
> **http://blogs.abcnews.com/george/2009/09/sonia-sotomayors-big-day.html**
> **George's Bottom Line**
> Sonia Sotomayor's Big Day
> September 25, 2009 11:00 AM
>
> With the first Monday in October just around the corner, Justice Sonia Sotomayor sat for an interview with C-Span's Susan Swain and **reveals the dramatic tale of how she came to learn that she was being nominated to the Supreme Court:**
>
> . . . SOTOMAYOR: Still at home, still packing. I actually stood by my balcony doors, and I had the - my cell phone in my right hand and I had my left hand over my chest trying to calm my beating heart, literally. And the president got on the phone and said to me, 'Judge, I would like to announce you as my selection to be the next Associate Justice of the United States Supreme Court.'
> And I said to him--I caught my breath and started to cry and said, 'Thank you, Mr. President.' That was what the moment was like.
> SWAIN: And then what?
>
> SOTOMAYOR: He asked me to make him two promises. **The first** *was to* ***remain the person*** *I was*, and **the second** *was to* ***stay connected to my community***. And I said to him that those were two easy promises to make, because those two things I could not change. And he then said we would see each other in the morning. Which we obviously did. . . .

Apparently, aware of how such judges (as Judge John Andrew West and Judge Nadine L. Allen) when given the opportunity to make a difference and see that they laws are equally applied and justice is rendered regardless of the color of skin, etc., they succumb to bribery, threats, intimidation, blackmail, conspiracies, etc. which strips and deprives citizens of protected rights. Further evidence of Stor-All's ability to influence the Judge's decision and *getting it* ***vacated,*** is that of Judge Nadine L. Allen's July 10, 2009 ruling (Order Granting Motion to Transfer for Jurisdiction) – See **EXHIBIT "5"** attached hereto and incorporated by reference as if set forth in full herein. Moreover, out of

ALL post judgments filed in the lower court actions lawsuit, the **ONLY** one that has been acted upon was that of Judge Allen's July 10, 2009 ruling. Wherein she vacated said Order on or about August 6, 2009 – See **EXHIBIT "3"** attached hereto and incorporated by reference. Doing so without jurisdiction and without just cause. Nevertheless, **ALL** of Relator's post motions in lower court and the relief sought are REPEATEDLY IGNORED. Moreover, a reasonable mind may conclude, that as Judge West admitted at the March 2009 hearing, the court does not consider any filings of Relator. Therefore, a reasonable mind may conclude the TRUE motives/reasons why Judge Sonia Sotomayor was attacked for her statement:

> "I would hope that a wise Latina woman with the richness of her experiences would, more often than not, reach a better conclusion."

It is apparent what was meant by such statement; moreover, why those who are not African-American and/or a person of color would be offended and/or oppose such statement. Look at the rulings and the handling of matters involving Relator and how they have been influenced by criminal/illegal/unlawful practices by corrupt officials and Stor-All. No one with the morals, integrity, personal experience and review of the statutes/laws on the books, would definitely have not engaged in such criminal/illegal/unlawful practices as those repeatedly leveled against Relator and carried out on September 9-10, 2009. The record evidence will support that those orchestrating and carrying out of such crimes against Relator have been of the white majority and that their decisions are racially motivated and done with purposes of oppression and to keep "Relator in her place." Just as Judge Sotomayor has attempted to retract making such a statement, the TRUTH is the TRUTH and there should have been no apology necessary for the truth; however, when one is bent on keeping such racial and discriminatory practices as that leveled against Relator and carried out by corrupt judges and others UNDERCOVER/HIDDEN, then of course they would be offended by such a statement.

WHEREFORE, PREMISES CONSIDERED, Relator reiterates the defenses set forth in *Rebuttal/Opposition To Motion To Dismiss and Memorandum In Support of Motion To Dismiss of*

Respondents; and Request For Sanctions and hereby moves this honorable Court to GRANT the relief sought through this instant filing as well as that of her *Emergency Writ of Prohibition and Supporting Affidavits* and *Supreme Court of Ohio Notice of Filing: Criminal Complaint With Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 of the Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes* and to issue the applicable sanctions of and against Respondents and their counsel, Christian J. Schaefer for the reasons set forth above and pursuant to S. Ct. R. XIV, Section 5 and the applicable statutes/laws governing said matters. Moreover, any and all applicable relief the Ohio Supreme Court deems just and fair to correct the legal wrongs complained of herein.

Respectfully submitted this **19th** day of **October, 2009.**

Denise Newsome, *Relator Pro Se*
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the forgoing pleading was MAILED via U.S. Mail first-class to:

Joseph T. Deters, Esq.
Prosecuting Attorney
Christian J. Schaefer, Esq.
Assistant Prosecuting Attorney
230 E. Ninth Street, Suite 4000
Cincinnati, Ohio 45202-2174
ATTORNEYS FOR RESPONDENTS

Patricia M. Clancy – Clerk of Courts
Hamilton County Municipal Court
1000 Main Street
Cincinnati, Ohio 45202

Schwartz Manes Ruby & Slovin, LPA
Attn: David Meranus, Esq.
2900 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202

Dated this **19th** day of **October, 2009.**

Denise Newsome

COMPLAINT AND REQUEST FOR INVESTIGATION FILED BY VOGEL DENISE NEWSOME WITH THE FEDERAL BUREAU OF INVESTIGATION – CINCINNATI, OHIO; AND REQUEST FOR UNITED STATES PRESIDENTIAL EXECUTIVE ORDER(S) DECEMBER 28, 2009[1]

COMES NOW, Vogel Denise Newsome ("Newsome") and files this, her ***Criminal Complaint and Request for Investigation with the Federal Bureau of Investigation and Request for United States Presidential Executive Order(s)*** **TO THE ATTENTION OF:**

VIA PRIORITY MAIL: SIGNATURE CONFIRMATION TRACKING NO. 2306 1570 0001 0585 6171
The United States White House
ATTN: U.S. President Barack Obama
1600 Pennsylvania Ave NW
Washington, DC 20500

VIA PRIORITY MAIL: SIGNATURE CONFIRMATION TRACKING NO. 2306 1570 0001 0585 6225
U.S. Department of Justice
ATTN: Attorney General Eric H. Holder, Jr.
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

VIA PRIORITY MAIL
U.S. Department of Justice
c/o Brick Bradford - *Special Investigations*
550 Main Street, Room 9000
Cincinnati, Ohio 45202

through the Cincinnati, Ohio Office of and against the following persons for the ***crimes set forth herein that were committed on or about December 2, 2009*** – Stating as follows:

[1] Boldface, Italics, Underline, etc. added for emphasis.

EXHIBIT 16

Conspirator(s)[2] include:

1) Kristina D. Frost ("Frost") – Clerk of Court - Supreme Court of Ohio
2) Thomas J. Moyer ("Moyer") – Chief Justice - Supreme Court of Ohio
3) Robert R. Cupp ("Cupp") – Justice - Supreme Court of Ohio
4) Judith Ann Lanzinger ("Lanzinger") – Justice - Supreme Court of Ohio
5) Maureen O'Connor ("O'Connor") – Justice – Supreme Court of Ohio
6) Terrence O'Donnell ("O'Donnell") – Justice - Supreme Court of Ohio
7) Paul E. Pfeifer ("Pfeifer") – Justice - Supreme Court of Ohio
8) Evelyn Lunberg Stratton ("Stratton") – Justice - Supreme Court of Ohio
9) JoElla Jones ("Jones") – Deputy Clerk - Supreme Court of Ohio
10) Nadine L. Allen ("Allen") – Judge, Hamilton County Municipal Court
11) Joseph T. Deters ("Deters") – Prosecuting Attorney (Hamilton County, Ohio)
12) Christian J. Schaefer ("Schaefer") – Assistant Prosecuting Attorney (Hamilton County, Ohio)
13) Supreme Court of Ohio
14) PSI Group ("PSI") – Grove City, Ohio - Includes owners, shareholders, partners, representatives collectively known as "PSI "
15) John/Jane Doe(s) – Name(s) to be determined upon receipt through this investigation

for the following criminal acts and/or charges set forth herein (i.e. and those known to the Federal Bureau of Investigation's ("FBI") Investigator(s)/Agent(s) that should be filed for the crimes/criminal acts asserted herein) following:

---

[2] *Dorger v. State*, 179 N.E. 143 (Ohio.App.1.Dist.**Hamilton.**Co.,1931) - Where evidence showed conspiracy . . . **each** conspirator ***is bound by other's acts in furtherance of conspiracy***.

State v. Carver, 283 N.E.2d 662 (Ohio.App.4.Dist. 1971) - **Each** party to a conspiracy is criminally responsible for all acts done in furtherance of the conspiratorial design.

Bertear v. State, 8 Ohio Law Abs. 252 (Ohio.App.8.Dist. 193) - *Where conspiracy was established*, **each** conspirator was *liable for the acts performed by the others in furtherance thereof*.

English v. Matowitz, 72 N.E.2d 898 (Ohio,1947) - *One* ***need not be present*** *at place of the crime* ***in order to be charged*** *as an* ***aider and abettor or conspirator***, *but constructive presence is sufficient*.

State v. Rogers, 27 N.E.2d 791 (Ohio.App.7.Dist. 1938) - *One who enters into a conspiracy to commit an unlawful act* ***is guilty of any unlawful act of his coconspirators*** *in furtherance of the conspiracy*, and it is not necessary that the conspiracy be one to commit the identical offense charged in the indictment, or even a similar one, but it is enough that the offense charged was one which might have been contemplated as resulting from the conspiracy.

Maple Hts. v. Ephraim, 2008 -Ohio- 4576 (Ohio.App.8.Dist. 2008) - Much like the rule of *aiding and abetting, the overt acts of one person in a criminal conspiracy are attributable to all persons in the conspiracy*.

COUNT ONE:
CONSPIRACY

I. CONSPIRACY[3]

Conspiracy - An agreement by two or more persons to commit an unlawful act, coupled with an intent to achieve the agreement's objective, and (in most states) action or conduct that furthers the agreement; a combination for an unlawful purpose. 18 USC § 371. . .

> "When two or more persons combine for the purpose of inflicting upon another person an injury which is unlawful in itself, or which is rendered unlawful by the mode in which it is inflicted, and in either case the other person suffers damage, they commit the tort of conspiracy." P.H. Winfield, *A Textbook of the Law of Tort* §128, at 434 (5th ed. 1950)

Chain Conspiracy - A single conspiracy in which each person is responsible for a distinct act within the overall plan. . . .*All participants are interested in the overall scheme and liable for all other participants' acts in furtherance of that scheme. (Conspiracy §24(3) C.J.S. Conspiracy §§117-118).

Conspire - To engage in conspiracy; to join in a conspiracy.

Conspirator - A person who takes part in a conspiracy.

O.R.C. § 2923.01 CONSPIRACY.

(A) No person, with purpose to commit or to promote or facilitate the commission of . . . engaging in a pattern of corrupt activity, . . . shall do either of the following:

> (1) With another person or persons, ***plan or aid*** in planning the commission of any of the specified offenses;
>
> (2) *Agree with another person or persons that one or more of them will engage in conduct that facilitates the commission of any of the specified offenses*.

(B) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the accused or a person with whom the accused

[3] Definition taken from Blacks Law Dictionary – 8th Edition.

conspired, subsequent to the accused's entrance into the conspiracy. For purposes of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.

(C) When the offender knows or has reasonable cause to believe that a person with whom the offender conspires also has conspired or is conspiring with another to commit the same offense, the offender is guilty of conspiring with that other person, even though the other person's identity may be unknown to the offender.

(D) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the conspiracy was impossible under the circumstances.

(E) A conspiracy terminates when the offense or offenses that are its objects are committed or when it is abandoned by all conspirators. In the absence of abandonment, it is no defense to a charge under this section that no offense that was the object of the conspiracy was committed.

(F) A person who conspires to commit more than one offense is guilty of only one conspiracy, when the offenses are the object of the same agreement or continuous conspiratorial relationship.

(G) When a person is convicted of committing or attempting to commit a specific offense or of complicity in the commission of or attempt to commit the specific offense, the person shall not be convicted of conspiracy involving the same offense.

(H)(1) No person shall be convicted of conspiracy upon the testimony of a person with whom the defendant conspired, unsupported by other evidence.

(2) If a person with whom the defendant allegedly has conspired testifies against the defendant in a case in which the defendant is charged with conspiracy and if the testimony is supported by other evidence, the court, when it charges the jury, shall state substantially the following:

> "The testimony of an accomplice that is supported by other evidence does not become inadmissible because of the accomplice's complicity, moral turpitude, or self-interest, but the admitted or claimed complicity of a witness may affect the witness' credibility and make the witness' testimony subject to grave suspicion, and require that it be weighed with great caution.

It is for you, as jurors, in the light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth."

(3) "Conspiracy," as used in division (H)(1) of this section, does not include any conspiracy that results in an attempt to commit an offense or in the commission of an offense.

(I) The following are affirmative defenses to a charge of conspiracy:

(1) After conspiring to commit an offense, the actor thwarted the success of the conspiracy under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.

(2) After conspiring to commit an offense, the actor abandoned the conspiracy prior to the commission of or attempt to commit any offense that was the object of the conspiracy, either by advising all other conspirators of the actor's abandonment, or by informing any law enforcement authority of the existence of the conspiracy and of the actor's participation in the conspiracy.

(J) Whoever violates this section is guilty of conspiracy, which is one of the following:

(1) A felony of the first degree, when one of the objects of the conspiracy is aggravated murder, murder, or an offense for which the maximum penalty is imprisonment for life;

(2) A felony of the next lesser degree than the most serious offense that is the object of the conspiracy, when the most serious offense that is the object of the conspiracy is a felony of the first, second, third, or fourth degree;

(3) A felony punishable by a fine of not more than twenty-five thousand dollars or imprisonment for not more than eighteen months, or both, when the offense that is the object of the conspiracy is a violation of any provision of Chapter 3734. of the Revised Code, other than section 3734.18 of the Revised Code, that relates to hazardous wastes;

(4) A misdemeanor of the first degree, when the most serious offense that is the object of the conspiracy is a felony of the fifth degree.

(K) This section does not define a separate conspiracy offense or penalty where conspiracy is defined as an offense by one or more

sections of the Revised Code, other than this section. In such a case, however:

(1) With respect to the offense specified as the object of the conspiracy in the other section or sections, division (A) of this section defines the voluntary act or acts and culpable mental state necessary to constitute the conspiracy;

(2) Divisions (B) to (I) of this section are incorporated by reference in the conspiracy offense defined by the other section or sections of the Revised Code.

(L)(1) In addition to the penalties that otherwise are imposed for conspiracy, a person who is found guilty of conspiracy to engage in a pattern of corrupt activity is subject to divisions (B)(2) and (3) of section 2923.32, division (A) of section 2981.04, and division (D) of section 2981.06 of the Revised Code.

1) The herein named Conspirator each are bound by the acts of other Conspirators and/or Co-Conspirators in furtherance of the conspiracy made known through Newsome's Supreme Court of Ohio pleadings; as provided through Newsome's filings entitled, *Supreme Court of Ohio Notice of Filing: Criminal Complaint With The Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 Of The Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes* and subsequent pleadings.

2) The herein Conspirators each is criminally responsible and liable for all acts done in furtherance of the conspiratorial design leveled against Newsome.

3) Conspirators knew and/or should have known of the crimes being committed against Newsome in the handling of the December 2, 2009 ENTRY of the Supreme Court of Ohio. Said ENTRY which is attached hereto at **EXHIBIT "A"** and incorporated herein by reference as if set forth in full herein. Said criminal acts (i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*) committed in the handling of December 2, 2009, ENTRY by Conspirators were done with willful, deliberate, intentional and malicious intent to deprive Newsome rights secured to her under the Constitution as well as other laws of the United States.

4) Conspirator(s) through their criminal acts on or about December 2, 2009 and in their handling of the December 2, 2009 ENTRY of the Supreme Court of Ohio, did knowingly, willing, intentionally and maliciously aid and abet the overt acts of each other in the criminal conspiracy leveled against Newsome.

5) Conspirators agreed to commit an unlawful act *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*, coupled with intent to achieve the agreement's objective – i.e. deprive Newsome equal protection of the laws, due process of laws, rights secured/guaranteed to her under the laws of the State of Ohio and laws of the United States – criminal acts knowingly, deliberately, intentionally and maliciously done for an unlawful purpose.

6) Conspirators combined for the purpose of inflicting upon Newsome an injury – i.e. tampering with mail, obstructing and impeding receipt of December 2, 2009 ENTRY of the Supreme Court of Ohio regarding Emergency Writ of Prohibition - which is unlawful in itself; moreover, was rendered unlawfully by the mode in which it was inflicted to deprive her equal protection of the laws and due process of laws, wherein Newsome has been injured/harmed/damaged.

7) Conspirators engaged in a Chain Conspiracy wherein each Conspirator was responsible for the carrying out of the distinct act within the overall plan – i.e. Justices of the Supreme Court of Ohio did knowingly and willingly AGREE to the December 2, 2009 ENTRY executed by Justice Thomas J. Moyer dismissing Newsome's Emergency Writ of Prohibition action. Doing so with knowledge that said ruling clearly conflicted with said Court's prior rulings on matter as well as that of other courts of the United States. - - All Conspirators having an interest in the overall scheme of the criminal conspiracy leveled against Newsome and are liable for all other Conspirators' acts in furtherance of that scheme.

8) Conspirators, with purpose to commit or to promote or facilitate the commission of engaging in a pattern of corrupt activity, did knowingly, willingly, intentionally, deliberately and maliciously:

    a. Plan or aid with other Conspirator(s) in planning the commission of criminal acts (i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*) leveled against Newsome to deprive her equal protection of the laws, due process of laws, infringement upon

Newsome's Constitutional and Civil Rights as well as other rights secured/guaranteed under the laws of the United States.

b. Agree with other Conspirator(s) that one or more of them would engage in conduct that would impede, hinder and interfere with Newsome's timely receipt of December 2, 2009 ENTRY of the Supreme Court of Ohio for purposes of depriving Newsome equal protection of the laws, due process of laws and other rights secured under the laws of the United States.

9) By engaging in the criminal acts involving the December 2, 2009 ENTRY of the Supreme Court of Ohio, each Conspirator carried out an OVERT act in furtherance of the conspiracy made known to the Ohio Supreme Court and lower courts through Newsome's *Supreme Court of Ohio Notice of Filing: Criminal Complaint With The Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 Of The Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes*. Conspirators in engaging in conspiracy and fulfilling their role in criminal conspiracy did knowingly, deliberately, intentionally and maliciously did see that the object of their conspiracy was obtained – i.e. ***engagement in CORRUPTION for purposes of COVERING UP, aiding and abetting, and in furtherance of the criminal acts filed with the FBI on or about September 24, 2009 (made known to the Supreme Court of Ohio through Newsome's pleading filed entitled, "Supreme Court of Ohio Notice of Filing: Criminal Complaint With The Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 Of The Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes") with intent to deprive Newsome equal protection of the laws and due process of laws by obstructing, impeding, tampering and compromising mailing through committal of criminal acts*** - which resulted in what the Supreme Court of Ohio alleges was an untimely filing of Newsome's ***Motion for Reconsideration*** with knowledge that it had engaged in criminal activities to deter, impede and interfere with rights secured to Newsome under the laws of the State of Ohio as well as the laws of the United States. ***The record evidence will support that the Supreme Court of Ohio was timely, properly and adequately notified of its engagement in CRIMINAL activities. To no avail.***

10) Conspirators knew and/or had reasonable cause to believe that other person with whom he/she conspired also has conspired with another to commit the same criminal offense(s) -- *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice* - - and/or the fulfilling of said criminal offense although the identity may be unknown to the offender.

11) Any defense that Conspirators may attempt to assert such as, "object of the conspiracy was impossible under the circumstances," is frivolous and cannot be sustained.

12) Conspirators fulfilled the object of their criminal conspiracy and engagement in criminal acts (i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to*

Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice) which was to COVER-UP the CORRUPTION of the Justices of the Supreme Court of Ohio and others, as well as the CRIMINAL ACTIVITIES, CONSTITUTIONAL as well as CIVIL RIGHTS violations leveled against Newsome. Conspirators engaged in the criminal acts for purposes of depriving Newsome rights secured under the Constitution and laws of the United States and other governing statutes/laws to file her ***Motion for Reconsideration***. In so doing, Conspirators obtained the object of their criminal conspiracy; moreover, deprived Newsome equal protection of the laws and due process of law secured to her under the Constitution and other statutes/laws governing said matters.

13) Conspirators while he/she may have committed more than one offense, is guilty of only one conspiracy when said offenses are the object of the same agreement or continuous conspiratorial relationship.

14) The record evidence and/or evidence provided herein supports the conviction of Conspirators for their acts and roles played in criminal conspiracy leveled against Newsome.

15) The record evidence will support that Justices of the Supreme Court of Ohio had a duty to correct the injustices timely, properly and adequately made known to their attention; however, elected not to do so. Justices making a willful, deliberately, knowingly and malicious decision to accept bribes paid to said Court Justices by LIBERTY MUTUAL's attorneys for purposes of obtaining favorable rulings in favor of their clients. Said bribes which has further led to conspiracy to of entering the CONFLICTING December 2, 2009 ENTRY and Justices engagement in the criminal acts (i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*) leveled against Newsome.

16) Justices of the Supreme Court of Ohio had a financial interest in the outcome of Newsome's Writ of Prohibition action. To render a decision in Newsome's favor may have resulted in Justice(s) of said Court not receiving future financial contributions from LIBERTY MUTUAL and/or LIBERTY MUTUAL's attorneys' law firms.

17) Justices of the Supreme Court of Ohio compromised Newsome's Writ of Prohibition action and engaged in criminal conspiracy and criminal acts on or about December 2, 2009, for purposes of providing special favors/rulings in exchange for the monies LIBERTY

MUTUAL and/or LIBERTY MUTUAL's attorneys' law firms paid into Justices Campaigns.

18) Newsome prays for the applicable punishment and/or maximum punishment allowed under the laws of and against Conspirator(s) found guilty of said crime(s).

COUNT TWO:
CONSPIRACY AGAINST RIGHTS

II. CONSPIRACY AGAINST RIGHTS

CUT & PASTED FROM:
http://www.law.cornell.edu/uscode/html/uscode18/usc_sec_18_00000241----000-.html

(a) TITLE 18 U.S.C § 241. CONSPIRACY AGAINST RIGHTS:

If two or more persons **conspire to injure**, **oppress**, **threaten**, or **intimidate any person** in any State, Territory, Commonwealth, Possession, or District **in the free exercise or enjoyment of any right or privilege** secured to him by the Constitution or laws of the United States, or ***because of his having so exercised the same***; or . . .

They **shall be fined** under this title or **imprisoned** *not more than* ***ten*** *years*, or **both**; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

CUT & PASTED FROM:
http://www.fbi.gov/hq/cid/civilrights/statutes.htm

TITLE 18, U.S.C., SECTION 241 - CONSPIRACY AGAINST RIGHTS

This statute makes it unlawful for two or more persons to conspire to injure, oppress, threaten, or intimidate any person of any state, territory or district in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the United States, (or because of his/her having exercised the same). . . .

Punishment varies from a fine or imprisonment of up to ten years, or both; and if death results, or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title or imprisoned for any term of years, or for life, or may be sentenced to death.

(b) **CONSPIRACY DEFINED/PREREQUISITES:** [4]

> A "conspiracy" requires (1) an object to be accomplished, (2) a plan or scheme embodying means to accomplish that object, and (3) an agreement or understanding between two or more of the defendants, whereby they become definitely committed to cooperate for the accomplishment of the object by the means embodied in the agreement, or by an effectual means. – *U.S. v. Gibbs,* 182 F.3d 408, 1999 Fed.App. 0140P, certiorari denied 120 S.Ct. 592, 528 U.S. 1051, 145 L.Ed.2d 492, appeal after new sentencing hearing *U.S. v. Hough,* 276 F.3d 884, 2002 Fed.App. 0018P, rehearing and suggestion for rehearing denied, and rehearing and suggestion for rehearing denied, certiorari denied 122 S.Ct. 1986, 535 U.S. 1089, 152L.Ed.2d 1042, certiorari denied *Woods v. U.S.*, 123 S.Ct. 199, 537 U.S. 898, 154 L.Ed.2d 169.
>
> Essential elements of a "conspiracy" are: that the conspiracy described in indictment was willfully formed and was existing at or about the time alleged, that the accused willfully became a member of conspiracy, that one of the conspirators thereafter knowingly committed at least one overt act charged in indictment at or about the time and place alleged, and that such overt act was knowingly done in furtherance of some object or purpose of the conspiracy charged. *U.S. v. Kraig,* 99 F.3d 1361, 1996 Fed.App. 0355P - (C.A. 6 Ohio 1996).

1) Conspirators conspired to injure, oppress, threaten and intimidate Newsome in the State of Ohio in the free exercise or enjoyment rights secured under the laws of the Constitution and/or laws of the United States because of her so exercising of same.

2) In the committal of the criminal conspiracy leveled against Newsome, Conspirators **(a)** obtained the object to be accomplished by committing criminal conspiracy acts – i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*; **(b)** involves a plan or scheme embodying the means to accomplish that object – ***engagement in CORRUPTION for purposes of COVERING UP, aiding and abetting, and in furtherance of the criminal acts filed with the FBI on or about September 24, 2009 (made known to the Supreme Court of Ohio through Newsome's pleading filed entitled, "Supreme Court of Ohio Notice of Filing: Criminal Complaint With The Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 Of The Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes") with intent to deprive Newsome equal***

[4] Ohio Jur 3d Words & Phrases – *"Conspiracy."*

protection of the laws and due process of laws by obstructing, impeding, tampering and compromising mailing through committal of criminal acts; and **(c)** agreed or reached an understanding whereby each became definitely committed to cooperate for the accomplishment of the object pursued by the means and role each played in the carrying out of criminal conspiracy.

3) Conspirators knew and/or should have known they were knowingly, willingly, deliberately, intentionally and maliciously engaging in a criminal conspiracy, and, said criminal conspiracy was existing at or about the time alleged that each Conspirator became a member of conspiracy and that one of the Conspirators thereafter knowingly committed at least one OVERT act in which they are charged in indictment at or about the time and place alleged, and that such overt act was knowingly done in furtherance of some object – i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice* - or purpose of the conspiracy charged.

4) Newsome prays for the applicable punishment and/or maximum punishment allowed under the laws of and against Conspirator(s) found guilty of said crime(s).

COUNT THREE:
CONSPIRACY TO DEFRAUD

III. CONSPIRACY TO DEFRAUD

(c) CONSPIRACY TO DEFRAUD:[5]

Words *"conspiracy to defraud"* import moral obliquity and, according to their natural meaning, signify an attempt to deceive by fraud, and such conduct may not be presumed nor established by surmise or conjecture but must be proved by direct evidence or by justifiable inferences from established facts and circumstances. *Pumphrey v. Quillen,* 141 N.E.2d 675, 102 Ohio App. 173, 2 O.O.2d 152, affirmed 135 N.E.2d 328, 165 Ohio St. 343, 59 O.O. 460.

(d) TERMINOLOGY:[6]

Malicious Acts:[7] The terms "malice" and "malicious" are defined not only as relating to the intentional commission of a

[5] Ohio Jur 3d Words & Phrases – *"Conspiracy To Defraud."*

[6] Am. Jur. Pleading and Practice Forms – Torts § 9.

[7] 74 Am. Jur. 2d Torts § 17. *Voss v. American Mut. Liability Ins. Co.,* 341 S.W.2d 270 (1960); *Buckeye Union Ins. Co. v. New England Ins. Co.,* 720 N.E.2d 495 (1999).

wrongful act, but also as involving wickedness, depravity and evil intent.

Willful, Wanton, and Reckless Acts:[8] Tort liability may be based on willful, wanton, or reckless acts. A willful act is one done intentionally, or on purpose, and not accidentally. **Willfulness** implies intentional wrongdoing. . . Willfulness is sufficiently established where there is a knowledge that the act will probably result in an injury to another, and an utter disregard of the consequences.. . A finding of willful misconduct will be sustained where it is clear from the facts that the defendant, whatever his state of mind, has proceeded in disregard of a high degree of danger, whether known to him or apparent to a reasonable person in his position.. . .**Wanton** act is a wrongful act done on purpose or in malicious disregard of the rights of others. A tort having some of the characteristics of both negligence and willfulness occurs when a person with no intent to cause harm intentionally performs an act so unreasonable and dangerous that he knows, or should know, it is highly probable that harm will result from it.

(1) **(a)** **TACIT AGREEMENT** -

Occurs when two or more persons pursue by their acts the same object by the same means. One person performing one part and the other another part, so that upon completion they have obtained the object pursued. Regardless whether each person knew of the details or what part each was to perform, the end results being they obtained the object pursued. Agreement is implied or inferred from actions or statements.

(b) **TACIT DEFINED:** [9]

Implied but not actually expressed; implied by silence or silent acquiescence <a tacit understanding>.

(c) **TACIT CONTRACT DEFINED:** [10]

A contract in which conduct takes the place of written or spoken words in the offer of acceptance (or both).

1) As a matter of law, Conspirators accomplished the object of their conspiracy when committing the crimes set forth in this Complaint and unlawfully/illegally carried out crimes – i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim;*

[8] 74 Am. Jur. 2d Torts § 18. *Bessemer Coal, Iron & Land Co. v. Doak*, 44 So. 627; *Parker v. Pennsyvania Co.,* 34 N.E. 504.

[9] Blacks Law Dictionary – 9th Edition.

[10] Blacks Law Dictionary – 9th Edition.

Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice - for purposes depriving Newsome the right to contest and/or acquiesce the December 2, 2009 ENTRY of the Supreme Court of Ohio. Therefore, Newsome is requesting through this instant Complaint that an investigation into the claims and allegations set forth herein and that those found to have acted in such unlawful/illegal manner be prosecuted and indicted for said legal wrongs.

2) Newsome learned of the completion of criminal conspiracy of Conspirators upon receiving the December 16, 2009, letter of JoElla (Deputy Clerk of the Supreme Court of Ohio). See **EXHIBIT "B"** attached hereto and incorporated by reference. Said letter advising Newsome of the Supreme Court of Ohio's refusal to file her ***Motion for Reconsideration*** alleging ***"The Clerk's Office is prohibited by from filing an untimely motion for reconsideration by Rule XI, Section 2(D)."*** See **EXHIBIT "C"** – Motion attached hereto and incorporated by reference. As a matter of law and in the interest of justice, Newsome's *Motion for Reconsideration* was timely filed and would have been considered timely filed absent the criminal acts of the Supreme Court of Ohio's engagement in criminal conspiracy to deprive Newsome of said rights and because ***GOOD CAUSE has been established***.

3) While Newsome had concerns as to the Supreme Court of Ohio's handling of the December 2, 2009 ENTRY, said concerns were VALIDATED in receipt of the December 16, 2009, letter from JoElla Jones. Furthermore, said concerns of Newsome were memorialized by including United States President Barack Obama and United States Attorney General Eric Holder as recipients of the ***Motion for Reconsideration***. See **EXHIBIT "D"** – December 14, 2009 Mailing Receipt Information attached hereto and incorporated by reference. With said Motion for Reconsideration, Newsome provided a copy of her October 19, 2009, letter to the Supreme Court of Ohio wherein she was requesting AGAIN to be advised of any Conflict of Interest. See **EXHIBIT "E"** – 12/14/09 Cover Letter attached hereto and incorporated by reference as if set forth in full herein.

4) On or about December 19, 2009, Newsome timely, properly and adequately notified the Supreme Court of Ohio of its criminal acts through her correspondence dated same (See **EXHIBIT "F"** attached hereto and incorporated by reference as if set forth in full herein) as well as her pleading entitled, "***Motion To File Motion For Reconsideration Out Of Time and Notice of Ohio Supreme Court's Obstruction Of Justice – Impeding Relator's Timely Receipt of 12/02/09 Entry***" attached hereto at **EXHIBIT "G"** and incorporated herein by reference as if set forth in full herein. However, said filing was also rejected by the Supreme Court of Ohio. See **EXHIBIT "S"** – 12/21/09 Letter attached hereto and incorporated by reference as if set forth in full herein.

5) Both United States President Barack Obama as well as United States Attorney Eric Holder was also provided with Newsome's December 19, 2009, ***Motion To File Motion For Reconsideration Out Of Time and Notice of Ohio Supreme Court's Obstruction Of Justice – Impeding Relator's Timely Receipt of 12/02/09 Entry***. See **EXHIBIT "H"**- USPS Mailing Receipts (sent with **"Delivery"** Only Confirmation) attached hereto and incorporated by reference. If President Barack Obama and U.S. Attorney General Holder have not received said pleading at the time of this instant FBI Complaint, it is of their own doing. They were each provided via e-mail that filings had been submitted to their attention. See **EXHIBIT "I"** attached hereto and incorporated by reference.

6) Through this instant Complaint, Newsome is requesting an investigation into the claims/crimes and allegations set forth herein to determine whether any and/or all of the above referenced Conspirators engaged in a conspiracy toward Newsome and committed crimes [i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*] which were the object of said conspiracy. If so, that the proper prosecution and indictments be rendered and the applicable punishment permissible and/or required by statutes/laws be had of and against all/any of the Conspirators found to be guilty of said crime and/or unlawful/illegal action.

7) Newsome believes that an investigation into allegations and claims against the above referenced Conspirators will support that two or more of said Conspirators agreed to commit unlawful/illegal acts coupled with the intent to achieve the agreements' objectives: **(a)** to conspire against Newsome in exercise of protected rights; **(b)** subjecting Newsome to criminal acts – i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*; **(c)** acts in furtherance of criminal acts leveled against Newsome on or about September 9-10, 2009 in which a timely criminal complaint has also been filed with the FBI and the Supreme Court of Ohio was notified of through Newsome's ***Supreme Court of Ohio Notice of Filing: Criminal Complaint With The Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 Of The Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes***; and **(d)** any such unlawful/illegal acts found during the handling of this investigation.

8) Conspirators conspired for the purpose of inflicting upon Newsome intentional and deliberate injury/harm which they knew was unlawful/illegal and inflicted in a manner known to said Conspirators to be unlawful/illegal and prohibited by statutes/laws. Such actions which resulted in criminal wrongs done of and against Newsome by Conspirators as a direct and proximate result of the conspiracy leveled against her.

9) Conspirators were responsible for a distinct act within the overall plan of the conspiracy in which they were willing participants. Said Conspirators having an interest in the overall scheme and the outcome of said scheme/conspiracy and is therefore, liable for their action and/or those of others in the carrying out of their role in the illegal/unlawful actions against Newsome in furtherance of the conspiracy alleged.

10) The completion of the most recent conspiracy involving the above referenced Conspirators was executed on or about December 2, 2009.

11) Conspirators, under color of their office or authority, knowingly deprived or conspired to deprive Newsome of constitutional and statutory rights.

12) Conspirators, under color of their office or authority, knowingly interfered with Newsome's civil rights.

13) The plan or scheme embodied by the Supreme Court of Ohio and others was done for the purpose of accomplishing the object[11] (i.e. ***engagement in CORRUPTION for purposes of COVERING UP, aiding and abetting, and in furtherance of the criminal acts filed with the FBI on or about September 24, 2009 (made known to the Supreme Court of Ohio through Newsome's pleading filed entitled, "Supreme Court of Ohio Notice of Filing: Criminal Complaint With The Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 Of The Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes") with intent to deprive Newsome equal protection of the laws and due process of laws by obstructing, impeding, tampering and compromising mailing through committal of criminal acts***) of conspiracy by: **(a)** Knowingly, willfully, intentionally, deliberately, and maliciously withholding the December 2, 2009 ENTRY of the Supreme Court of Ohio from Newsome to deprive her equal protection of the laws and due process of laws. **(b)** Furthering the **Pattern-of-Practice/Pattern-of-Conduct** in the conspiracy leveled against Newsome. **(c)** Prejudicing factfinder, justices and others, etc. against Newsome by advising of knowledge of her engagement in protected activities unrelated to the Stor-All matter. **(d)** Projecting Newsome as a ***"serial/vexatious"*** litigator, ***paranoid***, ***psychotic***, ***hostile***, ***potential murderer***, ***boy-who-cried-wolf***, etc. **(e)** Getting factfinders, justices and others to engage in conspiracy and/or in furtherance of pattern-of-practice/pattern-of-conduct underlying the conspiracy against Newsome. **(f)** Engaged in criminal conspiracy on December 2, 2009, for purposes of furthering conspiracy and criminal acts made known to the Supreme Court of Ohio through Newsome's ***Supreme Court of Ohio Notice of Filing: Criminal Complaint With The Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 Of The Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes***.

14) There was an agreement/understanding between persons – *Conspirators* – wherein they became definitely committed to cooperate, play their part for the accomplishment of object[12] by the agreement/understanding embodied in said agreement/understanding.

15) The concerns of the PUBLIC, media and others regarding the Supreme Court of Ohio's taking and receiving monies from insurance companies through financial campaign contribution is not new to the Supreme Court of Ohio Justices. Neither are they ashamed of the impropriety that such acts present. The record evidence will support that the MAJORITY of the Supreme Court of Ohio Justices have received well over $320,000 in financial campaign contributions from law firms who represent LIBERTY MUTUAL.

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[11] ***Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice***

[12] *Id.*

LIBERTY MUTUAL is the insurance company whose client – Stor All Alfred LLC - being sued by Newsome in the lower courts (Hamilton County Municipal Court action that has been transferred to the Hamilton County Court of Common Pleas).

16) The conspiracy engaged in by Conspirators was willfully formed and existed at or about the time the alleged crimes were committed. All Conspirators willfully became a member of the conspiracy and that one or more of said Conspirators committed at least one overt act alleged in the criminal complaint and that such overt act was knowingly done in furtherance of the object[13] or purpose of the conspiracy alleged.

17) Conspirators did knowingly and willingly deceive by fraud through the implementation of criminal acts[14] in furtherance of Pattern-of-Practice/Pattern-of-Conduct underlying conspiracy leveled against Newsome to get others to aid and abet in the object (i.e. ***engagement in CORRUPTION for purposes of COVERING UP, aiding and abetting, and in furtherance of the criminal acts filed with the FBI on or about September 24, 2009 (made known to the Supreme Court of Ohio through Newsome's pleading filed entitled, "Supreme Court of Ohio Notice of Filing: Criminal Complaint With The Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 Of The Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes") with intent to deprive Newsome equal protection of the laws and due process of laws by obstructing, impeding, tampering and compromising mailing through committal of criminal acts***) of the conspiracy.

18) The acts of Conspirators were malicious, willful and wanton and acts were done to the intentional and knowingly commission of a wrongful act/crime [i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*] said Conspirators doing so with wickedness, depravity, and evil intent. Said Conspirators' acts were willful and intentional for the purpose of causing Newsome injury/harm, to cover-up the criminal acts of Stor-All, their attorneys, Judges and others in furtherance of conspiracy leveled against Newsome to deprive her of protected rights secured under the Constitution (Ohio and U.S.), Civil Rights Act, Landlord & Tenant Act and other statutes/laws governing said matters. Said Conspirators knew and/or should have known of the crimes committed against Newsome would cause her injury/harm; nevertheless, Conspirators having an utter disregard of the consequences. There is evidence, facts, and legal conclusions in the record of Stor-All and Courts to sustain that said Conspirators were timely, properly and adequately placed on notice by Newsome that they were engaging in criminal activity. Nevertheless, Conspirators proceeded in disregard of a high degree of danger either known or apparent to him/her or to a reasonable person in his/her position.

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[13] *Id.*

[14] *Id.*

19) Conspirators conspired to commit criminal acts made known in the criminal complaint with knowledge or should have known of their engagement in wrongful acts done on purpose and in malicious disregard to Newsome's rights.

20) Conspirators acted with negligence and willfulness with deliberate intent to harm/injure Newsome – acts said Conspirators knew were unlawful/illegal, unreasonable and dangerous and having knowledge that Newsome would be injured/harmed.

21) Record evidence of Conspirators and that of courts will sustain said Conspirators' knowledge of Newsome's engagement in protected activities and their eagerness to share said knowledge with each other in furtherance of Pattern-of-Practice/Pattern-of-Conduct underlying conspiracy against Newsome. Record evidence and that of courts will support Conspirators having knowledge of Newsome's engagement in statutorily protected rights [i.e. Title VII, Fair Housing Act, Landlord & Tenant Act, etc.], and with said knowledge subjected Newsome to an adverse action [i.e. contacting employers, factfinders, judges and others to notify of Newsome's engagement in protected activities – either present or past]. The record evidence of Conspirators will support there is a causal link between protected activities Newsome is engaged in and the adverse criminal actions Conspirators have leveled against her. In the present matter, on or about December 2, 2009, the Supreme Court of Ohio Justices/Officials/Employees and others did knowingly engage in criminal conspiracy leveled against Newsome to deprive her rights secured/guaranteed under the Constitution and laws of the United States. Said Criminal Conspiracy and evidence to sustain is set forth in this instant FBI Complaint.

22) Conspirators conspired to injure, oppress, threaten and intimidate Newsome in the free exercise or enjoyment of any right or privilege of the United States and the State of Ohio secured to her under the Constitution (Ohio and U.S.), Civil Rights Act, and any/all statutes/laws governing said matters because of Newsome having exercised said rights.

23) Conspirators on or about December 2, 2009, engaged in criminal conspiracy to deprive Newsome the right to contest and/or acquiesce the December 2, 2009 ENTRY as required under the Constitution and/or laws of the United States. In so doing deprived Newsome her free exercise or enjoyment of rights or privileges so secured to her under the applicable statutes/laws governing said matters.

24) There is record evidence to sustain Conspirators engaged in furtherance of Pattern-of Practice/Pattern-of-Conduct underlying the conspiracy leveled against Newsome that has existed for approximately 24 years and is still ongoing. That the egregious acts of Conspirators in the carrying out of object of conspiracies were willful, malicious and wanton warranting the maximum punishment – i.e. fine(s) ***and*** imprisonment for maximum time required under the laws. The maximum punishment may be warranted to deter the furtherance and temptation of others to engage and/or join such conspiracies as that leveled against Newsome.

25) There is record evidence to support that Newsome has (in good faith) filed the required actions which preclude such criminal wrongs with the appropriate agencies; however, her ***acts were met by retaliation by Conspirators***. Such matters which are presently under investigation in that Newsome have filed the Complaints with the proper authorities as with this instant matter.

26) Conspirators pursued by their acts the same ***components of the object*** [i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion;*

Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice] ***needed to bring about the completion of the object/goal*** [i.e. *engagement in CORRUPTION for purposes of COVERING UP, aiding and abetting, and in furtherance of the criminal acts filed with the FBI on or about September 24, 2009 (made known to the Supreme Court of Ohio through Newsome's pleading filed entitled, "Supreme Court of Ohio Notice of Filing: Criminal Complaint With The Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 Of The Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes") with intent to deprive Newsome equal protection of the laws and due process of laws by obstructing, impeding, tampering and compromising mailing through committal of criminal acts*] ***which was accomplished.*** Each Conspirator performing his/her part and the other his/her part, that that upon completion they have obtained the components of the object pursued. Said agreement, as a matter of law, may be implied or inferred from actions or statement.[15]

27) Conspirators of the Supreme Court of Ohio conspired to deceive by fraud and engagement in criminal wrongs (i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*) to deprive Newsome equal protection of the laws and due process of laws by impeding, interfering, obstructing justice in the handling of the Emergency Writ of Prohibition action.

28) With knowledge that Newsome would contest December 2, 2009 ENTRY, Conspirators did willfully, intentionally and on purpose engage in criminal acts involving the December 2, 2009 ENTRY of the Supreme Court of Ohio to insure that Newsome did not receive its ruling in a timely manner.

29) Conspirator(s) did with malice and malicious acts of intentional commission to engage in criminal acts in the handling of December 2, 2009 ENTRY and with purposes of wickedness, depravity and evil intent to interfere, impede and deprive Newsome of equal protection of the laws and due process of laws in compromising her timely receipt of said ENTRY.

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[15] *Linder v. Am. Natl. Ins. Co.,* 798 N.E.2d 1190 (Ohio.App.1.Dist.**Hamilton.**Co.,2003) -Ohio recognizes three types of contracts: express, implied in fact, and implied in law (or quasi-contract).

Hollis Towing v. Greene, 800 N.E.2d 1178 (Ohio.App.2.Dist. 2003) - An **"implied contract"** is a contract inferred by a court from the circumstances surrounding the transaction, making a reasonable or necessary assumption that a contract exists between the parties by tacit understanding.

Paramount Film Distributing Corp. v. Tracy, 176 N.E.2d 610 (Ohio.Com.Pl.,1960) - Contracts implied in fact rest upon intention of parties.

30) Conspirator(s) committed said criminal acts in the handling of December 2, 2009 ENTRY, with knowledge that said actions would result in injury/harm to Newsome and deprive her of equal protection of the laws and due process of laws; moreover, rights secured/guaranteed under the Constitution and/or laws of the United States. Conspirator(s) knowingly committed criminal acts with utter disregard of the consequences. Moreover, for willful, malicious and wanton intent.

31) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

32) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT FOUR:
CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS

IV. CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS:

42 U.S.C. § 1985
Conspiracy to Interfere With Civil Rights

(2) Obstructing justice; intimidating party, witness, or juror:

> If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or

Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges:

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

O.R.C. § 2921.45 Interfering with civil rights.

(A) No public servant, under color of his office, employment, or authority, shall knowingly deprive, or conspire or attempt to deprive any person of a constitutional or statutory right.

(B) Whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree.

1) Newsome requests through the filing of this instant Complaint and investigations as to whether or not there has been a conspiracy against her rights pursuant to 42 U.S.C. § 1985.

2) Conspirators conspired to deter, force, and intimidate Newsome from freely exercising rights secured/guaranteed under the Constitution and laws of the United States. Moreover, for purposes of unlawfully/illegally influencing the ruling of the Supreme Court of Ohio and precluding and depriving Newsome with the right to contest the December 2, 2009 ENTRY of said Court.

3) Conspirators conspired for the purpose of impeding, hindering, obstructing and/or defeating through their criminal acts (i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*) the due course of justice in the State of Ohio, with intent to deny Newsome the equal protection of the laws and/or to injure Newsome in her person or property for lawfully enforcing or attempting to enforce rights secured to her under the Constitution and/or laws of the United States.

4) Conspirators conspired for the purposes of preventing or hindering the constituted authorities of the State of Ohio from giving or securing to Newsome within the State of Ohio the equal protection of the laws and compromising and impeding the handling of United States mailing to Newsome as that afforded to citizens of the United States and those of the State of Ohio.

5) Conspirators, under the color of their office, employment and/or authority, did willingly, deliberately, intentionally, and maliciously conspire to deprive Newsome of a constitutional and statutory right.

6) Newsome through the filing of this instant Complaint and investigation seeks the prosecution and indictment of Conspirators found through said investigation to be guilty of conspiracy against rights. Moreover, all Conspirators that knew and/or had knowledge that said conspiracy was being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done were about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

7) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT FIVE:
PUBLIC CORRUPTION

V. PUBLIC CORRUPTION

CUT & PASTED FROM:
http://www.fbi.gov/hq/cid/pubcorrupt/pubcorrupt.htm
Public corruption is one of the FBI's top investigative priorities—behind only terrorism, espionage, and cyber crimes. Why? Because of its impact on our democracy and national security. Public corruption can affect everything from how well our borders are secured and our neighborhoods protected…to verdicts handed down in courts…

CUT & PASTED FROM:
http://www.fbi.gov/page2/june05/obrien062005.htm
CRACKING DOWN ON PUBLIC CORRUPTION



Why We Take It So Seriously...and Why It Matters To You
It's #4 in our top 10 list of investigative priorities—following counterterrorism, espionage, and cyber. Why do we rank it so highly? What are we doing to stop it? For the answers to these questions and more, we talked with Supervisory Special Agent Dan O'Brien, chief of our Public Corruption and Government Fraud program at FBI Headquarters.

Q: Why's the FBI so concerned about public corruption?
Dan: Two main reasons. First, it strikes at the core of what our country's about. Our democracy depends on a healthy, efficient, and ethical government—whether it's in the courtroom or the halls of Congress. . . .

CUT & PASTED FROM:
http://www.fbi.gov/page2/march04/greylord031504.htm
That's really the whole point. *Abuse of the public trust **cannot** and **must not** be tolerated*. Corrupt practices in government strike at the heart of social order and justice. And that's why the *FBI has the ticket on investigations of **public corruption as a top priority***. . . .

What kind of crimes? Bribery, kickbacks, and fraud. Vote buying, voter intimidation, impersonation. Political coercion. Racketeering and obstruction of justice. Trafficking of illegal drugs.

How serious of a problem is it? Last year the FBI investigated 850 cases; brought in 655 indictments/informations; and got 525 who were either convicted or chose to plead.

Last words: Straight from Teddy Roosevelt: "*Unless a man is honest we have no right to keep him in public life, it matters not how brilliant his capacity*, it hardly matters how great his power of doing good service on certain lines may be... No man who is corrupt, no man who condones corruption in others, can possibly do his duty by the community."

1) In that the FBI profess that Public Corruption is one of its TOP investigative priorities, Newsome requests an investigation and indictment of Conspirators engaging in public corruption and the criminal conspiracy leveled against Newsome on or about December 2, 2009, in the handling of the Supreme Court of Ohio's ENTRY in Newsome's Writ of Prohibition action. The public corruption of Conspirators have had a SERIOUS and IMPERATIVE impact on the Emergency Writ of Prohibition brought by Newsome to expose additional PUBLIC CORRUPTION by lower court officials and/or government officials in the handling of criminal acts rendered against Newsome on September 9-10, 2009. The criminal actions of the Supreme Court of Ohio Justices and others were done with willful, intentional, malicious and wanton intent to COVER-UP corruption and criminal acts of other public officials. Said public corruption if not stopped will an ADVERSE impact and affect on our democracy, the public and court rulings.

2) The FBI's failure to prevent and deter such PUBLIC CORRUPTION will further send a message to the Justices of the Supreme Court of Ohio and their Conspirators and/or Co-Conspirators that they are above the law.

3) The record evidence will support that the Justices of the Supreme Court of Ohio have long known that they were engaging and/or should have known that they were engaging in criminal activities in their receipt of BRIBES (in the form of Campaign Contributions) from LIBERTY MUTUAL and/or LIBERTY MUTUAL's lawyers and/or lawyers' law firms for purposes of influencing the outcome of decisions in favor of LIBERTY MUTUAL's insured(s).

4) The Supreme Court of Ohio Justices and their Conspirators and/or Co-Conspirators knew and/or should have known that in the handling of its December 2, 2009 ENTRY that they were engaging in criminal acts (i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*).

5) Newsome believes that an investigation into this instant FBI Complaint will also support that the PUBLIC has repeatedly voiced concerns of the Supreme Court of Ohio Justices' involvement and/or engagement in criminal wrongs – to no avail. Nevertheless, like any career criminal the Supreme Court of Ohio Justices, their Conspirators and Co-Conspirators committed one crime too many and on or about December 2, 2009 in the

handling of ENTRY in Newsome's Emergency Writ of Prohibition action did knowingly and/or should have known they were engaging in criminal activities (i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*). Furthermore, Newsome through her December 14, 2009, ***Motion for Reconsideration*** and December 19, 2009, ***Motion To File Motion For Reconsideration Out Of Time and Notice of Ohio Supreme Court's Obstruction Of Justice – Impeding Relator's Timely Receipt of 12/02/09 Entry*** did so timely, properly and adequately notify the Supreme Court of Ohio of its engagement in criminal activities and/or unlawful/illegal practices prohibited by the statutes/laws of the United States.

6) Newsome brings this instant FBI Complaint against Conspirators in that the FBI states that its concerns about Public Corruption strikes at the core of what the United States is all about. Moreover, that the democracy of the United States depends on a healthy, efficient and ethical government. The Justices of the Supreme Court of Ohio in the performance of their roles in the handling of December 2, 2009 ENTRY in Newsome's Emergency Writ of Prohibition action committed said criminal acts because they placed themselves above the law and felt that they were untouchable.

7) Newsome brings the instant FBI Complaint in that the ***abuse of the public trust*** by the Supreme Court of Ohio Justices and their Conspirators/Co-Conspirators **cannot** and **must not** be tolerated.

8) Newsome believes that the instant FBI Complaint will support that the Justices of the Supreme Court of Ohio's December 2, 2009 ENTRY in Emergency Writ of Prohibition action was influenced by bribes and fraud, etc. Moreover, handling of said December 2, 2009 ENTRY was done for purposes of CORRUPTION and the COVER-UP of criminal acts.

9) Because of the corruption and dishonesty, etc. of Conspirators – regardless of their titles or profession (i.e. Justices of the Supreme Court of Ohio) – there is no need to keep them in public life to allow them to continue such HABITUAL criminal practices on other citizens. Said Conspirators belong behind bars for the safety of the public and/or other citizens.

10) No Justice or public officials who condone such corrupt and criminal practices/acts; moreover, engage in such corrupt and criminal acts, can possibly do his/her duty by the community.

11) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime(s) was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however,

neglected or refused to do so.

12) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this FBI Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

O.R.C. § 2923.31 Corrupt activity definitions.

As used in sections 2923.31 to 2923.36 of the Revised Code:

(A) "Beneficial interest" means any of the following:

(1) The interest of a person as a beneficiary under a trust in which the trustee holds title to personal or real property;
(2) The interest of a person as a beneficiary under any other trust arrangement under which any other person holds title to personal or real property for the benefit of such person;
(3) The interest of a person under any other form of express fiduciary arrangement under which any other person holds title to personal or real property for the benefit of such person.. . .

(E) "Pattern of corrupt activity" means two or more incidents of corrupt activity, whether or not there has been a prior conviction, that are related to the affairs of the same enterprise, are not isolated, and are not so closely related to each other and connected in time and place that they constitute a single event.

At least one of the incidents forming the pattern shall occur on or after January 1, 1986. Unless any incident was an aggravated murder or murder, the last of the incidents forming the pattern shall occur within six years after the commission of any prior incident forming the pattern, excluding any period of imprisonment served by any person engaging in the corrupt activity.

For the purposes of the criminal penalties that may be imposed pursuant to section 2923.32 of the Revised Code, at least one of the incidents forming the pattern shall constitute a felony under the laws of this state in existence at the time it was committed or, if committed in violation of the laws of the United States or of any other state, shall constitute a felony under the law of the United States or the other state and would be a criminal offense under the law of this state if committed in this state.. . .

(G) “Person” means any person, as defined in section 1.59 of the Revised Code, and any governmental officer, employee, or entity.

(H) “Personal property” means any personal property, any interest in personal property, or any right, including, but not limited to, bank accounts, debts, corporate stocks, patents, or copyrights. Personal property and any beneficial interest in personal property are deemed to be located where the trustee of the property, the personal property, or the instrument evidencing the right is located.

(I) “Corrupt activity” means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the following:. . .

(2) Conduct constituting any of the following:

(a) A violation of section 1315.55, 1322.02, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 2905.11, 2905.22, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.05, 2913.06, 2921.02, 2921.03, 2921.04, 2921.11, 2921.12, 2921.32, 2921.41, 2921.42, 2921.43, 2923.12, or 2923.17; division (F)(1)(a), (b), or (c) of section 1315.53; division (A)(1) or (2) of section 1707.042; division (B), (C)(4), (D), (E), or (F) of section 1707.44; division (A)(1) or (2) of section 2923.20; division (J)(1) of section 4712.02; section 4719.02, 4719.05, or 4719.06; division (C), (D), or (E) of section 4719.07; section 4719.08; or division (A) of section 4719.09 of the Revised Code.. . .

(J) “Real property” means any real property or any interest in real property, including, but not limited to, any lease of, or mortgage upon, real property. Real property and any beneficial interest in it is deemed to be located where the real property is located. . . .

O.R.C. § **2923.32 Engaging in pattern of corrupt activity.**

(A)(1) No person employed by, or associated with, any enterprise shall conduct or participate in, directly or indirectly, the affairs of the enterprise through a pattern of corrupt activity or the collection of an unlawful debt.

(2) No person, through a pattern of corrupt activity or the collection of an unlawful debt, shall acquire or maintain, directly or indirectly, any interest in, or control of, any enterprise or real property.

(3) No person, who knowingly has received any proceeds derived, directly or indirectly, from a pattern of corrupt activity or the collection of any unlawful debt, shall use or invest, directly or indirectly, any part of those proceeds, or any proceeds derived from the use or investment of any of those proceeds, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.

A purchase of securities on the open market with intent to make an investment, without intent to control or participate in the control of the issuer, and without intent to assist another to do so is not a violation of this division, if the securities of the issuer held after the purchase by the purchaser, the members of the purchaser's immediate family, and the purchaser's or the immediate family members' accomplices in any pattern of corrupt activity or the collection of an unlawful debt do not aggregate one per cent of the outstanding securities of any one class of the issuer and do not confer, in law or in fact, the power to elect one or more directors of the issuer.

(B)(1) Whoever violates this section is guilty of engaging in a pattern of corrupt activity. Except as otherwise provided in this division, engaging in corrupt activity is a felony of the second degree. Except as otherwise provided in this division, if at least one of the incidents of corrupt activity is a felony of the first, second, or third degree, aggravated murder, or murder, if at least one of the incidents was a felony under the law of this state that was committed prior to July 1, 1996, and that would constitute a felony of the first, second, or third degree, aggravated murder, or murder if committed on or after July 1, 1996, or if at least one of the incidents of corrupt activity is a felony under the law of the United States or of another state that, if committed in this state on or after July 1, 1996, would constitute a felony of the first, second, or third degree, aggravated murder, or murder under the law of this state, engaging in a pattern of corrupt activity is a felony of the first degree. If the offender also is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, engaging in a pattern of corrupt activity is a felony of the first degree, and the court shall sentence the offender to a mandatory prison term as provided in division (D)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code. Notwithstanding any other provision of law, a person may be convicted of violating the provisions of this section as well as of a conspiracy to violate one or more of those provisions under section 2923.01 of the Revised Code.

1) Conspirators had a personal or beneficial interest in the commission of the crimes committed against Newsome. Two or more of the above reference Conspirators engaged in two or more corrupt activities to bring about the ***components of the object*** [i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*] ***needed to bring about the completion of the object/goal*** [i.e. *engagement in CORRUPTION for purposes of COVERING UP, aiding and abetting, and in furtherance of the criminal acts filed with the FBI on or about September 24, 2009 (made known to the Supreme Court of Ohio through Newsome's pleading filed entitled, "Supreme Court of Ohio Notice of Filing: Criminal Complaint With The Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 Of The Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes") with intent to deprive Newsome equal protection of the laws and due process of laws by obstructing, impeding, tampering and compromising mailing through committal of criminal acts*] ***which was accomplished.*** - - to support charges in this FBI Criminal Complaint.

2) The criminal actions of the Conspirators were done in furtherance of conspiracy; moreover, **"PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT"** ***underlying the conspiracy against Newsome that has been addressed in the September 24, 2009 FBI Complaint filed.*** Conspirator(s) in this instant filing relying upon their knowledge of the criminal/civil wrongs leveled against and other information to fuel their criminal activities. Conspirator(s) in this instant matter have resorted to criminal activities also in RETALIATION of his/her knowledge regarding Newsome that occurred in Jackson Mississippi on or about February 14, 2006 – FBI Complaint filed on or about June 26, 2006; in Covington, Kentucky on or about October 9, 2008 – FBI Complaint filed on or about October 13, 2008; in Cincinnati, Ohio on September 9-10, 2009 – FBI Complaint filed on or about September 24, 2009; and its knowledge of Newsome's engagement in protected activities involving Title VII violations, Fair Housing Act violations, Civil Rights Violations, Constitutional Rights violations, and any and all applicable statutes/laws governing said matters. The criminal act committed by Conspirators constitutes, through such **"PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT"** ***underlying the criminal wrongs leveled against Newsome,*** *a conspiracy under this statute and/or the applicable statutes/laws governing said matters*. Conspirators engaged in the criminal actions underlying this Complaint for the purposes of unlawful/illegally depriving Newsome the right to contest and/or acquiesce the December 2, 2009 ENTRY of the Supreme Court of Ohio regarding Emergency Writ of Prohibition. Conspirators engaged in corrupt/criminal activities [i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction*

of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice] for the purposes of unlawfully/illegally precluding Newsome from exercising her rights. The record evidence will support that Conspirators knew and/or should have known that Newsome would not waive her rights. With said knowledge by Conspirators that Newsome would not waive her rights and would contest December 2, 2009 ENTRY in Writ of Prohibition action, said Conspirators did willingly, knowingly, intentionally and maliciously conspire to impede, interfere, hinder and obstruct the administration of justice by engaging in the criminal acts leveled against her.

3) Conspirators conducted and participated in, either directly or indirectly, the conspiracy leveled against Newsome in the obstruction of justice and/or criminal acts (i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*) leveled against Newsome. Conspirators doing so through **"PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT"** ***underlying the conspiracy against Newsome.*** Certain Conspirators have knowingly received financial proceeds in advance derived from LIBERTY MUTUAL and/or LIBERTY MUTUAL's lawyers/law firms on behalf of its clients in exchange for rulings in their favor.

4) Conspirators in this instant Complaint have engaged in a PATTERN OF CORRUPT ACTIVITY. Conspirators in this instant Complaint by engaging in PATTERN OF CORRUPT ACTIVITY has committed a felony under this section.

5) **IMPORTANT TO NOTE:** The record evidence contained herein will support that concerns of that Justices of the Supreme Court of Ohio are tainted and corrupt through the financial contributions they receive. For instance the following information has been published regarding **the PUBLIC'S concern** of Corruption amongst Justices of the Supreme Court of Ohio because of their receipt of financial campaign contributions:

> CUT & PASTED AS OF 12/25/09 FROM:
> http://query.nytimes.com/gst/fullpage.html?res=9A06E7D81730F932A35753C1A9609C
>
> ***TILTING THE SCALES?: The Ohio Experience; Campaign Cash Mirrors a High Court's Rulings*** - Published October 1, 2006
>
> Justice Terrence O'Donnell, a Republican member of the Ohio Supreme Court, ***voted in favor of his contributors 91 percent*** *of the time*, the highest rate of any member.. . .

Justice O'Donnell has ***raised more than $3 million in campaign money since 2000***.. . .

''These gentlemen, they should be prosecuted for what I consider is taking a bribe,'' Mr. Adams said . . .

JUSTICE: Terrence O'Donnell -- REPUBLICAN
CASES INVOLVING CONTRIBUTORS: 32
AMOUNT RECEIVED: $251,000
TIMES RECUSED SELF: 0
RULED IN FAVOR OF CONTRIBUTORS: 91% . . .

JUSTICE: Judith Ann Lanzinger -- REPUBLICAN
CASES INVOLVING CONTRIBUTORS: 12
AMOUNT RECEIVED: $56,000
TIMES RECUSED SELF: 0
RULED IN FAVOR OF CONTRIBUTORS: 75%

JUSTICE: Maureen O'Connor – REPUBLICAN
CASES INVOLVING CONTRIBUTORS: 34
AMOUNT RECEIVED: $178,000
TIMES RECUSED SELF: 0
RULED IN FAVOR OF CONTRIBUTORS: 74% . . .

JUSTICE: Paul E. Pfeifer -- REPUBLICAN
CASES INVOLVING CONTRIBUTORS: 93
AMOUNT RECEIVED: $183,000
TIMES RECUSED SELF: 1
RULED IN FAVOR OF CONTRIBUTORS: 69% . . .

JUSTICE: Thomas J. Moyer -- REPUBLICAN
CASES INVOLVING CONTRIBUTORS: 72
AMOUNT RECEIVED: $215,000
TIMES RECUSED SELF: 1
RULED IN FAVOR OF CONTRIBUTORS: 61%

JUSTICE: Evelyn Lundberg Stratton -- REPUBLICAN
CASES INVOLVING CONTRIBUTORS: 122
AMOUNT RECEIVED: $298,000
TIMES RECUSED SELF: 0
RULED IN FAVOR OF CONTRIBUTORS: 55%. . .

In the fall of 2004, Terrence O'Donnell, an affable judge with the placid good looks of a small-market news anchor, was running hard to keep his seat on the Ohio Supreme Court. ***He was also considering two important class-action lawsuits that had been argued many months before***.

In the weeks before the election, Justice O'Donnell's campaign accepted thousands of dollars from the political action committees of three companies that were defendants in the suits. Two of the cases dealt with defective cars, and one involved a toxic substance.

Weeks after winning his race, Justice O'Donnell joined majorities that handed the three companies significant victories.

Justice O'Donnell's conduct was unexceptional. **In one of the cases, every justice in the 4-to-3 majority had taken money from affiliates of the companies.** None of the dissenters had done so, but they had accepted contributions from lawyers for the plaintiffs. . . .

An examination of the Ohio Supreme Court by **The New York Times** ***found that its justices routinely sat on cases after receiving campaign contributions from the parties involved or from groups that filed supporting briefs. On average, they voted in favor of contributors 70 percent of the time. Justice O'Donnell voted for his contributors 91 percent of the time, the highest rate of any justice on the court***.…

Even sitting justices have started to question the current system. ***"I never felt so much like a hooker down by the bus station in any race I've ever been in as I did in a judicial race,"*** said Justice Paul E. Pfeifer, a Republican member of the Ohio Supreme Court. ***"Everyone interested in contributing has very specific interests."***

"They mean to be buying a vote," Justice Pfeifer added. ***"Whether they succeed or not, it's hard to say."***. . .

Elected justices there recently ***refused to disqualify themselves*** *from hearing suits in which tens or hundreds of millions of dollars were at stake*. The defendants were insurance, tobacco and coal companies whose supporters had spent millions of dollars to help elect the justices. . . .

Many judges said contributions were so common that recusal would wreak havoc on the system. The **standard** in the Ohio Supreme Court, its chief justice, *Thomas J. Moyer, said,* ***is to recuse only if "sitting on the case is going to be perceived as just totally unfair."***

See **EXHIBIT "J"** – October 1, 2006 Article attached hereto and incorporated by reference as if set forth in full herein.

Nevertheless, Newsome believes the evidence support and a reasonable mind may conclude that Justices of the Supreme Court of Ohio engaged in the criminal acts arising out of the handling of said Court's December 2, 2009 ENTRY in regards to the Emergency Writ of Prohibition matter. The evidence contained in said article supports that present presiding Justices have received Hundreds and Millions of dollars from financial campaign contributions and their knowledge and/or they should know that such SUBSTANTIAL and HEFTY financial campaign contributions are not provided without expectations of special

favors and considerations being given in cases brought wherein the contributors have an interests in the outcome of legal proceedings.

The criminal conspiracy and the handling of the Supreme Court of Ohio's December 2, 2009 ENTRY is racially motivated and was entered in retaliation against Newsome and based on racial animus and bias towards her. Moreover, in furtherance of the conspiracy leveled against Newsome by other Conspirators addressed in her September 24, 2009 FBI Complaint filed in Cincinnati, Ohio.

As Mr. Adams shared in the above October 1, 2006 Article, "***These gentlemen, they should be prosecuted for what I consider is taking a bribe***," Newsome agrees and believes there is sufficient evidence in this instant FBI Complaint as well as to be obtained through an investigation to support that the criminal conspiracy leveled against Newsome on or about December 2, 2009, was influenced and motivated by the monies obtained by Justices through financial campaign contributions from LIBERTY MUTUAL, LIBERTY MUTUAL's lawyers and/or lawyers' law firms on their behalf and their clients were provided with knowledge that monies were paid to obtain rulings in their favor and for purposes of influencing decisions in favor of LIBERTY MUTUAL, its lawyers/law firms and their insureds/clients.

IMPORTANT TO NOTE: The record evidence will support that on or about October 19, 2009, Newsome requested that the Supreme Court of Ohio advise her of any Conflict of Interest; however, said request for information was ignored. See **EXHIBIT "K"** – Letter attached hereto and incorporated by reference as if set forth in full herein; which contain in part:

> While I understand that said pleading might be lengthy, it is *pertinent* and *crucial* for the Justices to have an understanding of what is going on and further supports the Criminal Complaint filed with the FBI and the Emergency Writ of Prohibition filed with this Court. **Please advise if there is a "Conflict of Interest" (i.e. because of parties/names mentioned in pleading includes *Judge John Andrew West; Judge Nadine L. Allen; Patricia M. Clancy; Joseph H. Deters; Christian J. Schaefer; Schwartz Manes Ruby & Slovin/David Meranus; Markesbery & Richardson Co./Michael E. Lively/Patrick B. Healy; Liberty Mutual Insurance Company/Molly G. Vance/Raymond H. Decker, Jr.; Stor-All Alfred LLC/Lori A. Whiteside/Leslie Smart/Leslie Calhoun; Wood & Lamping* and/or those persons/parties involved in this action that may be known to this Court; however, not to Denise Newsome) with any of the Justices of the Supreme Court in regards to this matter.**

While Justice Pfeifer of the Supreme Court of Ohio states: ***''I never felt so much like a hooker down by the bus station in any race I've ever been in as I did in a judicial race''*** and further goes on to mention ***''Everyone interested in contributing has very specific interests,''*** a reasonable mind may conclude that the Justices of the Supreme Court of Ohio know and/or should know that the monies paid into their campaign was for the prostituting

of their services as well as expectation of rulings in favor of the Insurance Companies, their lawyers and insureds when matters are brought before said Court. Justice Pfeifer making known his knowledge that such contributors have specific interest by stating: ***''They mean to be buying a vote''*** . . .***''Whether they succeed or not, it's hard to say.''***; therefore, a reasonable mind may also conclude that Justice Pfeifer and other Justices of the Supreme Court of Ohio are fully aware of the purposes of financial contributions to their campaigns and that said monies are provided with intent of bribery and obtaining rulings and decisions in contributors favor by said High Court. In Newsome's matter before the Supreme Court of Ohio in Case No. 2009-1690, she believes said monies received by LIBERTY MUTUAL, its lawyers/lawyer's law firms, its insureds/clients influenced and contributed to said Justices of the Supreme Court of Ohio and their Conspirators engagement in the criminal acts – i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice* - arising out of the handling of the December 2, 2009 ENTRY.

IMPORTANT TO NOTE: According to Justice Thomas J. Moyer (Chief Justice of the Supreme Court of Ohio and Justice executing the December 2, 2009 ENTRY) the October 1, 2006, article mentions: "The **standard** in the Ohio Supreme Court, its chief justice, *Thomas J. Moyer, said,* ***is to recuse only if 'sitting on the case is going to be perceived as just totally unfair;'"*** however, in the handling of Newsome's Emergency Writ of Prohibition matter appears to have taken a FAR DEPARTURE from said statement and said Justice engaged in the criminal acts arising out of the handling of the December 2, 2009 ENTRY addressed herein. The record evidence will support that prior (on or about October 1, 2009) to the December 2, 2009 ENTRY, Newsome, timely, properly and adequately requested that the Supreme Court of Ohio advised her of any Conflict of Interest. **PLEASE TAKE NOTICE:** It appears from the evidence that Justice Moyer handled the December 2, 2009 ENTRY in that his signature appears on same in execution thereof. See **EXHIBIT "A"** – Entry attached hereto and incorporated by reference as if set forth in full herein. Through this instant investigation a reasonable mind may conclude that the change in handling and addressing of envelope may be a direct and proximate result of Justice Moyer's direct and/or on-hands involvement in criminal conspiracy and criminal actions leveled against Newsome for purposes of obstructing the administration of justice, depriving Newsome equal protection of the laws and due process of laws in the Supreme Court of Ohio's efforts to render LIBERTY MUTUAL, its lawyers/lawyers' law firms and its clients/insureds with a favorable ruling. In so doing Conspirators in this instant FBI Complaint engaged in criminal acts in which Newsome brings charges and request the proper indictments be had.

6) **IMPORTANT TO NOTE:** The record evidence contained herein will support that concerns of that Justices of the Supreme Court of Ohio are tainted and corrupt through the financial contributions they receive. For instance, additional information has been published **regarding the PUBLIC'S concern** of Corruption amongst Justices of the Supreme Court of Ohio because of their receipt of financial campaign contributions:

> CUT & PASTED AS OF 12/25/09 FROM:
> http://www.ohioimpact.org/judicial-impartiality-and-fairness/reform-proposals/
>
> The current state of Ohio's system of judicial election is putting the legitimacy of our judicial system at stake.
>
> ***When the public believes that their judges can be bought, that they are beholden to campaign donors, or that their decisions are influenced by special interests or other branches of government, our respected system of justice is jeopardized***.
>
> Options to improve the process of selecting impartial and qualified judges in Ohio is a major topic of judicial reform. Judicial reform can take the partisanship and special interests out of judicial elections. It can help guarantee both the appearance *and* the reality of an independent *and* impartial judiciary.
>
> Commonly discussed reform options include:
>
> 1. ***Prohibiting judges from presiding in cases that involve their campaign con***tributors;. . .
>
> **PROHIBITING JUDGES FROM PRESIDING IN CASES THAT INVOLVE CAMPAIGN CONTRIBUTORS.**
>
> ***Ohio's Code of Judicial Conduct*** **requires that judges recuse, or disqualify, themselves from cases where a reasonable person might question the judge's impartiality**. For example, such a conflict might arise if a judge had prior involvement in a case as an attorney, is a friend or family member of one of the people involved, or has an economic interest in the proceeding—including, ***many believe, if the judge has received substantial financial support from a person or entity involved in the case***.
>
> Indeed, a League of Women Voters of Ohio survey (see pages 24-26 in "Judicial Selection in Ohio: History, Recent Developments, and an Analysis of Reform Proposals.") in 2002 revealed that **eight of every 10 Ohioans believe campaign contributions influence judges and their judicial opinions**. In addition, enormous amounts of money are spent on judicial campaigns in Ohio by candidates, political parties

and by special interests. It is natural that voters may question judges' impartiality in cases that involve financial supporters.

However, ***Ohio's elected supreme court judges rarely disqualify themselves from cases involving their contributors***. From 1994-2006, "[i]n the 215 cases with the most direct potential conflicts of interest, justices recused themselves just 9 times." Adam Liptak and Janet Roberts. "Campaign Cash Mirrors a High Court's Rulings." *NewYork Times* (page 1); October 1, 2006.

See **EXHIBIT "L"** – Article attached hereto and incorporated by reference.

7) **IMPORTANT TO NOTE:** The record evidence contained herein will support that concerns of that Justices of the Supreme Court of Ohio are tainted and corrupt through the financial contributions they receive. For instance, additional information has been published **regarding the PUBLIC'S concern** of Corruption amongst Justices of the Supreme Court of Ohio because of their receipt of financial campaign contributions:

CUT & PASTED 12/25/09 FROM:
http://www.gavelgrab.org/?p=290

. . . ***The rising cost of Ohio judicial elections, along with well-funded efforts by interest groups to influence the outcomes of these races, has raised serious concerns about the judiciary's independence and impartiality***. Judicial candidates typically receive many of their contributions from attorneys who appear in their courts and the clients they represent. Clients who expect to have litigation pending on a regular basis have an obvious incentive to seek influence over judicial candidates. Judges are supposed to provide independent, unbiased, and fair decisions—not be swayed by financial support. . . .

The appearance of fairness and impartiality is so important. Unfortunately, as you know, the past ten years have eroded public confidence in the Court. National public opinion surveys for Justice at Stake from 2001 and 2004 found that over 70% of Americans believe that campaign contributions have at least some influence on judges' decisions. A 2002 poll by the League of Women Voters of Ohio showed that **83 percent of Ohio voters think that campaign contributions influence judicial decisions**. An examination of the Ohio Supreme Court by **The New York Times in 2006 found that Ohio Supreme Court justices routinely sat on cases after receiving campaign contributions from the parties involved or groups that filed supporting briefs. The Times found that on average, justices voted in favor of contributors 70% of the time. In the 12 years the paper examined, Ohio Supreme Court justices recused themselves**

only 9 times in 215 cases with the most direct conflicts of interest.

In 2006, our Chief Justice Thomas J. Moyer described the problem with our current system to National Public Radio this way, **"Human nature is that we help people if they help us."** Justice Paul Pfeiffer described fundraising this way to The New York Times **"Everyone interested in contributing has very specific interests. Whether they succeed or not, it's hard to say."**

This problem is very well documented and we should all be concerned about the loss of public faith in the integrity of the judicial process. Therefore, I was extremely surprised that Rule 2.11 did not include disqualification standards based on campaign contributions (Lines 29-33) from the American Bar Association's Model Code of Conduct. Although, the ABA has left each state to choose a specific contribution amount that might trigger recusal, since 1999, it has recommended mandatory disqualification of any judge who has accepted large contributions from a party appearing before him/her. . . .

At minimum, a rule should be established that triggers disqualification after receipt of a large aggregate contribution, not just from a single donor, but collectively from all donors associated with a party to litigation or with counsel. An example of aggregate contributions that could trigger disqualification would be contributions from corporate officers, management-level employees and law firm partners. . .

See **EXHIBIT "M"** – Article attached hereto and incorporated by reference.

IMPORTANT TO NOTE: That in said article Justice Moyer of the Supreme Court of Ohio described the problem with the current system as, **"Human nature is that we help people if they help us."** Therefore, supporting the filing of this instant FBI Complaint and an investigation into the criminal conspiracy addressed herein. Moreover, whether or not Justice Moyer's and other Conspirator's human nature kicked in and they engaged in the criminal/civil wrongs addressed herein to deprive Newsome equal protection of the laws and due process of laws. Moreover, the role of conspirators in criminal acts involving the handling and mailing of the December 2, 2009 ENTRY regarding the Emergency Writ of Prohibition matter.

8) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and

having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

9) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT SIX:
BRIBERY

VI. BRIBERY

Bribery Defined:
The corrupt payment, receipt, or solicitation of a private favor for official action. ● Bribery is a felony in most jurisdictions.

Bribe Defined:
A price, reward, gift, or favor bestowed or promised with a view to pervert the judgment of or influence the action of a person in position of trust.

>>>"The core concept of a bribe is an inducement improperly influencing the performance of a public function meant to be gratuitously exercised." John T. Noonan Jr., Bribes xi (1984).

O.R.C. § 2921.02 Bribery.
(A) No person, with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, shall promise, offer, or give any valuable thing or valuable benefit.

(B) No person, either before or after he is elected, appointed, qualified, employed, summoned, or sworn as a public servant or party official, shall knowingly solicit or accept for himself or another person any valuable thing or valuable benefit to corrupt or improperly influence him or another public servant or party official with respect to the discharge of his or the other public servant's or party official's duty.

(C) No person, with purpose to corrupt a witness or improperly to influence him with respect to his testimony in an official proceeding, either before or after he is subpoenaed or sworn, shall promise, offer, or give him or another person any valuable thing or valuable benefit.

(D) No person, either before or after he is subpoenaed or sworn as a witness, shall knowingly solicit or accept for himself or another person any valuable thing or valuable benefit to corrupt or improperly influence him with respect to his testimony in an official proceeding.

(E) Whoever violates this section is guilty of bribery, a felony of the third degree.

(F) ***A public servant or party official who is convicted of bribery is forever disqualified from holding any public office, employment, or position of trust in this state***.

1) Newsome believes that an investigation and the record evidence will support that the Justices of the Supreme Court of Ohio have received financial campaign contributions from LIBERTY MUTUAL and/or LIBERTY MUTUAL's lawyers/law firms on behalf of their clients. Said Justices knew and/or should have known that receipt of said financial campaign contributions were provided for purposes of bribery to influence the decision of rulings in favor of LIBERTY MUTUAL, their lawyers/law firms and insureds.

2) Justices of the Supreme Court of Ohio knew and or should have known that by in receipt of financial campaign contributions from LIBERTY MUTUAL and/or LIBERTY MUTUAL's lawyers/law firms that said contributions were provided for bribery purposes to influence decisions in LIBERTY MUTUAL and its insureds' favor. Therefore, Justices knew and/or should have known they were engaging in felonious acts.

3) Newsome believes that an investigation will support that Justices of the Supreme Court of Ohio knew and/or should have known that the financial campaign contributions from LIBERTY MUTUAL and/or LIBERTY MUTUAL's lawyers/law firms and clients were provided as a price, reward, gift or favor bestowed or promised with a view to pervert the rulings/judgment of said Court or to influence the action of said Justices that place themselves in a position of trust. The core concept for LIBERTY MUTUAL and/or LIBERTY MUTUAL's lawyers/law firms' and clients' providing financial campaign contributions being for purposes of inducement to improperly influence the performance of a public function meant to be gratuitously exercised by the Justice of the Supreme Court of Ohio.

4) Newsome files this instant FBI Complaint and request that the applicable indictment and/or criminal charges be filed against the Justices of the Supreme Court of Ohio who have engaged in the criminal acts involving the December 2, 2009 ENTRY in Emergency Writ of Prohibition action. The bringing and indictment of PUBLIC CORRUPTION violations prohibits the Justices involved in the December 2, 2009 ENTRY and the criminal acts (i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully;*

Power/Failure to Prevent; and Obstruction of Justice) resulting therefrom as a direct and proximate result of the bribery (monies received for purposes of influencing decisions) in forever being disqualified from holding any public office, employment or position of trust in the state of Ohio.

COUNT SEVEN:
COMPLICITY

VII. COMPLICITY

O.R.C. § **2923.03 Complicity.**

(A) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:

(1) Solicit or procure another to commit the offense;
(2) Aid or abet another in committing the offense;
(3) Conspire with another to commit the offense in violation of section 2923.01 of the Revised Code;
(4) Cause an innocent or irresponsible person to commit the offense.

(B) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.

(C) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of section 2923.02 of the Revised Code.

(D) If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense, or an offense, the court, when it charges the jury, shall state substantially the following:

> "The testimony of an accomplice does not become inadmissible because of his complicity, moral turpitude, or self-interest, but the admitted or claimed complicity of a witness may affect his credibility and make his testimony subject to grave suspicion, and require that it be weighed with great caution.
>
> It is for you, as jurors, in the light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth."

(E) It is an affirmative defense to a charge under this section that, prior to the commission of or attempt to commit the offense, the actor terminated his complicity, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose.

(F) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense.

Complicity Defined:
Association or participation in a criminal act; the act or state of being an accomplice. ● Under the Model Penal Code, a person can be an accomplice as a result of either that person's own conduct or the conduct of another (such as an innocent agent) for which that person is legally accountable.

Deceit Defined:
1. The act of intentionally giving a false impression . 2. A false statement of fact made by a person knowingly or recklessly (i.e. not caring whether it is true or false) with the intent that someone else act upon it. FRAUD – 3. A tort arising from a false representation made knowingly or recklessly with the intent that another person should detrimentally rely on it.

Defraud Defined: [16]
To cause injury or loss to (a person) by deceit.

Egregious Defined: [17]
Extremely or remarkably bad; flagrant.

Incite Defined: [18]
To provoke or stir up (someone to commit a criminal act, or the criminal act itself). Abet.

1) Conspirators committed the crime of complicity. Conspirators solicited and/or procured another to commit criminal actions. Conspirators aided and abetted in the commission of criminal acts. Conspirators conspired with co-conspirators and/or another to commit criminal acts in violation of this section. Conspirators caused an innocent or irresponsible person to commit criminal acts. Conspirators relied upon fraud by deception in their failed attempts to obtain a finality of the December 2, 2009 ENTRY. The Conspirators obtained through fraud, deception, and bribery to get others to engage in conspiracy so that ***components of the object*** [i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery;*

[16] Blacks Law Dictionary – 8th Edition.
[17] Blacks Law Dictionary – 8th Edition.
[18] Blacks Law Dictionary – 8th Edition.

Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice] ***needed to bring about the completion of the object/goal*** [i.e. *engagement in CORRUPTION for purposes of COVERING UP, aiding and abetting, and in furtherance of the criminal acts filed with the FBI on or about September 24, 2009 (made known to the Supreme Court of Ohio through Newsome's pleading filed entitled, "Supreme Court of Ohio Notice of Filing: Criminal Complaint With The Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 Of The Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes") with intent to deprive Newsome equal protection of the laws and due process of laws by obstructing, impeding, tampering and compromising mailing through committal of criminal acts*] ***which was accomplished.*** - - - ***to support charges in FBI Criminal Complaint.*** Conspirators committed criminal offenses of and against Newsome warranting prosecution under this section. Conspirators either associated themselves or participated in the criminal acts rendered against Newsome on or about December 2, 2009. Under the *Model Penal Code* Conspirators can be an accomplice as a result of his/her conduct or the conduct of another for which that person is legally accountable. Conspirators intentionally gave a false impression for the purposes of accomplishing the object of the conspiracy pursued. Certain Conspirators knowingly engaged in fraudulent practices for purposes of deception and, as a direct and proximate result of such criminal acts, are attempting to deprive Newsome rights secured under the Constitution and/or laws of the United States. As a direct and proximate result of Conspirators' deceitful and fraudulent actions, Newsome has sustained ***irreparable*** injury/harm and have been deprived protected rights. The egregious acts of Conspirators were a flagrant disregard and disrespect to the statutes/laws governing said matters. Conspirators provoked, stirred up and encouraged the commission of the criminal acts leveled against Newsome. Newsome through this instant FBI Complaint request the prosecution and punishment of Conspirators found guilty of committing crimes under said statute.

2) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

3) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

4) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT EIGHT:
AIDING AND ABETTING

VIII. AIDING AND ABETTING

> **AID AND ABET DEFINED:** [19]
> To assist or facilitate the commission of a crime, or to promote its accomplishment. – Aiding and abetting is a crime in most jurisdictions.
>
> >>>To "aid" is to assist to help another. To "abet" means, literally, to bait or excite. . . In its legal sense, it means to encourage, advise, or instigate the commission of a crime." 1 Charles E. Torcia, *Wharton's Criminal Law §* 29, at 181 (15th ed. 1993).

1) In the carrying out of their roles in the conspiracy leveled against Newsome, Conspirators aided and abetted Co-Conspirators in the commission of crimes leveled against Newsome; by so doing, allowed Conspirators to accomplish ***components of the object*** [i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*] ***needed to bring about the completion of the object/goal*** [i.e. *engagement in CORRUPTION for purposes of COVERING UP, aiding and abetting, and in furtherance of the criminal acts filed with the FBI on or about September 24, 2009 (made known to the Supreme Court of Ohio through Newsome's pleading filed entitled, "Supreme Court of Ohio Notice of Filing: Criminal Complaint With The Federal Bureau of Investigation and Request for Applicable Relief Pursuant to Rule 2.15 Of The Ohio Code of Judicial Conduct and/or Applicable Statutes/Codes") with intent to deprive Newsome equal protection of the laws and due process of laws by obstructing, impeding, tampering and compromising mailing through committal of criminal acts*] ***which was accomplished.*** - - Further supporting charges in FBI Criminal Complaint.

[19] Blacks Law Dictionary – 8th Edition.

2) Conspirators were able to accomplish the object of conspiracy by withholding, impeding and obstructing the administration of justice.

3) Through the unlawful/illegal and unethical practices in the handling of the December 2, 2009 ENTRY in the Writ of Prohibition action in the Supreme Court of Ohio, Justices each encouraged, advised, and/or instigated the criminal acts of Co-Conspirators were determined to carry out for purposes of obtaining the object [i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*] of the conspiracy leveled against Newsome.

4) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT NINE:
COERCION

IX. COERCION

O.R.C. § 2905.12 Coercion.

(A) No person, with purpose to coerce another into taking or refraining from action concerning which the other person has a legal freedom of choice, shall do any of the following:

(1) Threaten to commit any offense;

(2) Utter or threaten any calumny against any person;

(3) Expose or threaten to expose any matter tending to subject any person to hatred, contempt, or ridicule, to damage any person's personal or business repute, or to impair any person's credit;

(4) Institute or threaten criminal proceedings against any person;

(5) Take, withhold, or threaten to take or withhold official action, or cause or threaten to cause official action to be taken or withheld.

(B) Divisions (A)(4) and (5) of this section shall not be construed to prohibit a prosecutor or court from doing any of the following in good faith and in the interests of justice:

(1) Offering or agreeing to grant, or granting immunity from prosecution pursuant to section 2945.44 of the Revised Code;

(2) In return for a plea of guilty to one or more offenses charged or to one or more other or lesser offenses, or in return for the testimony of the accused in a case to which the accused is not a party, offering or agreeing to dismiss, or dismissing one or more charges pending against an accused, or offering or agreeing to impose, or imposing a certain sentence or modification of sentence;

(3) Imposing a community control sanction on certain conditions, including without limitation requiring the offender to make restitution or redress to the victim of the offense.

(C) It is an affirmative defense to a charge under division (A)(3), (4), or (5) of this section that the actor's conduct was a reasonable response to the circumstances that occasioned it, and that the actor's purpose was limited to any of the following:

(1) Compelling another to refrain from misconduct or to desist from further misconduct;

(2) Preventing or redressing a wrong or injustice;

(3) Preventing another from taking action for which the actor reasonably believed the other person to be disqualified;

(4) Compelling another to take action that the actor reasonably believed the other person to be under a duty to take.

(D) Whoever violates this section is guilty of coercion, a misdemeanor of the second degree.

(E) As used in this section:

(1) "Threat" includes a direct threat and a threat by innuendo.

(2) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

1) Conspirators engaged in criminal acts with purpose to coerce Newsome into payment of monies to which they were not entitled, initiated or encouraged the malicious lawsuit filed against Newsome.

2) Conspirators: (a) threatened to commit any offense against Newsome; (b) Uttered or threatened any calumny against Newsome; (c) Exposed or threatened to expose any matter tending to subject Newsome to hatred, contempt, or ridicule, to damage Newsome's personal and business reputation, or to impair Newsome's credit; and (d) took official action and/or caused malicious lawsuit to be brought against Newsome.

3) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

4) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT TEN:
DEPRIVATION OF RIGHTS UNDER THE LAW

X. DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

Title 18, U.S.C., Section 242
Deprivation of Rights Under Color of Law

This statute makes it a crime for any person acting under color of law, statute, ordinance, regulation, or custom to willfully deprive or cause to be deprived from any person those rights, privileges, or immunities secured or protected by the Constitution and laws of the U.S.

This law further prohibits a person acting under color of law, statute, ordinance, regulation or custom to willfully subject or cause to be subjected any person to different punishments, pains, or penalties, than those prescribed for punishment of citizens on account of such person being an alien or by reason of his/her color or race.

Acts under "color of any law" include acts not only done by federal, state, or local officials within the bounds or limits of their lawful

authority, but also acts done without and beyond the bounds of their lawful authority; provided that, in order for unlawful acts of any official to be done under "color of any law," the unlawful acts must be done while such official is purporting or pretending to act in the performance of his/her official duties. This definition includes, in addition to law enforcement officials, individuals such as Mayors, Council persons, Judges, Nursing Home Proprietors, Security Guards, etc., persons who are bound by laws, statutes ordinances, or customs.

Punishment varies from a fine or imprisonment of up to one year, or both, ...

FEDERAL

CUT & PASTED:
http://www.law.cornell.edu/constitution/constitution.preamble.html
UNITED STATES CONSTITUTION

Preamble:
We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

CUT & PASTED FROM:
http://www.law.cornell.edu/constitution/constitution.amendmentxiv.html
UNITED STATES CONSTITUTION

Amendment XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. . . .

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

STATE OF OHIO

CUT & PASTED FROM:
http://www.legislature.state.oh.us/constitution.cfm?Part=0
OHIO CONSTITUTION

Preamble:

> We, the people of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this Constitution.

1) On or about December 2, 2009, Conspirators/Justices of the Supreme Court of Ohio acting under "color of law,' statute, ordinance, regulation, or custom did willfully, knowingly, and maliciously engage in criminal acts to deprive or cause to be deprived from Newsome those rights, privileges, or immunities secured or protected by the Constitution and laws of the United States.

2) On or about December 2, 2009, Conspirators/Justices of the Supreme Court of Ohio acting under color of law, statute, ordinance, regulation or custom to willfully subject or cause to be subjected Newsome to different punishments, pains, deprivation of rights precluded by laws because of her race and because of her engagement in protected activities.

3) On or about December 2, 2009, Conspirators/Justices of the Supreme Court of Ohio acting under "color of law" done by state or local officials within the bounds or limits of their lawful authority, did also engage in acts without and beyond the bounds of their lawful authority. Said acts were done while said official was purporting or pretending to act in the performance of his/her official duties.

4) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

5) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT ELEVEN:
CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD UNITED STATES

XI. CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD UNITED STATES

Title 18 U.S.C. § 371
Conspiracy To Commit Offense Or To Defraud United States

> If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency

> thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.
>
> If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

1) On or about December 2, 2009, Conspirators/Justices of the Supreme Court of Ohio conspired either to commit any offense against the United States, or to defraud the United States, or any agency thereof in a manner or for any purpose, and one or more of said conspiracy ***did knowingly use United States Postage that had been compromised in the carrying out of criminal conspiracy*** did an act to effect the object of the conspiracy. Therefore each shall be fined under this title or imprisoned not more than five years, or both.

2) On or about December 2, 2009, Conspirators/Justices of the Supreme Court of Ohio conspired either to commit an offense against the United States, defraud the United States, or any agency thereof by tampering with the Supreme Court of Ohio mailing and compromising the postmarking for purposes of defrauding the United States as well as ***did knowingly use United States Postage that had been compromised in the carrying out of criminal conspiracy*** as to its mailing and handling thereof.

3) On or about December 2, 2009, Conspirators/Justices of the Supreme Court of Ohio conspired either to commit an offense against the United States, defraud the United States, or any agency thereof by tampering with the Supreme Court of Ohio mailing and compromising the postmarking for purposes of COVERING UP criminal activities and used United States Postage to perpetrate said criminal acts (i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*).

4) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

5) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and**

imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT TWELVE:
CONSPIRACY TO IMPEDE

XII. CONSPIRACY TO IMPEDE

Title 18 U.S.C. § 372
Conspiracy To Impede

> If two or more persons in any State, Territory, Possession, or District conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof, or to induce by like means any officer of the United States to leave the place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties, each of such persons shall be fined under this title or imprisoned not more than six years, or both.

1) On or about December 2, 2009, Conspirators/Justices of the Supreme Court of Ohio conspired to prevent, by force, intimidation a United States Postal Worker/Employee from discharging their duties through the tampering and compromising of mail to be distributed from the Supreme Court of Ohio mailing facility to Newsome. In so doing ***did knowingly use United States Postage that had been compromised in the carrying out of criminal conspiracy***, induced by like means an Officer/Employee of the Supreme Court of Ohio to compromise, tamper and impede the mailing of United States mail; moreover, may have induced those with the responsibility to handling United States mail to take leave of their duty as an official of the United States Postal Service; mail clerk of the Supreme Court of Ohio or person authorized to handle processing of United States mail, required to be performed to engage and participate in impeding and tampering with United States mailing in the discharge and/or carrying out of their duties as an employee of the United States Postal Service, Supreme Court of Ohio or employer conducting business in the United States.

2) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and

having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

3) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT THIRTEEN:
FRAUDS AND SWINDLES

XIII. FRAUD AND SWINDLES

Title 18 U.S.C. § 1341
Frauds and Swindles

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

Title 18 U.S.C. § 1346
Definition Of "Scheme Or Artifice To Defraud"

For the purposes of this chapter, the term "scheme or artifice to defraud" includes a scheme or artifice to deprive another of the intangible right of honest services.

1) On or about December 2, 2009, Conspirators/Justices of the Supreme Court of Ohio having devised or intending to devise any scheme or artifice to defraud, or for obtaining property by means of false or fraudulent pretenses, representations, or promises, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use, obligation, security, or other article as its alleged December 2, 2009 Supreme Court of Ohio ENTRY and mailing ***did knowingly use United States Postage that had been compromised in the carrying out of criminal conspiracy*** for the purposes of executing such scheme or artifice and withholding and impeding mailing and precluding documentation from being timely mailed and placed in the United States mailing system/Post Office or authorized depository for mail matter, or withholding and tampering with mailing of December 2, 2009 ENTRY; therefore, precluding the timely mailing of same and timely receipt by Newsome for purposes of depriving her equal protection of the laws and due process of laws. Rights secured/guaranteed under the Constitution and laws of the United States.

2) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

3) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT FOURTEEN:
OBSTRUCTION OF COURT ORDERS

XIV. OBSTRUCTION OF COURT ORDERS

Title 18 U.S.C. § 1509
Obstruction Of Court Orders

Whoever, by threats or force, willfully prevents, obstructs, impedes, or interferes with, or willfully attempts to prevent, obstruct, impede, or interfere with, the due exercise of rights or the performance of

duties under any order, judgment, or decree of a court of the United States, shall be fined under this title or imprisoned not more than one year, or both.

No injunctive or other civil relief against the conduct made criminal by this section shall be
denied on the ground that such conduct is a crime.

1) On or about December 2, 2009, Conspirators/Justices of the Supreme Court of Ohio did knowingly, willingly, deliberately and maliciously cause by force the prevention, obstruction, impeding, interference with, as well as, knowingly, willfully, deliberately, and maliciously preventing, obstructing, impeding and interfering with the due exercise of rights or the performance of duties afforded under the laws of the United States and the execution affording rebuttal under the laws to the December 2, 2009, ENTRY of the Supreme Court of Ohio in Case No. 2009-1690.

2) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

3) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT FIFTEEN:
TAMPERING WITH A WITNESS, VICTIM

XV. TAMPERING WITH A WITNESS, VICTIM

Title 18 U.S.C. § 1512
Tampering With a Witness, Victim. . .

. . .

(2) Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to—. . .

(B) cause or induce any person to—

(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(ii) alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official proceeding;

(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

(iv) be absent from an official proceeding to which that person has been summoned by legal process; or

(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings; shall be punished as provided in paragraph (3). . . .

(b) Whoever knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—

(1) influence, delay, or prevent the testimony of any person in an official proceeding;

(2) cause or induce any person to—

(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

(D) be absent from an official proceeding to which such person has been summoned by legal process; or . . .

(c) Whoever corruptly—

(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so,

shall be fined under this title or imprisoned not more than 20 years, or both.

(d) Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—

(1) attending or testifying in an official proceeding;

(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation supervised release parole, or release pending judicial proceedings;

(3) arresting or seeking the arrest of another person in connection with a Federal offense; or

> **(4)** causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding; or attempts to do so, shall be fined under this title or imprisoned not more than 3 years, or both. . . .
>
> **(f)** For the purposes of this section—
>
> **(1)** an official proceeding need not be pending or about to be instituted at the time of the offense; and
>
> **(2)** the testimony, or the record, document, or other object need not be admissible in evidence or free of a claim of privilege. . . .
>
> **(k)** Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

1) Conspirators engaged in criminal acts with purpose to coerce Newsome into foregoing rights secured/guaranteed under the Constitution and laws of the United States.

2) The record evidence will support sufficient information to sustain the Justices' of the Supreme Court knowledge that Newsome would not forego rights as well as knowledge of Newsome's entitlement to the relief sought through Emergency Writ of Prohibition action, did knowingly, deliberately, intentionally and maliciously withhold, deter, impede and obstruct the administration of justice in the handling of the December 2, 2009 ENTRY for purposes of unlawfully/illegally attempting to get Newsome to waive her rights to contest and/or acquiesce said ENTRY.

3) Through criminal acts on or about December 2, 2009, Conspirators: (a) knowingly, deliberately, intentionally and maliciously directly/indirectly threatened to commit any offense against Newsome; (b) directly/indirectly exposed or threatened to expose any matter tending to subject Newsome to hatred, criminal/civil wrongs, damage her reputation or business repute and impair her credit through the Justices of the Supreme Court of Ohio and other Conspirators/Co-Conspirators engagement in criminal conspiracy leveled against Newsome; and (c) directly/indirectly caused through coercion the taking, withholding, impeding and obstructing of justice in the handling of December 2, 2009 ENTRY in Writ of Prohibition which caused Newsome IRREPABLE injury/harm/damages clearly prohibited by law.

4) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

5) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome

further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT SIXTEEN:
RETALIATING AGAINST A WITNESS AND/OR VICTIM

XVI. RETALIATING AGAINST A WITNESS AND/OR VICTIM

Title 18 U.S.C. § 1513
Retaliating Against a Witness, Victim. . .

. . .

(c) If the retaliation occurred because of attendance at or testimony in a criminal case, the maximum term of imprisonment which may be imposed for the offense under this section shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case. . . .

(e) Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.

(f) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

(g) A prosecution under this section may be brought in the district in which the official proceeding (whether pending, about to be instituted, or completed) was intended to be affected, or in which the conduct constituting the alleged offense occurred.

1) Newsome believes an investigation into this instant FBI Complaint will support that the Justices' of the Supreme Court of Ohio and other Conspirators/Co-Conspirators acts in the handling of December 2, 2009 ENTRY in Emergency Writ of Prohibition action will support the criminal acts (i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*) are a direct and proximate result of retaliation and efforts to deprive Newsome equal protection of the laws and due process of laws. Rights secured under the Constitution and/or laws of the United States. Said retaliation being the direct and proximate result of Newsome's

engagement and filing of the Emergency Writ of Prohibition; moreover, retaliating against Newsome for purposes of rendering LIBERTY MUTUAL, its lawyers/law firms and their clients with favorable outcome in litigation in exchange for the financial contributions made to Justices of the Supreme Court of Ohio. In so doing, Justices of the Supreme Court of Ohio and other Conspirators/Co-Conspirators engaged in criminal acts for purposes of COVER-UP CORRUPTION and obstruction of justice.

2) Conspirators knowingly, with the intent to retaliate, took actions which were harmful to Newsome, including interference with livelihood of Newsome, because of her bringing of Emergency Writ of Prohibition action and filing of FBI Criminal Complaint against judges and others in the lower court matters out of which the Writ of Prohibition matter was birthed.

3) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

4) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT SEVENTEEN:
DESTRUCTION, ALTERATION, OR FALSIFICATION OF RECORDS

XVII. DESTRUCTION, ALTERCATION, OR FALSIFICATION OF RECORDS

Title 18 U.S.C. § 1519
Destruction, Alteration, or Falsification of Records in Federal Investigations . . .

> Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

1) Newsome through this instant FBI Complaint believes that the Supreme Court of Ohio in efforts of covering up its criminal acts in the handling of December 2, 2009 ENTRY in

Writ of Prohibition action did knowingly, willingly and maliciously conceal, cover-up, falsify the Entry of December 2, 2009 ruling in the Docket of said Court. Moreover, that said criminal acts were done for the purposes of intent to impede, obstruct or influence the outcome of the September 24, 2009 FBI Complaint and investigation filed against Respondent (Judge Nadine Allen) as well as other Conspirators/Co-Conspirators made known to the Supreme Court of Ohio.

2) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

3) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT EIGHTEEN:
OBSTRUCTION OF MAIL

XVIII. OBSTRUCTION OF MAIL

Title 18 U.S.C. § 1701
Obstruction Of Mails Generally

> Whoever knowingly and willfully obstructs or retards the passage of the mail, or any carrier or conveyance carrying the mail, shall be fined under this title or imprisoned not more than six months, or both.

1) Conspirators knowingly and willfully obstructed or retarded the passage of mail. Moreover, knowingly and willfully obstructed and retarded the passage of mail containing the December 2, 2009 ENTRY in the Emergency Writ of Prohibition action brought by Newsome.

2) Newsome through this instant FBI Complaint and request an investigation into the handling of the December 2, 2009 ENTRY of the Supreme Court of Ohio in the Emergency Writ of Prohibition matter brought by Newsome in that the evidence supports that mail handlers compromised and impeded the mailing of December 2, 2009 ENTRY. The evidence supports that the Supreme Court of Ohio knowingly, deliberately, intentionally and maliciously only applied U.S. postage in the amount of 35¢ in use of Postage Meter No. **0004262597** – meter **REPEATEDLY** used in handling of mail to Newsome - and at

another time (i.e. in the handling of mailing of December 2, 2009 ENTRY) applied U.S. Postage in the amount of only 8¢ (on the backside) in the use of Postage Meter No. **0004247379**. See **EXHIBIT "N"** attached hereto and incorporated by reference as if set forth in full herein. **PLEASE TAKE NOTICE**: *Postage Meter No.* ***0004262597*** *appears to be the meter assigned to the Supreme Court of Ohio as evidenced from prior postmarking on mailings to Newsome. See* ***EXHIBIT "O"*** *attached hereto and incorporated by reference as if set forth in full herein. However, from research Postage Meter No.* ***0004247379*** *is* ***assigned to a company called PSI Group in Grove City, Ohio.***[20] *Again, see* ***EXHIBIT "N"*** *for postmarking information. Therefore, leaving Newsome to wonder how did a company like PSI Group obtain the Supreme Court of Ohio mailing and what role said company and/or its employees played in the tampering, withholding, obstruction of justice and other crimes leveled against Newsome.* ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

3) **PLEASE TAKE NOTICE:** Newsome through this instant FBI Complaint request an investigation and determination of how the December 2, 2009 ENTRY in the Writ of Prohibition matter of the Supreme Court of Ohio which **is located in Columbus, Ohio** and bears **Postage Meter No. 0004262597** AND **ZIP CODE 43215** – See **EXHIBITS "N"** and **"P"** respectively attached hereto and incorporated by reference as if set forth in full herein - leaves said Court's mailing facility to be **taken to Grove City, Ohio** to a ***business called PSI Group*** to obtain a postmarking from **Postage Meter No. 0004247379** at **ZIP CODE 43123**. See **EXHIBITS "N"** and **"Q"** respectively attached hereto and incorporated by reference as if set forth in full herein. Therefore, it is important to find out the role PSI Group, its employees and/or others played in the criminal conspiracy to obstruct the administration of justice. Moreover, role played in the delay of Newsome's timely receipt of the December 2, 2009 ENTRY of the Supreme Court of Ohio. ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

4) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

[20] Information obtained from research conducted on Postage Meter Number.

5) **IMPORTANT TO NOTE:** Through this instant FBI Complaint Newsome seeks to determine whether or not any of the Supreme Court of Ohio Justices/Officials/Employees lives in Grove City, Ohio. If so, what role said Justices/Officials/Employees may have played in transfer of mail from the Supreme Court of Ohio in Columbus, Ohio to PSI Group in Grove City, Ohio. ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

6) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT NINETEEN:
OBSTRUCTION OF CORRESPONDENCE

XIX. OBSTRUCTION OF CORRESPONDENCE

Title 18 U.S.C. § 1702
Obstruction Of Correspondence

> Whoever takes any letter, postal card, or package out of any post office or any authorized depository for mail matter, or from any letter or mail carrier, or which has been in any post office or authorized depository, or in the custody of any letter or mail carrier, before it has been delivered to the person to whom it was directed, with design to obstruct the correspondence, or to pry into the business or secrets of another, or opens, secretes, embezzles, or destroys the same, shall be fined under this title or imprisoned not more than five years, or both.

1) Conspirators took December 2, 2009 ENTRY in Writ of Prohibition matter intended for Newsome out of the post office and/or any authorized depository for mail matter that was placed in an authorized depository for purposes to obstruct the delivery of correspondence and/or mail for purposes of prying and interfering with the business of Newsome and tampered and/or compromised said correspondence/mail.

2) The evidence contained herein will support that according to the United States Postal Service that if the December 2, 2009 ENTRY of the Supreme Court of Ohio regarding the Emergency Writ of Prohibition was mailed as alleged by the ***compromised*** *postmarking placed on envelope, Newsome should have received said mailing on December 4, 2009.* However, when Newsome checked her mailbox the weekend of December 5, 2009, said December 2, 2009 ENTRY had not been received. Said ENTRY was not received until on or about December 9, 2009 – i.e. approximately one week from the date of alleged entry. See **EXHIBIT "R"** – USPS Postage Calculation Information.

From said information the United States Postal Service ("USPS") calculates the speed of travel for mail from the Supreme Court of Ohio *to be approximately **one-day***.

3) Newsome through this instant FBI Complaint and request an investigation into the handling of the December 2, 2009 ENTRY of the Supreme Court of Ohio in the Emergency Writ of Prohibition matter brought by Newsome in that the evidence supports that mail handlers compromised and impeded the mailing of December 2, 2009 ENTRY. The evidence supports that the Supreme Court of Ohio knowingly, deliberately, intentionally and maliciously only applied U.S. postage in the amount of 35¢ in use of Postage Meter No. **0004262597** – meter **REPEATEDLY** used in handling of mail to Newsome - and at another time (i.e. in the handling of mailing of December 2, 2009 ENTRY) applied U.S. Postage in the amount of only 8¢ (on the backside) in the use of Postage Meter No. **0004247379**. See **EXHIBIT "N"** attached hereto and incorporated by reference as if set forth in full herein. **PLEASE TAKE NOTICE**: *Postage Meter No. **0004262597** appears to be the meter assigned to the Supreme Court of Ohio as evidenced from prior postmarking on mailings to Newsome. See **EXHIBIT "O"** attached hereto and incorporated by reference as if set forth in full herein. However, from research Postage Meter No. **0004247379** is **assigned to a company called PSI Group in Grove City, Ohio**. Again, see **EXHIBIT "N"** for postmarking information. Therefore, leaving Newsome to wonder how did a company like PSI Group obtain the Supreme Court of Ohio mailing and what role said company and/or its employees played in the tampering, withholding, obstruction of justice and other crimes leveled against Newsome.* ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

4) **PLEASE TAKE NOTICE:** Newsome through this instant FBI Complaint request an investigation and determination of how the December 2, 2009 ENTRY in the Writ of Prohibition matter of the Supreme Court of Ohio which **is located in Columbus, Ohio** and bears **Postage Meter No. 0004262597** AND **ZIP CODE 43215** – See **EXHIBITS "N"** and **"P"** respectively attached hereto and incorporated by reference as if set forth in full herein - leaves said Court's mailing facility to be **taken to Grove City, Ohio** to a ***business called PSI Group*** to obtain a postmarking from **Postage Meter No. 0004247379** at **ZIP CODE 43123**. See **EXHIBITS "N"** and **"Q"** respectively attached hereto and incorporated by reference as if set forth in full herein. Therefore, it is important to find out the role PSI Group, its employees and/or others played in the criminal conspiracy to obstruct the administration of justice. Moreover, role played in the delay of Newsome's timely receipt of the December 2, 2009 ENTRY of the Supreme Court of Ohio. ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

5) **IMPORTANT TO NOTE:** Through this instant FBI Complaint Newsome seeks to determine whether or not any of the Supreme Court of Ohio Justices/Officials/Employees lives in Grove City, Ohio. If so, what role said

Justices/Officials/Employees may have played in transfer of mail from the Supreme Court of Ohio in Columbus, Ohio to PSI Group in Grove City, Ohio. ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

6) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

7) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT TWENTY
DELAY OF MAIL

XX. DELAY OF MAIL

Title 18 U.S.C. § 1703
Delay Or Destruction Of Mail. . .

> **(a)** Whoever, being a Postal Service officer or employee, unlawfully secretes, destroys, detains, delays, or opens any letter, postal card, package, bag, or mail entrusted to him or which shall come into his possession, and which was intended to be conveyed by mail, or carried or delivered by any carrier or other employee of the Postal Service, or forwarded through or delivered from any post office or station thereof established by authority of the Postmaster General or the Postal Service, shall be fined under this title or imprisoned not more than five years, or both.

1) Newsome through this instant FBI Complaint and request an investigation into the handling of the December 2, 2009 ENTRY of the Supreme Court of Ohio in the Emergency Writ of Prohibition matter brought by Newsome in that the evidence supports that mail handlers compromised and impeded the mailing of December 2, 2009 ENTRY. The evidence supports that the Supreme Court of Ohio knowingly, deliberately, intentionally and maliciously only applied U.S. postage in the amount of 35¢ in use of Postage Meter No. **0004262597** – meter **REPEATEDLY** used in handling of mail to Newsome - and at

another time (i.e. in the handling of mailing of December 2, 2009 ENTRY) applied U.S. Postage in the amount of only 8¢ (on the backside) in the use of Postage Meter No. **0004247379**. See **EXHIBIT "N"** attached hereto and incorporated by reference as if set forth in full herein. **PLEASE TAKE NOTICE**: *Postage Meter No.* ***0004262597*** *appears to be the meter assigned to the Supreme Court of Ohio as evidenced from prior postmarking on mailings to Newsome. See* ***EXHIBIT "O"*** *attached hereto and incorporated by reference as if set forth in full herein. However, from research Postage Meter No.* ***0004247379*** *is* ***assigned to a company called PSI Group in Grove City, Ohio***. *Again, see* ***EXHIBIT "N"*** *for postmarking information. Therefore, leaving Newsome to wonder how did a company like PSI Group obtain the Supreme Court of Ohio mailing and what role said company and/or its employees played in the tampering, withholding, obstruction of justice and other crimes leveled against Newsome.* ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

2) Newsome believes that the delay of the December 2, 2009 ENTRY in by the Supreme Court of Ohio in her Writ of Prohibition action were a direct and proximate result of Conspirators engagement in criminal conspiracy and/or criminal acts (i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*). Criminal acts knowingly, willingly, intentionally, deliberately and maliciously committed for purposes of obstructing the administration of justice and depriving Newsome rights secured/guaranteed under the Constitution and/or laws of the United States.

3) **PLEASE TAKE NOTICE:** Newsome through this instant FBI Complaint request an investigation and determination of how the December 2, 2009 ENTRY in the Writ of Prohibition matter of the Supreme Court of Ohio which **is located in Columbus, Ohio** and bears **Postage Meter No. 0004262597** AND **ZIP CODE 43215** – See **EXHIBITS "N"** and **"P"** respectively attached hereto and incorporated by reference as if set forth in full herein - leaves said Court's mailing facility to be **taken to Grove City, Ohio** to a ***business called PSI Group*** to obtain a postmarking from **Postage Meter No. 0004247379** at **ZIP CODE 43123**. See **EXHIBITS "N"** and **"Q"** respectively attached hereto and incorporated by reference as if set forth in full herein. Therefore, it is important to find out the role PSI Group, its employees and/or others played in the criminal conspiracy to obstruct the administration of justice. Moreover, role played in the delay of Newsome's timely receipt of the December 2, 2009 ENTRY of the Supreme Court of Ohio. ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

4) **IMPORTANT TO NOTE:** It is important to know who owns and/or possess the Postage Meter No. **0004247379** and how the Supreme Court of Ohio was able to obtain additional postage from said meter as well as the purpose for the Supreme Court of Ohio's handling of the mailing of December 2, 2009 ENTRY in the Emergency Writ of Prohibition matter. Moreover, the identity of the person who took the Supreme Court of Ohio's ENTRY to Grove City, Ohio to get it postmarked. Furthermore, how long individual(s) held onto mail before actually releasing it for mailing after compromising the postmarking information on said mailing.

5) **Postage Meter No. 0004262597** supports this is the meter that the Supreme Court of Ohio used on **ALL** other mailings to Newsome – See **EXHIBIT "O"** attached hereto and incorporated by reference; however, in the handling of the December 2, 2009 ENTRY regarding Emergency Writ of Prohibition matter, said Court took a ***FAR*** *departure* and elected to engage in criminal conspiracy to impede, hinder, delay and obstruct the administration of justice. Evidence further sustaining the criminal conspiracy leveled against Newsome and the role of Conspirators. ***Criminal acts in which Newsome has been irreparable injury/harm and has been adversely affected.***

6) The evidence contained herein will support that according to the United States Postal Service that if the December 2, 2009 ENTRY of the Supreme Court of Ohio regarding the Emergency Writ of Prohibition was mailed as alleged by the ***compromised*** *postmarking placed on envelope, Newsome should have received said mailing on December 4, 2009.* However, when Newsome checked her mailbox the weekend of December 5, 2009, said December 2, 2009 ENTRY had not been received. Said ENTRY was not received until on or about December 9, 2009 – i.e. approximately one week from the date of alleged entry. See **EXHIBIT "R"** – USPS Postage Calculation Information. From said information the United States Postal Service ("USPS") calculates the speed of travel for mail from the Supreme Court of Ohio *to be approximately* ***one-day***.

7) **IMPORTANT TO NOTE:** Through this instant FBI Complaint Newsome seeks to determine whether or not any of the Supreme Court of Ohio Justices/Officials/Employees lives in Grove City, Ohio. If so, what role said Justices/Officials/Employees may have played in transfer of mail from the Supreme Court of Ohio in Columbus, Ohio to PSI Group in Grove City, Ohio. ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

8) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

9) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and**

imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT TWENTY-ONE:
THEFT OR RECEIPT OF STOLEN MAIL

XXI. THEFT OR RECEIPT OF STOLEN MAIL

Title 18 U.S.C. § 1708
Theft Or Receipt Of Stolen Mail Matter Generally

Whoever steals, takes, or abstracts, or by fraud or deception obtains, or attempts so to obtain, from or out of any mail, post office, or station thereof, letter box, mail receptacle, or any mail route or other authorized depository for mail matter, or from a letter or mail carrier, any letter, postal card, package, bag, or mail, or abstracts or removes from any such letter, package, bag, or mail, any article or thing contained therein, or secretes, embezzles, or destroys any such letter, postal card, package, bag, or mail, or any article or thing contained therein; or

Whoever steals, takes, or abstracts, or by fraud or deception obtains any letter, postal card, package, bag, or mail, or any article or thing contained therein which has been left for collection upon or adjacent to a collection box or other authorized depository of mail matter; or

Whoever buys, receives, or conceals, or unlawfully has in his possession, any letter, postal card, package, bag, or mail, or any article or thing contained therein, which has been so stolen, taken, embezzled, or abstracted, as herein described, knowing the same to have been stolen, taken, embezzled, or abstracted—

Shall be fined under this title or imprisoned not more than five years, or both.

1) Conspirators did knowingly, willingly, intentionally, deliberately and maliciously steal, take, abstract by fraud and/or deception out of the mail receptacle and/or other depository the December 2, 2009 ENTRY of the Supreme Court of Ohio in the Emergency Writ of Prohibition action allegedly mailed to Newsome. The record evidence will support that the Supreme Court of Ohio compromised and may have falsified information on Postmarking and the ***abuse*** of postage meter to apply U.S. Postage from Meter No. **0004262597** and later, in furtherance of conspiracy and criminal wrongs did steal, take, tamper, impede, obstruct, for purposes of applying ***another*** Postmarking and the use of postage meter to apply U.S. Postage from Meter No. **0004247379**. See **EXHIBITS "N"** and **"O"** respectively attached hereto and incorporated by reference as if set forth in full herein. Therefore, in so doing, Conspirators ***did knowingly use United States Postage that had***

been compromised in the carrying out of criminal conspiracy and criminal acts - i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*.

2) The record evidence will support that on ALL mailings (except mailing of December 2, 2009) the Clerk/Deputy Clerk used pre-printed labels that were placed on the Supreme Court of Ohio's mailing labels to provide Newsome with correspondence/documentation. However, when it comes to the mailing of the December 2, 2009 ENTRY regarding Writ of Prohibition matter; said practice is broken and then resumed in post mailings to Newsome. See **EXHIBITS "N"** and **"O"** – copy of envelopes attached hereto and incorporated by reference. However, when it comes to the envelope containing the December 2, 2009 ENTRY of the Supreme Court of Ohio, *no such label as used **on ALL other mailings** to Newsome is applied*. Moreover, the address information is incomplete –i.e. lacks the city, state and zip code information that Conspirator resorted to handwriting information on envelope. ***Criminal acts in which Newsome has been irreparable injury/harm and has been adversely affected.***

3) **PLEASE TAKE NOTICE:** Newsome through this instant FBI Complaint request an investigation and determination of how the December 2, 2009 ENTRY in the Writ of Prohibition matter of the Supreme Court of Ohio which **is located in Columbus, Ohio** and bears **Postage Meter No. 0004262597** AND **ZIP CODE 43215** – See **EXHIBITS "N"** and **"P"** respectively attached hereto and incorporated by reference as if set forth in full herein - leaves said Court's mailing facility to be **taken to Grove City, Ohio** to a ***business called PSI Group*** to obtain a postmarking from **Postage Meter No. 0004247379** at **ZIP CODE 43123**. See **EXHIBITS "N"** and **"Q"** respectively attached hereto and incorporated by reference as if set forth in full herein. Therefore, it is important to find out the role PSI Group, its employees and/or others played in the criminal conspiracy to obstruct the administration of justice. Moreover, role played in the delay of Newsome's timely receipt of the December 2, 2009 ENTRY of the Supreme Court of Ohio. ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

4) Conspirators did knowingly, willingly, intentionally, deliberately and maliciously steal, take, abstract by fraud and/or deception the December 2, 2009 ENTRY of the Supreme Court of Ohio in the Emergency Writ of Prohibition matter mailed to Newsome with knowledge that he/she were engaging and/or should have known they were engaging in criminal acts to impede, deter and obstruct the administration of justice. In so doing, deprived Newsome equal protection of the laws and due process of laws. Rights secured/guaranteed under the Constitution and other statutes/laws of the United States.

5) **IMPORTANT TO NOTE:** Through this instant FBI Complaint Newsome seeks to determine whether or not any of the Supreme Court of Ohio Justices/Officials/Employees lives in Grove City, Ohio. If so, what role said Justices/Officials/Employees may have played in transfer of mail from the Supreme Court of Ohio in Columbus, Ohio to PSI Group in Grove City, Ohio. ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

6) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

7) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT TWENTY-TWO:
AVOIDANCE OF POSTAGE BY USING LOWER CLASS

XXII. AVOIDANCE OF POSTAGE BY USING LOWER CLASS MATTER

Title 18 U.S.C. § 1723
Avoidance Of Postage By Using Lower Class Matter

> Matter of the second, third, or fourth class containing any writing or printing in addition to the original matter, other than as authorized by law, shall not be admitted to the mails, nor delivered, except upon payment of postage for matter of the first class, deducting therefrom any amount which may have been prepaid by stamps affixed, unless by direction of a duly authorized officer of the Postal Service such postage shall be remitted.

1) Conspirators did knowingly, willingly, intentionally, deliberately and maliciously apply postage in the amount of 35¢ on envelope containing the December 2, 2009 ENTRY of the Supreme Court of Ohio in the Emergency Writ of Prohibition matter submitted to Newsome. *Conspirators doing so with knowledge that FIRST-Class postage was required; however, knowingly, willingly, intentionally, deliberately and maliciously* ***applied less and/or lower-class postage*** *for purposes of impeding, deterring and obstructing the delivery and timely receipt of said ruling by Newsome*.

2) Through this instant FBI Complaint Newsome request an investigation into how the December 2, 2009 ENTRY of the Supreme Court of Ohio was processed and handled and how it was that she came about receiving said mailing in that it did not contain the proper postage and was not properly addressed (i.e. City, State and Zip Code) was missing from envelope and later written in by one participating in the COVER-UP and criminal acts of the Supreme Court of Ohio officials.

3) **PLEASE TAKE NOTICE:** Newsome through this instant FBI Complaint request an investigation and determination of how the December 2, 2009 ENTRY in the Writ of Prohibition matter of the Supreme Court of Ohio which **is located in Columbus, Ohio** and bears **Postage Meter No. 0004262597** AND **ZIP CODE 43215** – See **EXHIBITS "N"** and **"P"** respectively attached hereto and incorporated by reference as if set forth in full herein - leaves said Court's mailing facility to be **taken to Grove City, Ohio** to a ***business called PSI Group*** to obtain a postmarking from **Postage Meter No. 0004247379** at **ZIP CODE 43123**. See **EXHIBITS "N"** and **"Q"** respectively attached hereto and incorporated by reference as if set forth in full herein. Therefore, it is important to find out the role PSI Group, its employees and/or others played in the criminal conspiracy to obstruct the administration of justice. Moreover, role played in the delay of Newsome's timely receipt of the December 2, 2009 ENTRY of the Supreme Court of Ohio. ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

4) Newsome believes that the record evidence and an investigation will support that the Ohio Supreme Court did knowingly, willingly, deliberately, intentionally and maliciously placed a lower amount of postage on the envelope containing the December 2, 2009 ENTRY in the Writ of Prohibition matter and in so doing took a far departure from normal handling of mail and deliberately compromised mailing with lower amount of postage for purposes of impeding and depriving Newsome of timely receipt. Moreover, depriving Newsome of equal protection of the laws and due process of laws. Right secured/guaranteed under the Constitution and/or laws of the United States.

5) Conspirators did knowingly, willingly, deliberately, intentionally and maliciously place a matter of FIRST-Class in an envelope and apply postage of a lower-rate and/or class and deposited same for conveyance by mail at a less rate than allowed by law. ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

6) **IMPORTANT TO NOTE:** Through this instant FBI Complaint Newsome seeks to determine whether or not any of the Supreme Court of Ohio Justices/Officials/Employees lives in Grove City, Ohio. If so, what role said Justices/Officials/Employees may have played in transfer of mail from the Supreme Court of Ohio in Columbus, Ohio to PSI Group in Grove City, Ohio. ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

7) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against

Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

8) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

Whoever knowingly conceals or encloses any matter of a higher class in that of a lower class, and deposits the same for conveyance by mail, at a less rate than would be charged for such higher class matter, shall be fined under this title.

COUNT TWENTY-THREE:
POSTAGE UNPAID ON DEPOSITED MAIL

XXIII. POSTAGE UNPAID ON DEPOSITED MAIL

Title 18 U.S.C. § 1725
Postage Unpaid On Deposited Mail Matter

> Whoever knowingly and willfully deposits any mailable matter such as statements of accounts, circulars, sale bills, or other like matter, on which no postage has been paid, in any letter box established, approved, or accepted by the Postal Service for the receipt or delivery of mail matter on any mail route with intent to avoid payment of lawful postage thereon, shall for each such offense be fined under this title.

1) On or about early December 2009, Conspirators did knowingly, willingly, deliberately and maliciously deposited the December 2, 2009, Supreme Court of Ohio's ENTRY, on which insufficient postage of .35¢ as well as an INCOMPLETE address had been applied in a letter box established, approved, or accepted by the Postal Service for the receipt or delivery of mail with the intent to avoid payment of lawful postage thereon for purposes of fraud, delay, impediment, and interference with the delivery of said ENTRY.

2) Newsome demands through this instant FBI Complaint to determine how the Supreme Court of Ohio's December 2, 2009 ENTRY in Emergency Writ of Prohibition matter that was postmarked dated December 3, 2009 and contained postage of 35¢ leaving a remaining balance of approximately 9¢ wound up in Gove City, Ohio to receive additional postage. See **EXHIBIT "N"** attached hereto and incorporated by reference as if set forth in full herein.

3) **PLEASE TAKE NOTICE:** Newsome through this instant FBI Complaint request an investigation and determination of how the December 2, 2009 ENTRY in the Writ of Prohibition matter of the Supreme Court of Ohio which **is located in Columbus, Ohio** and bears **Postage Meter No. 0004262597** AND **ZIP CODE 43215** – See **EXHIBITS "N"** and **"P"** respectively attached hereto and incorporated by reference as if set forth in full herein - leaves said Court's mailing facility to be **taken to Grove City, Ohio** to a ***business called PSI Group*** to obtain a postmarking from **Postage Meter No. 0004247379** at **ZIP CODE 43123**. See **EXHIBITS "N"** and **"Q"** respectively attached hereto and incorporated by reference as if set forth in full herein. Therefore, it is important to find out the role PSI Group, its employees and/or others played in the criminal conspiracy to obstruct the administration of justice. Moreover, role played in the delay of Newsome's timely receipt of the December 2, 2009 ENTRY of the Supreme Court of Ohio. ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

4) **IMPORTANT TO NOTE:** Through this instant FBI Complaint Newsome seeks to determine whether or not any of the Supreme Court of Ohio Justices/Officials/Employees lives in Grove City, Ohio. If so, what role said Justices/Officials/Employees may have played in transfer of mail from the Supreme Court of Ohio in Columbus, Ohio to PSI Group in Grove City, Ohio. ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

5) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

6) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT TWENTY-FOUR:
POSTAGE COLLECTED UNLAWFULLY

XXIV. POSTAGE COLLECTED UNLAWFULLY

Title 18 U.S.C. § 1726
Postage Collected Unlawfully

> Whoever, being a postmaster or other person authorized to receive the postage of mail matter, fraudulently demands or receives any rate of postage or gratuity or reward other than is provided by law for the postage of such mail matter, shall be fined under this title or imprisoned not more than six months, or both.

1) On or about December 3, 2009, Conspirator being a person authorized to receive the postage of mail matter, fraudulently demanded, received and applied a rate of postage other than that provided by law for the postage of such mail matter. Application of postage was made for purposes in furtherance of criminal acts – i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*.

2) On or about December 3, 2009, Conspirators did knowingly, willingly, deliberately and maliciously intercept mail of the Supreme Court of Ohio to be submitted to Newsome and used Postage Meter containing United States Postage to apply postage that he/she knew to be below the required First-Class rate as well as engaged in activities he/she knew and/or should have known was applied with criminal intent.

3) **IMPORTANT TO NOTE:** Through this instant FBI Complaint Newsome seeks to determine whether or not any of the Supreme Court of Ohio Justices/Officials/Employees lives in Grove City, Ohio. If so, what role said Justices/Officials/Employees may have played in transfer of mail from the Supreme Court of Ohio in Columbus, Ohio to PSI Group in Grove City, Ohio. ***Criminal acts in which Newsome has suffered irreparable injury/harm and has been adversely affected.***

4) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

5) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT TWENTY-FIVE:
POWER/FAILURE TO PREVENT

XXV. POWER/FAILURE TO PREVENT

1. Newsome requests through the filing of this instant Complaint and investigations as to whether or not there has been negligence to prevent the crime and/or criminal actions taken against her pursuant to 42 USC § 1986:

> **Every** person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, *and having **power to prevent** or **aid in preventing** the commission of the same, **neglects** or **refuses** so to do*, if such wrongful act be committed, **shall be liable** *to the party injured*, or his legal representatives, *for **all** damages caused by such wrongful act*, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; . . .

1) Conspirators had knowledge that any of the wrongs conspired to be done as mentioned in Section 1985 and alleged in this instant FBI Complaint and that of the September 24, 2009 FBI Complaint and others, had the power to prevent or aid in the preventing of the conspiracy carried out on or about December 2, 2009 in the handling of ENTRY of the Supreme Court of Ohio in the Emergency Writ of Prohibition matter. However, Conspirators neglected or refused so to prevent the commission of conspiracy and fulfillment of conspiracy and criminal acts leveled against Newsome. Therefore, Conspirators found guilty of committing said violations under Section 1986 shall be liable to Newsome.

2) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

3) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

COUNT TWENTY-SIX:
OBSTRUCTION OF JUSTICE

XXVI. OBSTRUCTION OF JUSTICE

> ***Obstruction of Justice*** - Interference with the orderly administration of law and justice, as by giving false information to or withholding evidence from a police officer or prosecutor, or by harming or intimidating a witness or juror. *Obstruction of justice is a crime in most jurisdictions.

4) Conspirators through the criminal acts leveled against Newsome in the handling of December 2, 2009 ENTRY of the Supreme Court of Ohio in the Emergency Writ of Prohibition matter did knowingly, willfully,, intentionally, deliberately and maliciously and/or should have known their acts were willfully, intentionally, deliberately and maliciously done with purpose of obstructing the administration of justice through the withholding, tampering and compromising the mailing of the December 2, 2009 ENTRY. By engaging in criminal acts (i.e. *Conspiracy; Conspiracy Against Rights; Conspiracy to Defraud; Conspiracy to Interfere With Civil Rights; Public Corruption; Bribery; Complicity; Aiding and Abetting; Coercion; Deprivation of Rights Under the Law; Conspiracy to Commit Offense or to Defraud United States; Conspiracy to Impede; Frauds and Swindles; Obstruction of Court Orders; Tampering With Witness/Victim; Retaliating Against Witness/Victim; Destruction, Altercation, or Falsification of Records; Obstruction of Mail; Obstruction of Correspondence; Delay of Mail; Theft or Receipt of Stolen Mail; Avoidance of Postage By Using Lower Class; Postage Unpaid on Deposited Mail; Postage Collected Unlawfully; Power/Failure to Prevent; and Obstruction of Justice*), Conspirators committed crimes punishable under the laws of the United States.

5) Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

6) Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that

said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

UNITED STATES PRESIDENTIAL EXECUTIVE ORDER(S)

XXVII. REQUEST FOR EXECUTIVE ORDER(S)

1) Newsome through this instant FBI Complaint also submits to the attention of United States President Barack Obama who request that the applicable Executive Orders be drafted, created, executed and issue to deter further criminal conspiracies which an investigation and the record evidence will support have been leveled against Newsome. Newsome further believes that said demand is allowed given the SEVERE nature of the PATTERN-OF-CONDUCT/PATTERN-OF-CONDUCT of Conspirators named herein as well as those named in other Complaints filed with the FBI by Newsome.

2) Newsome through this instant FBI filing provides United States President Barack Obama with instant FBI Complaint in that he is the United States President and also Head over the Department of Justice under which the Federal Bureau of Investigation is a Division/Department therein.

3) While the President Barack Obama has selected Eric Holder as the United States Attorney General, as the United States President, he is the Head of the Executive Department under which the jurisdiction/hierarchy of the United States Department of Justice lies. Moreover, said Department is under the supervision and control of United States President Barack Obama.

4) The laws of the United States provide President Barack Obama with the power to create, draft, execute and issue Executive Orders without the direction of the United States Congress. Newsome believes that the HABITUAL injustices evidenced not only herein but in other filings that have been submitted to President Barack Obama's attention further supports the issuance of the applicable EXECUTIVE ORDERS to assure and protect the rights of Newsome as well as other citizens and the PUBLIC at large.

5) The record evidence will support that the CORRUPTION that has infected the Supreme Court of Ohio is a matter that is long overdue in being exposed, reprimanded and in need of action from the United States President to protect the rights of not only Newsome but other citizens of the United States. The record evidence and an investigation will support that the Justices of the Supreme Court of Ohio have engaged in criminal acts addressed herein although such violations have been brought to its attention. To no avail. Therefore, warranting the United States President Barack Obama's intervention through the filing of this instant FBI Complaint – thus bringing this matter within his jurisdiction as the Head of the Executive Branch of the United States Government.

6) In further support of the issuing of the applicable Executive Orders, Newsome provides the following:

EXECUTIVE ORDER Defined: An order issued by or on behalf of the President, usu. intended to direct or instruct the actions of executive agencies or government officials, or to set policies for the executive branch to follow. *Black's Law Dictionary 9th Edition.*

EXECUTIVE POWER (Constitutional Law) Defined: The power to see that the laws are duly executed and enforced. ▪ Under federal law, this power is vested in the President; in the states, it is vested in the governors. The President's enumerated powers are found in the U.S. Constitution, art. II § 2; governors' executive powers are provided for in state constitutions. The other tow powers of government are the legislative power and the judicial power. *Black's Law Dictionary 9th Edition.*

"Executive order" is order or regulation issued by President or some administrative authority under his direction. *Times Pub. Co. v. U.S. Dept. of Commerce,* 104 F.Supp. 1361, reversed and remanded 236 F.3d 1286.

An executive order is privately enforceable only if it is issued pursuant to a statutory mandate or delegation of Congressional authority. *Calef ex rel. Calef v. Barnhart,* 309 F.Supp.2d 425. (E.D. NY 2004)

President's authority to act must stem either from act of Congress **OR** *from Constitution itself*. U.S.C. A. Const. Art. 2 §§ 1, 3. *Building and Const. Traders Dept., AFL-CIO v. Allbaugh,* 295 F.3d 28, 353 U.S.App. D.C. 28 (C.A D.C. 2002), certiorari denied 123 S.Ct. 992, 537 U.S. 1171, 154 L.Ed.2d 912. Although President cannot make law, his constitutionally authorized power necessarily encompasses ***general administrative control of those executing laws throughout Executive Branch of government***, **of which he is head**. U.S.C.A. Const. Art. 2 §§ 1, 3. *Id.* President of United States had constitutional authority to issue Executive Order requiring federal agencies, to the extent permitted by law, to neither favor nor disfavor project labor agreements (PLAs) in federally-funded construction contracts; Orders effect was self-limited to legally permissible action. U.S.C.A. Const. Art. 2 § 1. *Id.*

Rule to be followed in executive orders is that President's power, if any, to issue order must stem from either act of Congress **OR** *from Constitution itself*; executive order without congressional or constitutional authority is unconstitutional. *Mille Lacs Band of Chippewa Indians v. State of Minn.*, 124 F.3d 904, rehearing and suggestion for rehearing denied, certiorari granted 118 S.Ct. 2295, 524 U.S. 915, 141 L.Ed.2d 156, affirmed 119 S.Ct. 1187, 526 U.S. 172, 143 L.Ed.2d 270, certiorari denied *County of Aitkin v. Mille Lacs Band of Chippewa Indians*, 119 S.Ct. 1333, 526 U.S. 1038, 143 L.Ed.2d 497, certiorari denied *Thompson v. Mille Lacs Band of*

> *Cippewa Indians*, 119 S.Ct. 1376, 526 U.S. 1060, 143 L.Ed.2d 535. (C.A. 8 1997).
>
> Only when executive orders have specific foundation in Congressional action are they judicially enforceable in private civil suits. *Zhang v. Slattery,* 55 F.3d 732, certiorari denied 116 S.Ct. 1271, 516 U.S. 1176, 134 L.Ed.2d 217. (C.A. 2 1995)

7) Obama's ***faithful*** *execution of the laws* enacted by the Congress, however, ordinarily allows and frequently **requires** the President to ***provide guidance and supervision to his subordinates***. As we previously have had occasion to observe:

> The ordinary duties of officers prescribed by statute come under the general administrative control of the President by virtue of the general grant to him of the executive power, and he may properly supervise and guide their construction of the statutes under which they act in order to secure the unitary and uniform execution of the law which Article II of the Constitution evidently contemplated in vesting general executive power in the President alone.

Sierra Club v. Costle, 211 U.S. App. D.C. 336, 657 F.2d 298, 406 n.524 (D.C. Cir. 1981) Those officers are **duty**-*bound* to give effect to the policies embodied in the President's direction, to the extent allowed by the law.

> An executive order is judicially enforceable only if it has the force and effect of law, *Chrysler Corp. v. Brown,* 441 U.S. 281, 303-04, 99 S.Ct. 1705, 1718-19, 60 L.Ed. 2d 208 (1979) and *In Re Surface Mining Regulation Litigation,* 201 U.S. App. D.C. 360, 627 F.2d 1346, 1357 (D.C. Cir. 1980).
>
> Executive Order lacked the force and effect of law because it was never grounded in a statutory mandate or congressional delegation of authority. *Chrysler Corp. v. Brown,* 441 U.S. 281, 303-04, 99 S.Ct. 1705, 1718-19, 60 L.Ed. 2d 208 (1979); *Youngstown Sheet Tube Co. v. Sawyer,* 343 U.S. 579, 96 L.Ed. 1153, 72 S.Ct. 863, 47 Ohio Op. 430, 62 Ohio Law Abs. 417 (1952) and *In Re Surface Mining Regulation Litigation,* 201 U.S. App. D.C. 360, 627 F.2d 1346, 1357 (D.C. Cir. 1980).

Newsome further request that the requested Executive Order(s) be grounded in laws and statutory mandate.

CONCLUSION

WHEREFORE PREMISES CONSIDERED, Newsome files this instant ***FBI Complaint and Request for Investigation*** and ***Request for United States Presidential Executive Order(s)*** in good faith in that she seeks vindication and justice for the criminal and civil wrongs rendered her. ***Moreover, in the interest of the PUBLIC GOOD in that said concerns as to the CORRUPTION in the Supreme Court of Ohio has been publicly made known through the media and from concerned citizens***. Newsome reserves the right to amend this instant Complaint in that it has been prepared under duress and for purposes of expedition to see that the proper government authority has been timely, properly and adequately notified of the criminal activities of Conspirators. In July 2008, Newsome filed an Official Complaint with the United States Legislature/Congress. In May 2009, Newsome filed an Official Complaint with United States President Barack Obama; United States Attorney General Eric Holder of the United States Department of Justice; and United States Secretary of Labor Hilda Solis with the United States Department of Labor. Furthermore, there are pending FBI Complaints that Newsome filed on **June 26, 2006**, in Jackson, Mississippi; **October 13, 2008**, in Louisville, Kentucky; and **September 24, 2009,** in Cincinnati, Ohio – ***FBI Complaints in which President Barack Obama and U.S. Attorney General Eric Holder has obtained copies and or has been provided sufficient information as to where Complaint can be retrieved from***. Newsome has also recently submitted (i.e. since December 10, 2009) additional Correspondence to United States President Barack Obama and United States Attorney General Eric Holder and is awaiting response. Under the applicable statutes/laws of the United States, Newsome was legally and lawfully authorized to file her July 14, 2008 Complaint with the United States Legislature/Congress and therefore did so. However, PLEASE BE ADVISE that is a separate

matter and should not preclude the FBI's initiating, investigation and handling of this instant Complaint.

RELIEF SOUGHT

Newsome prays for the following relief:

A. **Immediate** issuance of Injunction, Restraining and Protective Order of and against Conspirators and their legal representatives and/or representative from subjecting Newsome to any further criminal and civil wrongs;

B. Criminal prosecution of Person(s)/Conspirators and the proper indictment rendered for those who may be found guilty;

C. Any and all other relief allowed under the statutes/laws governing said matters.

Respectfully submitted this **28th** day of **December, 2009.**

Vogel Denise Newsome
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922 / (601) 885-9536

David Duke

From Wikipedia, the free encyclopedia

David Ernest Duke (born July 1, 1950) is an American white nationalist, former Grand Wizard of the Knights of the Ku Klux Klan,[3][4][5][6][7][8] former Republican Louisiana State Representative, and a candidate in presidential primaries in 1992 and in the general election for President in 1988.

Duke describes himself as a racial realist asserting that "all people have a basic human right to preserve their own heritage".[9] He speaks in favor of voluntary racial segregation and white separatism.[10][11][12]

Duke has also unsuccessfully run for the Louisiana State Senate, U.S. Senate, U.S. House of Representatives, Governor of Louisiana, and twice for President of the United States.

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David Duke



David Duke in Flanders, Belgium, 2008

Member of the Louisiana House of Representatives from the 81st district

In office
1989 – 1992

Preceded by	Chuck Cusimano
Succeeded by	David Vitter

Born	1 July 1950 Tulsa, Oklahoma
Political party	Democratic (until 1988) Republican (while holding office)[1]
Spouse(s)	Chloê Eleanor Hardin (m. 1974, div. 1984)
Children	Erika Duke Kristin Duke
Residence	Mandeville, Louisiana
Occupation	Academic, author, political activist
Religion	Christianity[2]
Website	http://www.davidduke.com

EXHIBIT 17

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Youth and early adulthood

David Duke was born in Tulsa, Oklahoma, United States, North America to David H. Duke and Alice Maxine Crick. As the son of an engineer for Shell Oil, Duke frequently moved with his family around the world. They lived a short time in the Netherlands before settling in Louisiana. In the late 1960s, Duke met the leader of the white separatist National Alliance, William Pierce, who would remain a life-long influence. Duke joined the Ku Klux Klan in 1967.[13]

Duke studied at Louisiana State University in Baton Rouge, and in 1970, he formed a white student group called the White Youth Alliance; it was affiliated with the National Socialist White People's Party. The same year, to protest William Kunstler's appearance at Tulane University in New Orleans, Duke appeared at a demonstration in Nazi uniform. Picketing and holding parties on the anniversary of Adolf Hitler's birth, he became notorious on campus for wearing a Nazi uniform.[14]

Reforming the KKK

Duke went to Laos for ten weeks in 1971 to teach English to Laotian military officers and to serve on cargo flights for Air America.[14]

Duke graduated from Louisiana State University in 1974 and joined the Knights of the Ku Klux Klan. He gained attention for trying to modernize the Klan.[15] A follower of Duke, Thomas Robb, changed the title of Grand Wizard to National Director, and replaced the Klan's white robes with business suits.[16]

Family life

While working in the White Youth Alliance, Duke met Chloê Hardin, who became active in the group. They remained companions throughout college and married in 1974. Hardin is the mother of Duke's two daughters, Erika and Kristin. They divorced in 1984, and Hardin moved to West Palm Beach to be near her parents. There she became involved with Duke's Klan friend, Don Black, whom she later married.[17]

Political campaigns

1979 Louisiana State Senate District 10

In 1979, Duke ran as a Democrat for the 10th district seat in the Louisiana State Senate. He finished second in a three candidate race with 9,897 votes for 26.26%.[18]

Duke allegedly conducted a direct-mail appeal in 1987, using the identity and mailing-list of the Georgia Forsyth County Defense League without permission. League officials described it as a fund-raising scam. (It is detailed in *The Rise of David Duke* by Tyler Bridges.)

1988 Presidential Campaigns

In 1988, Duke ran initially in the Democratic presidential primaries. His campaign failed to make much of an impact, with the one notable exemption of winning the little known New Hampshire Vice-Presidential primary.[19] Duke having failed to gain much traction as a Democrat then successfully sought the Presidential nomination of the Populist Party.[20] He appeared on the ballot for President in eleven states (was a write-in candidate in some other states), some with Trenton Stokes of Arkansas for Vice President, and on other state ballots with Floyd Parker for Vice President. He received just 47,047 votes, for 0.04 percent of the combined, national popular vote.[21]

1989: Successful run in special election for Louisiana House seat

In December 1988, Duke changed his political affiliation from the Democratic Party to the Republican Party.[22]

In 1988, Republican State Representative Charles Cusimano of Metairie resigned his District 89 seat to become a 24th Judicial District Court judge, and a special election was called early in 1989 to select a successor. Duke entered the race to succeed Cusimano and faced several opponents, including fellow Republicans, John Spier Treen, a brother of former Governor David C. Treen, and Roger F. Villere, Jr., who operates Villere's Florist in Metairie. Duke finished first in the primary with 3,995 votes (33.1 percent).[23] As no one received a majority of the vote in the first round, a runoff election was required between Duke and Treen, who polled 2,277 votes (18.9 percent) in the first round of balloting. John Treen's candidacy was endorsed by U.S. President George H. W. Bush, former President Ronald W.

Reagan, and other notable Republicans,[24] as well as the Democrat Victor Bussie (president of the Louisiana AFL-CIO) and Edward J. Steimel (president of the Louisiana Association of Business and Industry and former director of the "good government" think tank, the Public Affairs Research Council). Duke, however, hammered Treen on a statement the latter had made indicating a willingness to entertain higher property taxes, anathema in that suburban district.[25] Duke with 8,459 votes (50.7 percent) defeated Treen, who polled 8,232 votes (49.3 percent).[26] He served in the House from 1990 until 1992.[27]

From his legislative base, Duke thereafter launched unsuccessful campaigns for the U.S. Senate in 1990 and governor in 1991. Villere did not again seek office but thereafter concentrated his political activity within the GOP organization.[28]

Political analyst Stephen Mark Sabludowsky (born 1950) of Metairie notes certain ironies in that 1989 special legislative race:

"Duke won that legislative seat, became a political nightmare for Governor Buddy Roemer and Republican chairman William "Billy" Nungesser. . . . Duke's fortunes soured as he attempted to run for President, later spent time in jail, then peddled his racism and Nazism and 'loony tunes' philosophies in the likes of Russia, Iran, and elsewhere. . . . Meanwhile, the young [thirty-nine] Roger Villere worked his way up the ladder of the Louisiana Republican Party, ultimately earning the position of chairman."[28]

In late 1980s, Duke reportedly had his nose thinned and chin augmented. Following his election to the Louisiana House of Representatives, he shaved his moustache.[29][30][31]

1990 campaign for U.S. Senate

In 1990, in the October 6 primary, Duke ran as a Republican against three Democrats including incumbent Senator J. Bennett Johnston, Jr.[32]

The Republican Party endorsed state Senator Ben Bagert of New Orleans, but national GOP officials anticipated that Bagert could not win and was fragmenting Johnston's support; so funding for Bagert's campaign was halted, and he dropped out two days before the election, though his name remained on the ballot.[33] In the last week of the campaign, Republican Senator John Danforth of Missouri openly endorsed Johnston.

Duke's views prompted some of his critics (including Republicans) to form the Louisiana Coalition Against Racism and Nazism, which directed media attention to Duke's statements of hostility to blacks and Jews.[34]

Duke received 43.51 percent (607,391 votes) of the vote to Johnston's 53.93 percent (752,902 votes),[35] and, according to exit polls, Duke received more than 60 percent of the white vote.

In a 2006 editorial, Gideon Rachman (*The Economist*, the *Financial Times*) recalled interviewing Duke's campaign manager (from his 1990 campaign) who said, "The Jews just aren't a big issue in Louisiana. We keep telling David, stick to attacking the blacks. There's no point in going after the Jews, you just piss them off and nobody here cares about them anyway."[36]

1992 Republican Party presidential candidate

In 1992 Duke ran for the nomination. Democrat Party officials tried to block his participation.[37] He received 119,115 (0.94%) votes[38] in the primaries, but no delegates to the national convention.

In 1992 a film was released that investigated Duke's appeal among some white voters. *Backlash: Race and the American Dream* explored the demagogic issues of Duke's platform, examining his use of black crime, welfare, affirmative action and white supremacy and tied Duke to a legacy of other white backlash politicians, such as Lester G. Maddox and George C. Wallace, Jr., and the use in the 1988 Presidential campaign of Pres. George H.W. Bush of these same racially themed hot buttons.[39]

1991 campaign for Governor of Louisiana

Despite repudiation by the Republican Party[40], Duke ran for Louisiana Governor in 1991. In the open primary, Duke was second to former governor Edwin Edwards in votes; thus, he faced Edwards in a runoff. In the initial round, Duke received 32% of the vote. Incumbent Governor Buddy Roemer, who had switched from the Democratic to Republican parties during his term, came in third with 27% of the vote. Duke effectively killed Roemer's bid for re-election. While Duke had a sizable core constituency of devoted supporters, many voted for him as a "protest vote" to register dissatisfaction with Louisiana's establishment politicians. Duke said he was the spokesman for the "White majority."[41] He took a strong anti-establishment stance reminiscent of George Wallace, in the 1968 presidential campaign.

Between the primary and the runoff, called the "general election" under Louisiana election rules (in which all candidates run on one ballot, regardless of party), white supremacist organizations from around the country contributed to his campaign fund.[42][43] He was also endorsed by James Meredith, black civil rights figure.[44]

Duke's success garnered national media attention. While Duke gained the backing of the quixotic former Alexandria Mayor John K. Snyder, he won few serious endorsements in Louisiana. Celebrities and organizations donated thousands to Edwards' campaign. Referencing Edwards' long-standing problem with accusations of corruption, popular bumper stickers read: "Vote for the Crook. It's Important," and "Vote for the Lizard, not the Wizard." When a reporter asked Edwards what he needed to do to triumph over Duke, Edwards replied with a smile: "Stay alive."

Edwards received 1,057,031 votes (61.2%). Duke's 671,009 votes represented 38.8% of the total. Duke claimed victory, saying: "I won my constituency. I won 55% of the white vote." Exit polls confirmed that he had.[14] In reality, Duke had done little better in percent terms than the first major Republican gubernatorial candidate in modern Louisiana history, Charlton Lyons, had done in 1964.

1996 campaign for US Senate

When Johnston announced his retirement in 1996, Duke ran again for the U.S. Senate. He polled 141,489 votes (11.5%). Former Republican state representative Woody Jenkins of Baton Rouge and Democrat Mary Landrieu of New Orleans, the former state treasurer, went into the general election contest. Duke was fourth in the nine-person, jungle primary race.[45]

Campaign to succeed Bob Livingston

Because of the sudden resignation of powerful Republican incumbent Bob Livingston in 1999, a special election was held in Louisiana's First Congressional District. Duke sought the seat as a Republican and

received 19% of the vote. He finished a close third, thus failing to make the runoff. His candidacy was repudiated by the Republicans[46]. Republican Party Chairman Jim Nicholson remarked: "There is no room in the party of Lincoln for a Klansman like David Duke."[46] Republican state representative David Vitter (now a U.S. Senator) went on to defeat Republican ex-Governor David C. Treen. Also in the race was the New Orleans Republican leader Rob Couhig.

1999 Campaign for US House of Representatives

In 1999 Duke ran for Louisiana's First Congressional District. Duke finished third in the May 1, 1999 election with 28,059 votes (19.15%).[47]

2004 campaign manager to Roy Armstrong's Campaign for US House

In 2004, Duke's bodyguard, roommate, and longtime associate Roy Armstrong made a bid for the United States House of Representatives to serve Louisiana's First Congressional District. In the open primary Armstrong finished second in the six candidate field with 6.69% of the vote but Republican Bobby Jindal received 78.40% winning the seat.[48] Duke was the head advisor of the campaign.[49][50]

Controversies and affiliations

Knights of the Ku Klux Klan

In 1974, David Duke founded the Louisiana-based Knights of the Ku Klux Klan, a Ku Klux Klan group, shortly after graduating from LSU. He first received broad public attention during this time, as he successfully marketed himself in the mid-1970s as a new brand of Klansman — well-groomed, engaged, and professional. Duke also reformed the organization, promoting nonviolence and legality, and, for the first time in the Klan's history, women were accepted as equal members and Catholics were encouraged to apply for membership.[51]

NAAWP

In 1980, Duke left the Klan and formed the National Association for the Advancement of White People (NAAWP).

On May 20, 2004, the National Association for the Advancement of Colored People (NAACP) became outraged when it discovered that David Duke had chosen New Orleans to host his International NAAWP Conference during the NAACP's Big Easy Rally to commemorate the 50th anniversary of the *Brown v. Board of Education* decision.[52]

Ernst Zündel and the Zundelsite

Duke has expressed his support for prominent German-Canadian Holocaust denier Ernst Zündel. Duke makes a number of statements in support of Zündel and his Holocaust denial campaign.[53][54][55][56] After the aging Zündel was deported from Canada to Germany[57] and imprisoned in Germany on charges of inciting the masses to ethnic hatred,[58] Duke called him a "political prisoner."

Interregional Academy of Personnel Management

Publications

Finders-Keepers

Duke wrote a self-help book for women to raise money under the pseudonym Dorothy Vanderbilt and James Konrad, titled *Finders-Keepers - Finding and Keeping the Man You Want* which contains sexual, diet, fashion, cosmetic and relationship advice, published by Arlington Place Books in 1976. Professor Lawrence N. Powell, who read a rare copy of the book given to him by Patsy Sims, wrote that it includes advice on vaginal exercises, fellatio, and anal sex.[71][72][73] The book is out of print and difficult to find; however, according to Tyler Bridges, *The Times-Picayune* obtained a copy and traced its proceeds to Duke[74] who compiled the information from women's self-help magazines.[14]

My Awakening

Duke published his autobiography *My Awakening: A Path to Racial Understanding* in 1998. The book details Duke's social philosophies, especially his reasoning behind racial separation. In the book, Duke says:

> We (Whites) desire to live in our own neighborhoods, go to our own schools, work in our own cities and towns, and ultimately live as one extended family in our own nation. We shall end the racial genocide of integration. We shall work for the eventual establishment of a separate homeland for African Americans, so each race will be free to pursue its own destiny without racial conflicts and ill will.[10]

The Anti-Defamation League (ADL) book review refers to it as containing racist, antisemitic, sexist and homophobic views.[75]

To raise the money to re-publish a new, updated edition of *My Awakening*, Duke instigated a 21-day fundraising drive on November 26, 2007 where he had to raise "$25,344 by a December 17 deadline for the printers." [76] Duke states this drive is necessary because the work "has become the most important book in the entire world in the effort to awaken our people for our heritage and freedom."

Jewish Supremacism

In 2002, Duke traveled to Eastern Europe to promote his book, *Jewish Supremacism: My Awakening on the Jewish Question* in Russia in 2003. The book purports to "examine and document elements of ethnic supremacism that have existed in the Jewish community from historical to modern times."[77] The book is dedicated to Israel Shahak, a critical author of what Shahak saw as supremacist religious teachings in Jewish culture. Former Boris Yeltsin administration official and prominent far-right politician Boris Mironov wrote an introduction for the Russian edition, called "The Jewish Question Through the Eyes of an American."

The ADL office in Moscow urged the Moscow prosecutor to open an investigation of Mironov. The ADL office initiated a letter from a prominent Duma member to Russia's Prosecutor General Vladimir Ustinov, urging a criminal case be opened against the author and the Russian publisher of Duke's book. The letter by Alexander Fedulov described the book as antisemitic and as violating Russian anti-hate crime laws.[78] In December 2001[?], Prosecutor's office closed the investigation of Boris Mironov and Jewish Supremacism. In a public letter, Yury Biryukov, First Deputy of the Prosecutor General of the Russian Federation, stated that a socially-psychological examination, which was conducted as a part of the investigation, concluded that the book and the actions of Boris Mironov did not break Russian hate-

crime laws.[79]

Duke says his views had been "vindicated" with the publication of *The Israel Lobby and U.S. Foreign Policy* by professors John Mearsheimer and Stephen Walt and said he was "surprised how excellent [the paper] is." Duke dedicated several radio webcasts to the book and the authors comparing it to his work 'Jewish Supremacism' [80][81][82][83], although Walt has stated that, "I have always found Mr. Duke's views reprehensible, and I am sorry he sees this article as consistent with his view of the world".[84]

While Duke says that his books "have become two of the two most influential and important books in the world."[85] the ADL refer to the book as antisemitic [86], Duke denies the book is motivated by antisemitism.[87]

At one time, the book was sold in the main lobby of the building of Russian State Duma (lower house of parliament). The first printing of 5,000 copies sold out in several weeks.

In 2004, the book was published in the United States. Originally published in English and Russian, the book has subsequently been translated internationally into Swedish, Ukrainian, Persian, Hungarian and most recently, Spanish.[85]

In 2007, an updated edition was published [88] which Duke purports to be a "fine quality hardback edition with full color dust jacket and it has a new index and a number of timely additions" [85]

Internet commentary

Stormfront

Main article: Stormfront (website)

In 1995, Don Black and Chloê Hardin, Duke's ex-wife, began a small bulletin board system (BBS) called Stormfront. Today, Stormfront has become a premier online forum for white nationalism, Neo-Nazism, hate speech, racism, and antisemitism.[89][90][91] Duke has an account on Stormfront which he uses to post articles from his own website, www.davidduke.com, as well as polling forum members for opinions and questions, in particular during his internet broadcasts. Duke has worked with Don Black on numerous projects including Operation Red Dog in 1980.[92][93]

On February 5, 2002, Duke said, on his Internet radio show, that Ariel Sharon was "the world's worst terrorist" and that Mossad was involved in the September 11 attacks. The broadcast said that Zionists were behind the attacks in order to reduce sympathy for Muslim nations in the West, and that the number of Israelis killed in the attack was lower than it would be under normal circumstances, citing early assessments by *The Jerusalem Post* and "the legendary involvement of Israeli nationals in businesses at the World Trade Center". According to Duke, this indicated that Israeli security services had prior knowledge of the attack.[94]

On August 5, 2005, Duke published an article stating support for Cindy Sheehan, saying that:

> "The Iraq war and her son's death did not defend America from hatred or terrorism" and that "In fact, the war is massively increasing hatred and terrorism. For every one terrorist killed in Iraq, we are creating thousands more who hate and want to hurt America and Americans. This is the surest way to lose the war on terror, not win it."[95]

On February 4, 2009, Duke repeatedly called MSNBC pundit Keith Olbermann "untermensch" on his radio show in response to being labeled "Worst Person in the World" on Countdown with Keith Olbermann.[96]

Public appearances

Public address in Syria

On November 24, 2005, Duke visited Damascus, Syria, addressing a rally which was broadcast on Syrian television, and later giving an interview.[97] During the rally, he referred to Israel as a "war-mongering country" and stated that Zionists "occupy most of the American media and now control much of the American government…It is not just the West Bank of Palestine, it is not just the Golan Heights that are occupied by the Zionists, but Washington D.C. and New York and London and many other capitals of the world." He concluded by stating: "Your fight for freedom is the same as our fight for freedom." After speaking at the rally, Duke gave an interview where he said that Israel "makes the Nazi state look very, very moderate." Syrian parliament member Muhammad Habash later stated that Duke's visit gave Syrians a "new and very positive view of the average American."[97][98][99]

Comments in the media

Since 2005, Duke has appeared three times on *Current Issues*, a Lafayette, Louisiana–based television show hosted and produced by Palestinian-American Hesham Tillawi, which has recently been picked up by Bridges TV. Show host Tillawi gave Duke the opportunity to discourse at length about his beliefs about Jewish supremacism. On a show in October 2005, Duke claimed that Jewish extremists are responsible for undermining the morality of America and are attempting to "wash the world in blood."[100]

After John Mearsheimer and Stephen Walt's paper on the Israel Lobby appeared in March 2006, Duke praised the paper in a number of articles on his website, on his March 18 Live Web Radio Broadcast, and on MSNBC's March 21 *Scarborough Country* program.[101] According to *The New York Sun*, Duke said in an email, "It is quite satisfying to see a body in the premier American University essentially come out and validate every major point I have been making since even before the war even started." Duke added that "the task before us is to wrest control of America's foreign policy and critical junctures of media from the Jewish extremist Neocons that seek to lead us into what they expectantly call World War IV."

Conferences

See also: International Conference to Review the Global Vision of the Holocaust

Duke organized a gathering of European Nationalists who signed the New Orleans Protocol on May 29, 2004. The signatories agreed to avoid infighting among far-right racialists.

On June 3, 2005, Duke co-chaired a conference named "Zionism As the Biggest Threat to Modern Civilization" in Ukraine, sponsored by the Interregional Academy of Personnel Management. The conference was attended by several notable Ukrainian public figures and politicians, and writer Israel Shamir.[102]

Duke claims that Swedish police thwarted an attempted assassination against him, in August 2005, while Duke was speaking in Sweden.[103]

On the weekend of June 8-10, 2006, Duke attended as a speaker at the international "White World's Future" conference in Moscow, which was coordinated and hosted by Pavel Tulaev.[104]

On December 11-13, 2006, Duke attended the International Conference to Review the Global Vision of the Holocaust in Tehran, Iran, opened by Mahmoud Ahmadinejad, stating "The Holocaust is the device used as the pillar of Zionist imperialism, Zionist aggression, Zionist terror and Zionist murder."[105]



International Conference to Review the Global Vision of the Holocaust. Left to right: David Duke; Gazi Hussein (Syria); Dr Rahmandost (conference chair, Society for Supporting People of Palestine); Jan Bernhoff, a Swedish computer science teacher; Fredrick Töben, director of the Adelaide Institute, Australia.

David Duke attended the conference, along with Gazi Hussein (Syria); Dr Rahmandost (conference chair, Society for Supporting People of Palestine); Jan Bernhoff, a Swedish computer science teacher who maintains that 300,000 Jews died during the Holocaust[106]; Fredrick Töben, director of the Adelaide Institute, Australia.

Criticism and legal difficulties

Money matters

In the early 1980s, Duke was allegedly heavily involved in gambling and stock market investments, according to reports by the *Times-Picayune*.[71]

Plastic surgery claims

In 1990 syndicated columnist Jack Anderson argued Duke has done "everything to make himself look better to the voters, including plastic surgery".[107][108]

Duke explained in *My Awakening* that he had had reconstructive surgery on his nose, which had been broken many times.[109]

Critical publications

In *Troubled Memory: Anne Levy, the Holocaust and David Duke's Louisiana*[110][111] by Professor Lawrence N. Powell, who teaches at Tulane University history department and was a founding member of Lousiana Coalition Against Racism and Nazism, "connects the prewar and wartime experiences of Jewish survivors to the lives they built in the United States" and depicts"story of Anne Skorecki Levy, a Holocaust survivor who transformed the horrors of her childhood into a passionate mission to defeat the political menace of reputed neo-Nazi and Ku Klux Klan leader David Duke." The book won three awards.[112]

Tax fraud conviction

David Duke pleaded guilty to the felony charge of filing a false tax return under 26 U.S.C. § 7206 and mail fraud under 18 U.S.C. § 1341 in December 2002.[113]

Four months later, Duke was sentenced to 15 months in prison, and he served the time in Big Spring, Texas. He was also fined US$10,000, ordered to cooperate with the Internal Revenue Service, and to pay money still owed for his 1998 taxes. Following his release in May 2004, he stated that his decision to take the plea bargain was motivated by the bias that he perceived in the United States federal court system and not his guilt. He said he felt the charges were contrived to derail his political career and discredit him to his followers, and that he took the safe route by pleading guilty and receiving a mitigated sentence, rather than pleading not guilty and potentially receiving the full sentence.

Duke pled guilty to what prosecutors described as a six-year scheme to dupe thousands of his followers by asking for donations. Through postal mail, Duke later appealed to his supporters that he was about to lose his house and his life savings. Prosecutors claimed that Duke raised hundreds of thousands of dollars in this campaign. Prosecutors also claimed he sold his home at a hefty profit, had multiple investment accounts, and spent much of his money gambling at casinos.[114][115][116][117]

The entire file of court documents related to this case can be found at The Smoking Gun[118] website, including details on the December 12, 2002 guilty plea to federal charges that he filed a false tax return and committed mail fraud.[119]

Don Black claims that Duke was targeted in this way by the government to discredit him.[120]

Arrest in the Czech Republic

On April 24, 2009, it was reported that Duke, who had arrived in the Czech Republic at the invitation of Czech Neo-Nazis to deliver three lectures in Prague and Brno to promote his book *My Awakening*, was arrested on suspicion of "denying or approving of the Nazi genocide and other Nazi crimes" and "promotion of movements seeking suppression of human rights," which are punishable by up to three years in prison in the Czech Republic. At the time of his arrest, Duke was reportedly guarded by members of a far-right group known as "Národní Odpor" which means national resistance.[121][122] The Czech police reportedly released Duke in the early hours of April 25, 2009, and ordered him to leave the country by midnight. Police accused him of promotion of movements suppressing human rights.[123][124][125] He has been released on the condition that he leaves the country by midnight on April 25, 2009.[126][127]

Duke's first lecture had been scheduled at Charles University in Prague but it was canceled after university officials learned that neo-Nazis were planning to attend.[128] Some Czech politicians including Interior Minister Ivan Langer and Human Rights and Minorities Minister Michael Kocáb, had previously expressed opposition to Duke being allowed into the country.[121]

In September 2009 the District Prosecutor's Office for Prague dropped all charges, explaining that there was no evidence that David Duke had committed any crime.[129]

Recent life

108. ^ http://news.google.com/newspapers?nid=1347&dat=19911115&id=StMSAAAAIBAJ&sjid=FvwDAAAAIBAJ&pg=1232,1725352
109. ^ *My Awakening, a Pathway to Racial Understanding* by David Duke, 1998.
110. ^ http://www.tulane.edu/~powell/
111. ^ http://uncpress.unc.edu/browse/book_detail?title_id=695
112. ^ Troubled Memory: Anne Levy, the Holocaust and David Duke's Louisiana Info from Book Cover by Publisher
113. ^ Sam Ser. "Hi-tech helping to spread Web of hatred". The Jerusalem Post. http://web.archive.org/web/20050514082703/http://www.jpost.com/servlet/Satellite?pagename=JPost/JPArticle/ShowFull&cid=1110684074278. Retrieved 2007-09-17.. David Duke comments on article
114. ^ David Duke pleads to mail fraud, tax charges USA Today
115. ^ David Duke Gets 15-Month Sentence for Fraud FoxNews.com
116. ^ Ex-Klan Leader David Duke Indicted CBSNews.com
117. ^ Duke pleads guilty to fraud, false tax claims CNN.com
118. ^ http://www.thesmokinggun.com/archive/davidduke1.html
119. ^ Tax Fraud Court Papers thesmokinggun.com
120. ^ {{cite web |first =Don|last= Black|authorlink=Don Black (white nationalist) | title = My Opinion on the David Duke Case | url = http://www.davidduke.com/general/duke-releases-irs-audit-letter_13840.html
121. ^ ***a*** ***b*** Czech police arrest former Ku Klux Klan leader Duke, ČTK, April 24, 2009.
122. ^ Ex-Louisiana KKK chief arrested in Prague: Police, Agence France-Presse (reprinted by Canada.com), April 24, 2009.
123. ^ Former Ku Klux Klan leader released, must leave Czech Republic, ČTK, April 25, 2009.
124. ^ Policie v Praze zatkla bývalého vůdce Ku-klux-klanu Dukea, idnes.cz, April 24, 2009. **(Czech)**
125. ^ Rising extremism and the Roma problem, By Lenka Scheuflerová, Prague Daily Monitor, April 23, 2009.
126. ^ Bývalý šéf Ku-Klux-Klanu Duke je na svobodě, musí ale opustit Česko idnes.cz, April 25, 2009.**(Czech)**
127. ^ Former KKK leader ordered to leave Czech Republic, Associated Press (reprinted by the Kansas City Star), April 24, 2009.
128. ^ Prague university bans lecture by David Duke, Associated Press (reprinted by USA Today), April 21, 2009.
129. ^ Státní zástupkyně zastavila stíhání Duka kvůli knize
130. ^ Epstein, Nadine (November/December 2009). "The Mysterious Tale of a Ukrainian University's Anti-Semitic Crusade". *Moment Magazine*. http://www.momentmag.com/Exclusive/2009/2009-12/200912-MAUP.html.
131. ^ Wenger, Sonja (September 19, 2009). "US-Rechtsextremist nutzt Salzburg seit Jahren als Zuflucht". *Salzburger Fenster*. http://www.salzburger-fenster.at/rubrik/lokales/1909/us-rechtsextremist-nutzt-salzburg-seit_12707.html.
132. ^ "Former KKK grand wizard living in Austria". http://www.telegraph.co.uk/news/worldnews/europe/austria/5319566/Former-KKK-grand-wizard-living-in-Austria.html. Retrieved 2009-05-13.
133. ^ "A Letter to the Telegraph". davidduke.com. May 20, 2009. http://www.davidduke.com/general/i-live-in-america-setting-straight-the-silly-telegraph-article_13847.html. Retrieved November 20, 2009.

Works and filmography

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- Duke, David "Jewish Supremacism [1]" (Free Speech Pr, 2003; 350 pages) ISBN 1-892796-05-8
- Duke, David "My Awakening" [2] (Free Speech Books, 1998; 736 pages) ISBN 1-892796-00-7
- David Duke at the Internet Movie Database
- European-American Unity and Rights Organization (EURO), White Civil Rights
- "The truth about David Duke" by one of Duke's European Friends
- "The Federal Persecution of David Duke" by Duke's childhood friend Don Black
- Federal Indictment of David Duke on mail fraud and filing false tax return
- "Ex-Klan Leader Is Popular in Europe, Mideast, Even as He Heads to Jail Here" Times-Picayune,

Sen. Orrin Hatch [R-UT]: Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Judicial Nominations" on Tuesday, September 26, 2006 at 3:30 p.m. in Dirksen Senate Office Building Room 226.



Panel I: The Honorable Thad Cochran, United States Senator, R-MS; The Honorable Trent Lott, United States Senator, R-MS; The Honorable Christopher Dodd, United States Senator, D-CT; The Honorable Joseph Lieberman, United States Senator, D-CT.

Panel II: Michael Brunson Wallace, to be United States Circuit Judge for the Fifth Circuit.

Panel III: Vanessa Lynne Bryant, to be United States District Judge for the District of Connecticut.

Panel IV: Roberta B. Liebenberg, Chair, American Bar Association, Standing Committee on the Federal Judiciary, Philadelphia, PA;

Kim J. Askew, Fifth Circuit Representative, Standing Committee on the Federal Judiciary, American Bar Association, Dallas, TX; Thomas Z. Hayward, Former Chair, 2003-2005, American Bar Association, Standing Committee on the Federal Judiciary, Chicago, IL; Pamela A. Bresnahan, Former DC Circuit Representative, 2002-2005, American Bar Association, Standing Committee on the Federal Judiciary, Washington, DC; Timothy Hopkins, Former Ninth Circuit Representative, American Bar Association, Standing Committee on the Federal Judiciary, Idaho Falls. ID; and Doreen D. Dodson, Former Eighth Circuit Representative, 2001-2004, American Bar Association, Standing Committee on the Federal Judiciary, St. Louis, MO.

Panel V: The Honorable Richard Blumenthal, Attorney General, State of Connecticut, Hartford, CT; The Honorable Reuben Anderson, Partner, Phelps Dunbar LLP, Jackson, MS; W. Scott Welch, Shareholder, Baker, Donelson, Bearman Caldwell & Berkowitz, Jackson, MS; Carroll Rhodes, Attorney at Law, Hazlehurst, MS; and Robert McDuff, Attorney at Law, Jackson, MS.

Chair: Without objection it is so ordered.

EXHIBIT 18

http://judiciary.authoring.senate.gov/hearings/hearing.cfm

United States Senate Committee on the Judiciary

"TIME CHANGE --- Judicial Nominations"

Senate Judiciary Committee
Full Committee
DATE: September 26, 2006
TIME: 03:30 PM
ROOM: Dirksen-226

WEBCAST

OFFICIAL HEARING NOTICE / WITNESS LIST:

September 21, 2006

NOTICE OF COMMITTEE HEARING

TIME CHANGE TO 3:30 P.M.

The hearing on "Judicial Nominations" scheduled by the Senate Committee on the Judiciary for Tuesday, September 26, 2006 in Room 226 of the Senate Dirksen Office Building will begin at 3:30 p.m rather than the previously scheduled time of 2:00 p.m.

By order of the Chairman

Tentative Witness List
Hearing before the
Senate Judiciary Committee
on

"Judicial Nominations"

Tuesday, September 26, 2006
Dirksen Senate Office Building Room 226
3:30 p.m.

PANEL I

The Honorable Thad Cochran
United States Senator [R-MS]

The Honorable Trent Lott
United States Senator [R-MS]

The Honorable Christopher Dodd
United States Senator [D-CT]

The Honorable Joseph Lieberman

PANEL V

The Honorable Richard Blumenthal
Attorney General
State of Connecticut
Hartford, CT

The Honorable Reuben Anderson
Partner
Phelps Dunbar LLP
Jackson, MS

W. Scott Welch
Shareholder
Baker, Donelson, Bearman Caldwell & Berkowitz
Jackson, MS

Carroll Rhodes
Attorney at Law
Hazlehurst, MS

Robert McDuff
Attorney at Law
Jackson, MS

September 19, 2006

NOTICE OF COMMITTEE HEARING

The Senate Committee on the Judiciary has scheduled a hearing on "Judicial Nominations" for Tuesday, September 26, 2006 at 2:00 p.m. in Room 226 of the Senate Dirksen Office Building.

By order of the Chairman

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
April 25, 2002

I would like to welcome the nominees to today's hearing. The nominees before us represent a number of states across our nation. Many of the nominees' family members have made the long journey with them, and I extend the welcome of this Committee to the friends and families in attendance. I am especially grateful to Senator Edwards for volunteering to chair this important hearing on behalf of the Committee.

Today, we are holding the confirmation hearing for Judge Julia Smith Gibbons, nominated to the Court of Appeals for the Sixth Circuit, Justice Leonard E. Davis, nominated to the District Court for the Eastern District of Texas, Judge David C. Godbey, nominated to the District Court for the Northern District of Texas, Andrew S. Hanen, nominated to the District Court for the Southern District of Texas, Samuel H. (Hardy) Mays, Jr., nominated to the District Court for the Western District of Tennessee, and Judge Thomas M. Rose, nominated to the District Court for the Southern District of Ohio.

With today's hearing, in little less than 10 months, the Senate Judiciary Committee will have held 17 hearings involving a total 61 judicial nominations. That is more hearings on judges than the Republican majority held in any year of its control of the Senate. In contrast, one-sixth of President Clinton's judicial nominees – more than 50 – never got a Committee hearing and Committee vote from the Republican majority, which perpetuated longstanding vacancies into this year.

I am pleased to include Judge Gibbons on the hearing today at Senator Fred Thompson's request. Of the six Court of Appeals nominees who have received hearings in 2002 by the Committee, all have been at the request of Republican Senators. By including Judge Gibbons on this hearing, we hope to provide some much needed relief to the Sixth Circuit, which has eight vacancies. Six of those vacancies arose before the Judiciary Committee was permitted to reorganize after the change in majority last summer.

The Sixth Circuit vacancies are a prime and unfortunate legacy of these recent partisan obstructionist practices. Half of the seats on the Sixth Circuit are vacant. Most of those vacancies arose during the Clinton Administration and before the change in majority last summer. None, zero, not one of the Clinton nominees to those vacancies on the Sixth Circuit received a hearing by the Judiciary Committee under Republican leadership.

One of those seats has been vacant since 1995, the first term of President Clinton. Judge Helene White of the Michigan Court of Appeals was nominated in January 1997 and did not receive a hearing on her nomination during the more than 1,500 days before her nomination was withdrawn by President Bush in March of last year. Kathleen McCree Lewis, a distinguished lawyer from a prestigious Michigan law firm, also did not receive a hearing on her 1999 nomination to the Sixth Circuit during the years it was pending before it was withdraw by President Bush in March 2001. Professor Kent Markus, another outstanding nominee to a vacancy on the Sixth Circuit that arose in 1999, never received a hearing on his nomination before his nomination was returned to President Clinton without action in December 2000.

Some on the other side of the aisle held these seats open for years for another President to fill, instead of proceeding fairly on those consensus nominees. Some were unwilling to move forward knowing that retirements and attrition would create four additional seats that would arise naturally for the next President. That is why there are now eight vacancies on the Sixth Circuit, why it is half empty or half full.

Long before some of the recent voices of concern were raised about the vacancies on that court, Democratic Senators in 1997, 1998, 1999, and 2000 implored the Republican majority to give the 6th Circuit nominees hearings. Those requests, not just for the sake of the nominees but for the sake of the public's business before the court, were ignored. Numerous articles and editorials urged the Republican leadership to act on those nominations. Fourteen former presidents of the Michigan State Bar pleaded for hearings on those nominations.

The former Chief Judge of the Sixth Circuit, Judge Gilbert Merritt, wrote to the Judiciary Committee Chairman years ago to ask that the nominees get hearings and that the vacancies be filled. The Chief Judge noted that, with four vacancies – the four vacancies that arose in the Clinton Administration – the Sixth Circuit "is hurting badly and will not be able to keep up with its work load due to the fact that the Senate Judiciary Committee has acted on none of the nominations to our Court." He predicted: "By the time the next President in inaugurated, there will be six vacancies on the Court of Appeals. Almost half of the Court will be vacant and will remain so for most of 2001 due to the exigencies of the nomination process. Although the President has nominated candidates, the Senate has refused to take a vote on any of them." Nonetheless, no Sixth Circuit hearings were held in the last three years of the Clinton Administration, despite these pleas. Not one. Since the shift in majority the situation has been exacerbated further as two additional vacancies have arisen.

When Senator Edwards convenes our hearing this afternoon on the nomination of Judge Gibbons to the 6th Circuit, a hearing we announced last week, it will be the first hearing on a 6th Circuit nomination in almost 5 years. Similarly, the hearing we held on the nomination of Judge Edith Clement to the 5th Circuit last year was the first on a 5th Circuit nominee in 7 years and she was the first new appellate judge confirmed to that Court in 6 years. When we held a hearing on the nomination of Judge Harris Hartz to the 10th Circuit last year, it was the first hearing on a 10th Circuit nominee in 6 years and he was the first new appellate judge confirmed to that Court in 6 years. When we held the hearing on the nomination of Judge Roger Gregory to the 4th Circuit last year, it was the first hearing on a 4th Circuit nominee in 3 years and he was the first appellate judge confirmed in 3 years.

Large numbers of vacancies continue to exist on many Courts of Appeals, in large measure because the recent Republican majority was not willing to hold hearings or vote on more than half – 56 percent – of President Clinton's Courts of Appeals nominees in 1999 and 2000 and was not willing to confirm a single judge to the Courts of Appeals during the entire 1996 session. From the time the Republicans took over majority control of the Senate in 1995 until the reorganization of the Committee last July, circuit vacancies increased from 16 to 33, more than doubling.

Democrats have broken with that recent history of inaction. Nine nominees have been confirmed to the Courts of Appeals in less than 10 months. Judge Gibbons is the 12th nominee to a Circuit Court to receive a hearing in less than 10 months.

I would like to welcome Mr. Hardy Mays of Tennessee to today's hearing. Mr. Mays is a partner at Baker, Donelson, Bearman & Caldwell in Memphis, Tennessee, and he graduated from Yale Law School in 1973. Several lawyers have written to the Senate expressing strong support for Mr. Mays' confirmation due to his intelligence, fairness, and good temperament, including J. Houston Gordon, the former Chairman of the Tennessee Democratic Party.

Mr. Mays has spent most of his legal career in private practice, but he also served for five years legal counsel and then Chief of Staff to Tennessee Governor Don Sundquist, a Republican. Mr. Mays has been involved in more than 50 political campaigns, including some fund raising, on behalf of Republican candidates for President, Senate, Governor and local offices. He is member of the Republican National Lawyers Association. He was a delegate to the Republican National Convention in 2000, and he was on the Executive Committee of the Tennessee Republican Party from 1986 through 1990. Thus, it would be wrong to claim that we will not consider President George W. Bush's nominees with conservative credentials. We have done so repeatedly.

For example, Judge Rose was previously active in Republican politics in Ohio. I would like to welcome Judge Rose of the Greene County Common Pleas Court in Ohio to this hearing. Judge Rose is strongly supported by both of his home-State Senators. A former assistant prosecutor and private practitioner, Judge Rose was appointed to the state bench over a decade ago by then-Governor, now Senator, George Voinovich.

We also have three nominees to the District Courts of Texas who I would like to welcome today.

In 2000, Justice Davis was appointed by then-Governor George W. Bush to the position of Chief Justice of the Court of Appeals in Tyler, Texas. Justice Davis has extensive experience practicing as a litigator before state and federal court. He has been nominated by President Bush to the U.S. District Court for the Eastern District of Texas. Judge Godbey is a Dallas County District Court Judge who has been nominated to the federal district court in the Northern District of Texas. He is a former litigator who represented corporate entities in civil and commercial litigation in state and federal trial and appellate courts in Texas and around the country. He has also briefed three cases before the United States Supreme Court, including two cases involving the application of the Voting Rights Act in Texas. Mr. Hanen is nominated to the U.S. District Court for the Southern District of Texas. He has significant legal experience working as a civil trial attorney in private practice for over twenty years, and has been a leader in establishing programs to serve the needs of the disadvantaged. Mr. Hanen appears well-supported by his colleagues in the Houston legal community, and has received bipartisan support.

I would note that Mr. Hanen was nominated to fill the vacancy created by the retirement of Judge Filemon Vela in May 2000. I also recall just two years ago when Ricardo Morado, who has served as Mayor of San Benito, Texas, and was nominated for a vacancy in the Southern District of Texas, never got a hearing and was never acted upon. President Clinton nominated Ricardo Morado on May 11, 2000 and his nomination was returned to President Clinton without any action on December 15, 2000.

It was not long ago when the Senate was under Republican control, that it took 943 days to confirm Judge Hilda Tagle to the United States District Court for the Southern District of Texas. She was first nominated in August 1995, but not confirmed until March 1998. When the final vote came, she was confirmed by unanimous consent and without a single negative vote, after having been stalled for almost three years. I recall the nomination of Michael Schattman to a vacancy on the Northern District of Texas. He never got a hearing and was never acted upon, while his nomination languished for over two years.

These are district court nominations that could have helped respond to increased filings in the federal courts in Texas if acted upon by the Senate over the last several years. With today's hearing on these three Texas nominees, the Committee will have considered five nominees from Texas in less than ten months and 11 nominees for positions on the trial or appellate court level in the Fifth Circuit, including the first new judge for the Fifth Circuit in seven years. In fact, it was this Senate's confirmation of Judge Edith Brown Clement last fall that created the vacancy to which Justice Davis is nominated.

In the past few months, the Senate has also confirmed Judge Philip Martinez to fill a vacancy on the District Court for the Western District of Texas and Judge Randy Crane to fill a vacancy on the District Court for the Southern District of Texas. The Senate has confirmed Judge Kurt Engelhardt and Judge Jay Zainey to fill vacancies on the District Court for the Eastern District of Louisiana. The Senate has also confirmed Judge Michael Mills to fill a vacancy on the District Court for the Northern District of Mississippi.

Of course many of the vacancies in the Fifth Circuit are longstanding. Judge Clement was confirmed to fill a judicial emergency on the Fifth Circuit. Judge Martinez and Judge Crane likewise filled what had been judicial emergencies. These many vacancies and emergencies are the legacy of the years of inaction.

For example, despite the fact that President Clinton nominated Jorge Rangel, a distinguished Hispanic attorney, to fill a Fifth Circuit vacancy in July 1997, Mr. Rangel never received a hearing and his nomination was returned to the President without Senate action at the end of 1998. On September 16, 1999, President Clinton nominated Enrique Moreno, another outstanding Hispanic attorney, to fill a vacancy on the Fifth Circuit but that nominee never received a hearing either. When President Bush took office last January, he withdrew the nomination of Enrique Moreno to the Fifth Circuit. The Senate has moved quickly to confirm Judge Armijo in New Mexico and Judges Martinez and Crane in Texas, who were among the very few Hispanic judicial nominees sent so far by this Administration to us.

In contrast, the Judiciary Committee is moving fairly and expeditiously on judicial nominations. Looking at the number of confirmations in similar periods shows that we are

confirming President Bush's judicial nominees at a faster pace than the nominees of prior presidents, despite absurd assertions to the contrary.
After all of the floor votes on judicial nominees today, the Senate will have confirmed 50 judges in less than ten months of Democratic leadership of the Senate. The record shows that 48 nominees were confirmed over the first 15 months of the Clinton Administration, a pace on average of 3.1 per month. In the first 15 months of the first Bush Administration, 27 judges were confirmed, a pace of 1.8 judges confirmed per month. Likewise, in President Reagan's first 15 months in office, 54 judges were confirmed, a pace of 3.6 per month. In contrast, in nearly 10 months with a Democratic majority, President George W. Bush's judicial nominees have been confirmed at a rate of 5 per month, a faster pace than for any of the past three Presidents, even those some were working with a Senate majority of the same political party. The number of judicial confirmations in less than 10 months – 50 – exceeds the number confirmed during all of 2000, 1999, 1997 and 1996, four out of six full years under Republican leadership.
I commend my colleagues for their efforts to consider the almost five dozen nominees we have had hearings for thus far. Thank you.

Judge Samuel H. Mays, Jr.

My Court Calendar
CHAMBERS Room #1111
11th Floor Courtroom #2
Clifford Davis/Odell Horton Federal Building
167 North Main Street
Memphis, Tennessee 38103
Phone: (901) 495-1200
Fax: (901) 495-1250

WELCOME

Sworn Into Office
June 17, 2002

Main Menu

Courtroom Technology

Courtroom Technology Info

STANDARD MODEL JURY INSTRUCTIONS

(not yet available)

Antitrust Law

01-15-2008	06-2329	Gold v. Methodist Healthcare

Contracts (Diversity)

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11-02-2007	02-2953	Thomas & Betts v. Hosea Proje

Personal Jurisdiction

09-24-2007	06-2799	Nisby v. Barden Miss. Gaming,

News & Links

COURT CALENDAR

ONLINE FORMS

TNWD HOME

Let's Talk It Over

The questions on this page are designed to promote discussion of the lesson by the class and to encourage application of the lesson Scriptures. The answers provided are only discussion starters. Let your class talk it over from there.

1. Paul proclaimed his innocence to the Jewish leaders. When is it wise to make a public response to false accusations, and when should we just let them go?

In the case of Paul, the gospel would have been discredited if he had not spoken up. His circumstances made him look like a criminal, and he had no history with these leaders to expect them to assume otherwise without a proper defense.

If we have been publicly slandered by credible sources, we should probably make a public response. Otherwise our own witness will be compromised. Accusations that come up privately, usually as a result of gossip, generally do not need a public response. And even a public accusation, if it comes from a disreputable source and is not likely to compromise our witness, may not need a response. Jesus warned us that some people will say all manner of evil against us falsely, so we should not be surprised when it happens. But we do need to exercise wisdom when we become aware of it.

EXHIBIT 19

2009-2010

KJV

Standard LESSON COMMENTARY®



KING JAMES VERSION

INTERNATIONAL SUNDAY SCHOOL LESSONS

abcNEWS

State of the Union: President Obama's Speech

President Obama Delivers State of the Union at US Capitol in Washington, D.C.

Jan. 27, 2010

President Obama's State of the Union Address - remarks as prepared for delivery. The State of the Union takes place at the U.S. Capitol in Washington, D.C. on Jan. 27, 2010 at 9:00 p.m. ET.

Madame Speaker, Vice President Biden, Members of Congress, distinguished guests, and fellow Americans:

Our Constitution declares that from time to time, the President shall give to Congress information about the state of our union. For two hundred and twenty years, our leaders have fulfilled this duty. They have done so during periods of prosperity and tranquility. And they have done so in the midst of war and depression; at moments of great strife and great struggle.

It's tempting to look back on these moments and assume that our progress was inevitable ‼ that America was always destined to succeed. But when the Union was turned back at Bull Run and the Allies first landed at Omaha Beach, victory was very much in doubt. When the market crashed on Black Tuesday and civil rights marchers were beaten on Bloody Sunday, the future was anything but certain. These were times that tested the courage of our convictions, and the strength of our union. And despite all our divisions and disagreements; our hesitations and our fears; America prevailed because we chose to move forward as one nation, and one people.

Again, we are tested. And again, we must answer history's call.

One year ago, I took office amid two wars, an economy rocked by severe recession, a financial system on the verge of collapse, and a government deeply in debt. Experts from across the political spectrum warned that if we did not act, we might face a second depression. So we acted ‼ immediately and aggressively. And one year later, the worst of the storm has passed.

But the devastation remains. One in ten Americans still cannot find work. Many businesses have shuttered. Home values have declined. Small towns and rural communities have been hit especially hard. For those who had already known poverty, life has become that much harder.

This recession has also compounded the burdens that America's families have been dealing with for decades ‼ the burden of working harder and longer for less; of being unable to save enough to retire or help kids with college.

So I know the anxieties that are out there right now. They're not new. These struggles are the reason I ran for President. These struggles are what I've witnessed for years in places like Elkhart, Indiana and Galesburg, Illinois. I hear about them in the letters that I read each night. The toughest to read are those written by children ‼ asking why they have to move from their home, or when their mom or dad will be able to go back to work.

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commission. So I will issue an executive order that will allow us to go forward, because I refuse to pass this problem on to another generation of Americans. And when the vote comes tomorrow, the Senate should restore the pay-as-you-go law that was a big reason why we had record surpluses in the 1990s. I know that some in my own party will argue that we cannot address the deficit or freeze government spending when so many are still hurting. I agree, which is why this freeze will not take effect until next year, when the economy is stronger. But understand ‼ if we do not take meaningful steps to rein in our debt, it could damage our markets, increase the cost of borrowing, and jeopardize our recovery ‼ all of which could have an even worse effect on our job growth and family incomes.

From some on the right, I expect we'll hear a different argument ‼ that if we just make fewer investments in our people, extend tax cuts for wealthier Americans, eliminate more regulations, and maintain the status quo on health care, our deficits will go away. The problem is, that's what we did for eight years. That's what helped lead us into this crisis. It's what helped lead to these deficits. And we cannot do it again.

Rather than fight the same tired battles that have dominated Washington for decades, it's time to try something new. Let's invest in our people without leaving them a mountain of debt. Let's meet our responsibility to the citizens who sent us here. Let's try common sense.

To do that, we have to recognize that we face more than a deficit of dollars right now. We face a deficit of trust ‼ deep and corrosive doubts about how Washington works that have been growing for years. To close that credibility gap we must take action on both ends of Pennsylvania Avenue to end the outsized influence of lobbyists; to do our work openly; and to give our people the government they deserve.

That's what I came to Washington to do. That's why ‼ for the first time in history ‼ my Administration posts our White House visitors online. And that's why we've excluded lobbyists from policy-making jobs or seats on federal boards and commissions.

But we can't stop there. It's time to require lobbyists to disclose each contact they make on behalf of a client with my Administration or Congress. And it's time to put strict limits on the contributions that lobbyists give to candidates for federal office. Last week, the Supreme Court reversed a century of law to open the floodgates for special interests ‼ including foreign corporations ‼ to spend without limit in our elections. Well I don't think American elections should be bankrolled by America's most powerful interests, or worse, by foreign entities. They should be decided by the American people, and that's why I'm urging Democrats and Republicans to pass a bill that helps to right this wrong.

I'm also calling on Congress to continue down the path of earmark reform. You have trimmed some of this spending and embraced some meaningful change. But restoring the public trust demands more. For example, some members of Congress post some earmark requests online. Tonight, I'm calling on Congress to publish all earmark requests on a single website before there's a vote so that the American people can see how their money is being spent.

Of course, none of these reforms will even happen if we don't also reform how we work with one another.

Now, I am not nave. I never thought the mere fact of my election would usher in peace, harmony, and some post-partisan era. I knew that both parties have fed divisions that are deeply entrenched. And on some issues, there are simply philosophical differences that will always cause us to part ways. These disagreements, about the role of government in our lives, about our national priorities and our national security, have been taking place for over two hundred years. They are the very essence of our

It lives on in the 8-year old boy in Louisiana, who just sent me his allowance and asked if I would give it to the people of Haiti. And it lives on in all the Americans who've dropped everything to go some place they've never been and pull people they've never known from rubble, prompting chants of "U.S.A.! U.S.A.! U.S.A!" when another life was saved.

The spirit that has sustained this nation for more than two centuries lives on in you, its people.

We have finished a difficult year. We have come through a difficult decade. But a new year has come. A new decade stretches before us. We don't quit. I don't quit. Let's seize this moment ‼ to start anew, to carry the dream forward, and to strengthen our union once more.

Thank you. God Bless You. And God Bless the United States of America.

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JUNE 2, 2009

Why Obama Voted Against Roberts

'He has used his formidable skills on behalf of the strong in opposition to the weak.'

The following is from then-Sen. Barack Obama's floor statement explaining why he would vote against confirming Supreme Court Chief Justice John Roberts (September 2005):

. . . [T]he decision with respect to Judge Roberts' nomination has not been an easy one for me to make. As some of you know, I have not only argued cases before appellate courts but for 10 years was a member of the University of Chicago Law School faculty and taught courses in constitutional law. Part of the culture of the University of Chicago Law School faculty is to maintain a sense of collegiality between those people who hold different views. What engenders respect is not the particular outcome that a legal scholar arrives at but, rather, the intellectual rigor and honesty with which he or she arrives at a decision.

Given that background, I am sorely tempted to vote for Judge Roberts based on my study of his resume, his conduct during the hearings, and a conversation I had with him yesterday afternoon. There is absolutely no doubt in my mind Judge Roberts is qualified to sit on the highest court in the land. Moreover, he seems to have the comportment and the temperament that makes for a good judge. He is humble, he is personally decent, and he appears to be respectful of different points of view.

It is absolutely clear to me that Judge Roberts truly loves the law. He couldn't have achieved his excellent record as an advocate before the Supreme Court without that passion for the law, and it became apparent to me in our conversation that he does, in fact, deeply respect the basic precepts that go into deciding 95% of the cases that come before the federal court -- adherence to precedence, a certain modesty in reading statutes and constitutional text, a respect for procedural regularity, and an impartiality in presiding over the adversarial system. All of these characteristics make me want to vote for Judge Roberts.

The problem I face -- a problem that has been voiced by some of my other colleagues, both those who are voting for Mr. Roberts and those who are voting against Mr. Roberts -- is that while adherence to legal precedent and rules of statutory or constitutional construction will dispose of 95% of the cases that come before a court, so that both a Scalia and a Ginsburg will arrive at the same place most of the time on those 95% of the cases -- what matters on the Supreme Court is those 5% of cases that are truly difficult.

In those cases, adherence to precedent and rules of construction and interpretation will only get you through the 25th mile of the marathon. That last mile can only be determined on the basis of one's deepest values, one's core concerns, one's broader perspectives on how the world works, and the depth and breadth of one's empathy.

In those 5% of hard cases, the constitutional text will not be directly on point. The language of the statute will not be perfectly clear. Legal process alone will not lead you to a rule of decision. In those circumstances, your decisions about whether affirmative action is an appropriate response to the history of discrimination in this country, or whether a general right of privacy encompasses a more specific right of women to control their reproductive decisions, or whether the Commerce Clause empowers Congress to speak on those issues of broad national concern that may be only tangentially related to what is easily defined as interstate commerce, whether a person who is disabled has the right to be accommodated so they can work alongside those who are nondisabled -- in those difficult cases, the critical ingredient is supplied by what is in the judge's heart.

I talked to Judge Roberts about this. Judge Roberts confessed that, unlike maybe professional politicians, it is not easy for him to talk about his values and his deeper feelings. That is not how he is trained. He did say he doesn't like bullies and has always viewed the law as a way of evening out the playing field between the strong and the weak.

EXHIBIT 21

I was impressed with that statement because I view the law in much the same way. The problem I had is that when I examined Judge Roberts' record and history of public service, it is my personal estimation that he has far more often used his formidable skills on behalf of the strong in opposition to the weak. In his work in the White House and the Solicitor General's Office, he seemed to have consistently sided with those who were dismissive of efforts to eradicate the remnants of racial discrimination in our political process. In these same positions, he seemed dismissive of the concerns that it is harder to make it in this world and in this economy when you are a woman rather than a man.

I want to take Judge Roberts at his word that he doesn't like bullies and he sees the law and the court as a means of evening the playing field between the strong and the weak. But given the gravity of the position to which he will undoubtedly ascend and the gravity of the decisions in which he will undoubtedly participate during his tenure on the court, I ultimately have to give more weight to his deeds and the overarching political philosophy that he appears to have shared with those in power than to the assuring words that he provided me in our meeting.

The bottom line is this: I will be voting against John Roberts' nomination. . . .

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Chief Justice Roberts Calls Scene at State of Union Speech 'Very Troubling'

U.S. Chief Justice John Roberts said Tuesday the scene at President Barack Obama's first State of the Union address was 'very troubling' and that the annual speech to Congress has 'degenerated into a political pep rally.'

Wednesday, March 10, 2010
By Jay Reeves, Associated Press

Tuscaloosa, Ala. (AP) - U.S. Chief Justice John Roberts said Tuesday the scene at President Barack Obama's first State of the Union address was "very troubling" and that the annual speech to Congress has "degenerated into a political pep rally."



The Supreme Court justices at the 2010 State of the Union address, as President Obama criticized the court's campaign finance ruling. (Image: Network coverage screenshot)

Responding to a University of Alabama law student's question about the Senate's method of confirming justices, Roberts said senators improperly try to make political points by asking questions they know nominees can't answer because of judicial ethics rules.

"I think the process is broken down," he said.

Obama chided the court for its campaign finance decision during the January address, with six of the court's nine justices seated before him in their black robes.

Roberts said he wonders whether justices should attend the address.

"To the extent the State of the Union has degenerated into a political pep rally, I'm not sure why we're there," said Roberts, a Republican nominee who joined the court in 2005.

Roberts said anyone is free to criticize the court and that some have an obligation to do so because of their positions.

"So I have no problems with that," he said. "On the other hand, there is the issue of the setting, the circumstances and the decorum. The image of having the members of one branch of government standing up, literally surrounding the Supreme Court, cheering and hollering while the court -- according the requirements of protocol -- has to sit there expressionless, I think is very troubling."

Breaking from tradition, Obama used the speech to criticize the court's decision that allows corporations and unions to freely spend money to run political ads for or against specific candidates.

"With all due deference to the separation of powers, the Supreme Court reversed a century of law to open the floodgates for special interests -- including foreign corporations -- to spend without limit in our elections," Obama said.

Justice Samuel Alito was the only justice to respond at the time, shaking his head and appearing to mouth the words "not true" as Obama continued.

In response to Roberts' remarks Tuesday, White House press secretary Robert Gibbs focused on the court's decision and not the chief justice's point about the time and place for criticism of the court.

"What is troubling is that this decision opened the floodgates for corporations and special interests to pour money into elections -- drowning out the voices of average Americans," Gibbs said. "The president has long been committed to reducing the undue influence of special interests and their lobbyists over government. That is why he spoke out to condemn the decision and is working with Congress on a legislative response."

Justice Antonin Scalia once said he no longer goes to the annual speech because the justices "sit there like bumps on a log" in an otherwise highly partisan atmosphere.

Roberts opened his appearance in Alabama with a 30-minute lecture on the history of the Supreme Court and became animated as he answered students' questions. He joked about a recent rumor that he was stepping down from the court and said he didn't know he wanted to be a lawyer until he was in law school.

While Associate Justice Clarence Thomas told students at Alabama last fall he saw little value in oral arguments before the court, Roberts disagreed.

"Maybe it's because I participated in it a lot as a lawyer," Roberts said. "I'd hate to think it didn't matter."

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The Washington Post

It's Obama vs. the Supreme Court, Round 2, over campaign finance ruling

Advertisement



By Robert Barnes and Anne E. Kornblut
Washington Post Staff Writer
Thursday, March 11, 2010; A01

President Obama and the Supreme Court have waded again into unfamiliar and strikingly personal territory.

When Chief Justice John G. Roberts Jr. told law students in Alabama on Tuesday that the timing of Obama's criticism of the court during the State of the Union address was "very troubling," the White House pounced. It shot back with a new denouncement of the court's ruling that allowed a more active campaign role for corporations and unions.

On Wednesday, Senate Democrats followed up with pointed criticism of Roberts, and at a hearing on the decision, a leading Democrat said the American public had "rightfully recoiled" from the ruling.

The heated rhetoric has cast the normally cloistered workings of the court into a very public spotlight. Democrats hope to make the decision in *Citizens United v. Federal Election Commission* part of their strategy to portray the conservative justices as more protective of corporate interests than of average Americans.

A Democratic strategist who works with the White House said the fight is a good one for Obama, helping lay the groundwork for the next Supreme Court opening. "Most Americans have no idea what the Supreme Court does or how it impacts their lives," the strategist said. "This decision makes it crystal clear."

Senate Judiciary Committee Chairman Patrick J. Leahy (D-Vt.) opened the hearing on the ruling Wednesday by declaring that "the *Citizens United* decision turns the idea of government of, by and for the people on its head." The committee's ranking Republican, Jeff Sessions (Ala.), countered that Obama and Democrats are mischaracterizing the ruling for political gain.

"There has been too much alarmist rhetoric that has been flying around since this decision," Sessions said, advising his colleagues not to "misrepresent the nature of the decision or impugn the integrity of the justices."

The court ruled 5 to 4 in January that corporations and unions have a First Amendment right to use their general treasuries and profits to spend freely on political ads for and against specific candidates. The court overturned its own precedents and federal law in the decision, which was hailed by conservatives and a few liberals as a victory for free political speech, and was denounced by Obama, who said in his State of the Union address that it would lead to elections being "bankrolled by America's most powerful interests."

Obama's blunt criticism, while six black-robed justices sat at the front of the House chamber, set off a round of public debate about whether he was both wrong and rude, or whether Justice Samuel A. Alito Jr. violated judicial custom by silently mouthing "not true" while the president was speaking.

Presidential historians said that while other presidents have criticized Supreme Court decisions or called upon Congress to remedy them, Obama's was the most pointed and direct criticism in a State of the Union address since President Franklin D. Roosevelt took on the court for blocking his programs.

An issue of 'decorum'

Round 2 began Tuesday, when Roberts spoke at the University of Alabama law school. He did not mention *Citizens United* in his speech and declined to answer a question about criticism of the ruling.

But when asked whether the State of the Union address was the "proper venue" in which to "chide" the Supreme Court, Roberts did not hesitate.

"First of all, anybody can criticize the Supreme Court without any qualm," he said, adding that "some people, I think, have an obligation to criticize what we do, given their office, if they think we've done something wrong."

He continued: "On the other hand, there is the issue of the setting, the circumstances and the decorum. The image of having the members of one branch of government standing up, literally surrounding the Supreme Court, cheering and hollering while the court -- according to the requirements of protocol -- has to sit there expressionless, I think is very troubling."

The White House struck back quickly -- not at Roberts's point, but at the decision. "What is troubling is that this decision opened the floodgates for corporations and special interests to pour money into elections -- drowning out the voices of average Americans," White House press secretary Robert Gibbs said in a statement. "The president has long been committed to reducing the undue influence of special interests and their lobbyists over government. That is why he spoke out to condemn the decision."

'People disagree'

White House officials said the debate helps underscore differences between the president and the conservative court and puts into relief what will be at stake when there is another opening on the bench. There is speculation that Justice John Paul Stevens, who turns 90 next month, will retire at the end of this term.

At a time when the administration is struggling to prove that it can work across political lines on a health-care overhaul and other matters, Obama officials insisted they were not seeking a partisan fight with the court. Yet they acknowledged that a debate over campaign finance fed into Obama's central campaign promise of transparency and reform. "This is really about the president's change agenda," a White House official said.

"This is the functioning of democracy at its highest," the official said. "People disagree, they discuss, they debate."

Administration officials did not question whether Roberts's comments were appropriate, noting that he had replied to a question.

But the fracas is the kind the justices usually like to avoid. Justice Clarence Thomas told a Florida law school audience last month that the controversy reinforced his decision to skip the State of the Union address. "One of the consequences is now the court becomes part of the conversation, if you want to call it that," he said. ". . . It's just an example of why I don't go."

Roberts, who has attended the event since joining the court in 2005, indicated at the Alabama event that he may now agree with Thomas.

"To the extent the State of the Union has degenerated into a political pep rally, I'm not sure why we're there," he said.

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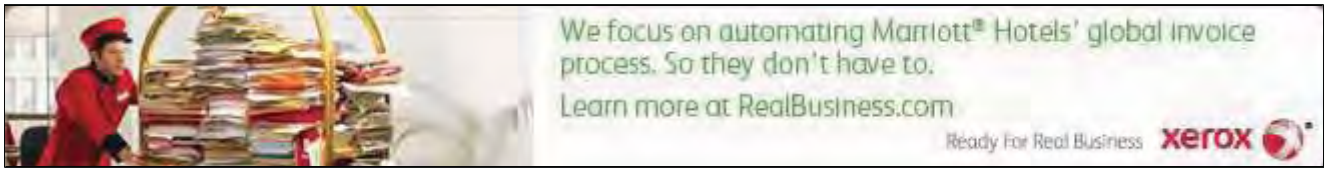

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Justice openly disagrees with Obama in speech

Alito visibly responds negatively when president mentions recent decision

NBC News and news services

updated 1/28/2010 1:19:53 PM ET

WASHINGTON — Supreme Court Justice Samuel Alito didn't like hearing President Barack Obama publicly criticize the high court's ruling removing corporate campaign spending limits — and he didn't try to hide it.

Alito made a dismissive face, shook his head repeatedly and appeared to mouth the words "not true" or possibly "simply not true" when Obama assailed the decision Wednesday night in his State of the Union address.

The president had taken the unusual step of publicly scolding the high court, with some of its members in robes seated before him in the House. "With all due deference to the separation of powers," he said, the court last week "reversed a century of law that I believe will open the floodgates for special interests — including foreign corporations — to spend without limit in our elections."

It is unclear which part of Obama's statement about the ruling caused Alito's disagreement. There is disagreement among experts about whether the decision, as Obama claimed, would open unlimited campaign spending in U. S. elections to foreign businesses.

A reliable conservative appointed to the court by Republican President George W. Bush, Alito was in the majority in the 5-4 ruling.

Justices usually do not show any reaction at all to a president's statements during a State of the Union address. Alito has not made any public comment on his reaction Wednesday night.

White House reacts

White House deputy press secretary Bill Burton on Thursday defended the president's statement.

"One of the great things about our democracy is that powerful members of the government at high levels can disagree in public and private," Burton told reporters traveling with Obama to Tampa, Fla. "This is one of those cases. But the president is not less committed



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to seeing this reform."

Vice President Joe Biden also sided with Obama, calling the ruling "dead wrong" and saying "we have to correct it."

"The president didn't question the integrity of the court. He questioned the judgment of it," the vice president told ABC's "Good Morning America."

Senate Democratic leaders sitting immediately behind Alito and other members of the high court rose and clapped loudly in their direction, with Sen. Chuck Schumer, D-N.Y., leaning slightly forward with the most enthusiastic applause.

On Thursday, Senate Judiciary Committee Chairman Patrick Leahy, D-Vt., echoed the president's criticism of the decision made by the court and slammed Alito for displaying his disagreement.

"There were days when judges stayed out of politics," he told NBC News. "It would be nice to go back to those days."

Republican John Cornyn, also a member of the Judiciary Committee, argued that Alito must have had an "irresistible impulse" to react to the president's open criticism of the decision.

"I don't think the president should have done what he did in trying to call out the Supreme Court for doing its job," Cornyn said. "They are the final word on the meaning of the United States Constitution, even when we don't like the outcome."

The court did upend a 100-year trend that had imposed greater limitations on corporate political activity. Specifically, the court, in a 5-4 decision, said corporations and unions could spend freely from their treasuries to run political ads for or against specific candidates.

In his dissent, Justice John Paul Stevens said the court's majority "would appear to afford the same protection to multinational corporations controlled by foreigners as to individual Americans."

Obama said corporations can "spend without limit in our elections." However, corporations and unions are still prohibited from contributing directly to politicians.

NBC's Pete Williams, Kelly O'Donnell, and Ken Strickland contributed to this report.

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Chair, Republican Exchange Satellite Network, 1993-1995
President, University of Tennessee, 1988-1991
Chair, Leadership Institute at Belmont University, 1987-1988
Co-Founder, Corporate Child Care Services with 1200 employees today, 1987
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Candidate for United States President, 1996
Secretary, Department of Education, 1991-1993
Governor of Tennessee, 1979-1987
Candidate for Governor of Tennessee, 1974
Director, Tennessee Governor Winfield Dunn's Election Campaign, 1970
Director, Howard Baker's campaign for United States Senate, 1966.

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Senior Fellow, Hudson Institute, 1994-1995
President, Common Arms Outdoors, 1985-1987
Chair, National Governors' Association, 1985-1986
Member, Phi Beta Kappa
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Subcommittee on Children and Families, Ranking Member
Subcommittee on Commerce, Justice, Science, and Related Agencies, Member
Subcommittee on Energy And Water Development, Member
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Subcommittee on Interior, Environment, and Related Agencies, Ranking Member
Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, Member
Subcommittee on Public Sector Solutions to Global Warming, Oversight, and Children s Health Protection, Member
Subcommittee on Retirement and Aging, Member
Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Member
Subcommittee on Water and Wildlife, Member

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Fax: 901-544-4227

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Phone: 423-752-5337
Fax: 423-752-5342

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New Orleans, Louisiana 70170-1000
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Email: Contact Us
Web Site: http://www.bakerdonelson.com

Firm Credentials

Bar Register Practice Areas: Commercial Litigation; Construction Law; Health Care Law; Labor and Employment Law; Oil and Gas Law.

Statement of Practice:
Antitrust; Appellate Defense; Bankruptcy and Creditors' Rights; Business Torts; Commercial Litigation; Construction; Corporate and Business Transactions; eBusiness/Technology; Eminent Domain; Employee Benefits and Executive Compensation; Employment and Civil Rights; Environmental, Health and Safety; Equipment Leasing; Estate Planning/Probate; Financial Services and Transactions; Government Investigations and Litigation; Health Law; Immigration; Insurance Defense Coverage; Intellectual Property; International; Labor and Employment; Litigation; Media Law; Oil and Gas Litigation; Products Liability; Professional Liability; Public Policy - Federal; Public Policy - State; Real Estate; Taxation - Federal and State/Local; Transportation.

Year Established: 1888

Firm Profile:

Baker, Donelson, Bearman, Caldwell & Berkowitz was ranked in 2003 as the fastest growing law firm in the U.S. by The National Law Journal and is one of the 200 largest law firms in the country. Through strategic acquisitions and mergers over the past century, the firm has grown to include over 370 attorneys and public policy advisors in ten offices across the southeastern United States, as well as a representative office in Beijing, China. In the United States, Baker Donelson has offices in Memphis, Nashville, Knoxville, Chattanooga and Johnson City, Tennessee as well as Birmingham, Alabama; Jackson, Mississippi; Washington, DC; New Orleans and Mandeville, Louisiana and Atlanta, Georgia.

Current and former Baker Donelson attorneys and public policy advisors include, among many other highly distinguished individuals, people who have served as Chief of Staff to the President of the United States; the U.S. Senate Majority Leader; the U.S. Secretary of State; a member of the United States Congress; the Federal Aviation

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- LawyerLocator.Co.Uk
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	This attorney or firm has articles published on martindale.com

Administrator; Chief of Staff at the Supreme Court of the United States and Administrative Assistant to the Chief Justice of the United States; the Deputy Under Secretary for International Trade for the U.S. Department of Commerce; the Ambassador to Turkey; the Ambassador to the Sultanate of Oman; Chief Operating Officer and Commissioner of Finance and Administration for the State of Tennessee; the Deputy Governor and Chief of Staff for the Governor of Tennessee, the Governor of Mississippi, and the Chairman of the Alabama Securities Commission.

Baker Donelson represents local, regional, national and international clients across numerous industries in regard to a myriad of complex issues. The Firm's service philosophy is grounded in the commitment to provide innovative, results-oriented solutions while placing the needs of its clients first. Baker Donelson understands the constantly evolving and changing nature of the law and political conditions around the world, and is highly dedicated to providing the necessary continuing education to maintain the thought leadership and sophistication of the attorneys and public policy advisors within the Firm. By investing in and using state-of-the-art Web technologies, collaborative systems and the latest knowledge management tools, Baker Donelson provides efficient, streamlined service to its clients and in so doing maintains a competitive advantage in the legal services industry.

Baker Donelson is a member of TerraLex, one of the largest global networks of independent law firms. TerraLex is comprised of more than 10,000 attorneys in 145 firms in 93 countries. The network's goal is to enable member firms to better serve their clients' international interests by providing clients quick access to lawyers with the right expertise and depth of jurisdictional knowledge in countries around the world.

The Firm also is a member of the Harmonie Group, an organization of independent firms capable of providing litigation defense services to corporations, insurance carriers, captive insurance companies, risk retention groups, purchasing groups and third-party administrators. The Harmonie network, with over 3,000 lawyers from more than 50 firms, provides clients with access to defense firms and attorneys throughout the United States that handle complex and difficult high-stakes litigation.

For more information about Baker, Donelson, Bearman, Caldwell & Berkowitz, visit www.bakerdonelson.com.

For additional business information about this firm, Click here to view this firm's ranking in key AMERICAN LAWYER MEDIA lists and surveys.

View articles about this firm from *Corporate Board Member* magazine

Firm Size: 370

Other Office Addresses: Links to Other Offices
Memphis, Tennessee Office: 20th Floor, First Tennessee Building, 165 Madison Avenue, 38103. Telephone: 901-526-2000. Telecopier: 901-577-2303.
Nashville, Tennessee Office: Commerce Center, Suite 1000, 211 Commerce Street, 37201. Telephone: 615-726-5600. Telecopier: 615-726-0464.
Chattanooga, Tennessee Office: 1800 Republic Centre, 633 Chestnut Street, 37450-1800. Telephone: 423-756-2010. Telecopier: 423-756-3447.
Knoxville, Tennessee Office: 2200 Riverview Tower, 900 South Gay Street, 37902. Telephone: 865-549-7000. Telecopier: 865-525-8569.

Johnson City, Tennessee Office: SunTrust Bank Building, 207 Mockingbird Lane, P.O.

FEDERAL ELECTION COMMISSION

CONTRIBUTIONS BY EMPLOYER

OBAMA FOR AMERICA

PO Box 8102
Chicago, Illinois 60680

FEC Committee ID #: C00431445

This report contains activity for a Primary Election

Report type: October Quarterly

This Report is an Amendment

Filed 08/22/2008

EMPLOYER	SUM
NO EMPLOYER WAS SUPPLIED	670,742.68
(N,P) ENERGY, INC	85.00
(SELF EMPLOYED) PARTICIPATION SPECIALI	250.00
(SELF) GLAST, PHILLIPS & MURRAY, P.C.	550.00
100% DISABLED VETERAN	250.00
1000FRIENDS OF MN	500.00
1010 INTERACTIVE	2,300.00
1024 WIRELESS SERVICES	1,300.00
1105 MEDIA, INC.	193.88
112 SACKETT, ST #1, BROOKLYN, NY	200.00
1258 NO. CLARK STREET	250.00
12741 BRADFORD CIR	100.00
1670 WISCONSIN AVENUE NW	1,000.00
17A-4	50.00
19	250.00
1938 NORTH DAYTON STREET	460.00

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	250.00
BAKER PETROLITE	225.00
BAKER STREET ADVISORS	500.00
BAKER UNIVERSITY SCHOOL OF NURSING	350.00
BAKER, DONELSON	1,000.00
BAKER, NYE	1,000.00
BALANCED PAIN MANAGEMENT	100.00
BALCH & BINGHAM	2,500.00
BALESTRA CAPITAL	1,000.00
BALL AEROSPACE & TECHNOLOGIES CORP.	100.00
BALL METAL FOOD CONTAINER, LLC	300.00
BALLARD SPAHR ANDREWS	1,800.00
BALLAS HEARING AND AUDIOLOGY	100.00
BALLATINES PR	2,300.00
BALLY TOTAL FITNESS	100.00
BALMEAD ADVISORS	500.00
BALOURDOS ENTERPRISES INC	2,300.00
BALOURDOS ENTERPRISES INC.	2,300.00
BALTIMORE COUNTY OFFICE OF COMMUNITY C	75.00
BALTIMORE COUNTY PUBLIC SCHOOLS	582.07
BALTIMORE EDUCATION NETWORK INC.	250.00
BALTIMORE HEART	100.00
BALTIMORE WASHINGTON MEDICAL CENTER	25.00
BALWIN RICHARDSON FOODS	0.00
BAMONT TRUST	438.60
BANANA REPUBLIC	225.00
BANETT MAY CUNNINGHAM ET AL	1,000.00
BANK OF AMERICA	14,239.00
BANK OF AMERICA SECURITIES	2,800.00
BANK OF HAWAII	250.00
BANK ST COLLEGE	0.00
BANKERT-SAMUEL, INC.	211.51

	1,000.00
LEO BURNETT	250.00
LEON COUNTY SCHOOL DISTRICT	50.00
LEONIMOUS, INC	500.00
LESTER SCHWAB KATZ & DWYER	150.00
LETTER PERFECT	300.00
LETTUCE ENTERTAIN YOU ENTERPRISES	300.00
LEUCADIA FINANCIAL CORPORATION	1,500.00
LEVEL 3 COMMUNICATIONS	150.00
LEVEL 7	260.02
LEVI, RAY, AND SHOUP, INC.	100.00
LEVIATHAN STRATEGY	65.55
LEVINE, STALLEN, SKLAR, CHAN, BROWN &	2,300.00
LEWIS & KAPPES	2,550.00
LEWIS AND CLARK COLLEGE	350.00
LEWIS FREEMAN & PARTNERS	1,000.00
LEWIS RICE $ FINGERSH	1,000.00
LEWIS, LONGMAN, & GELLER	500.00
LEXECON	0.00
LEXISNEXIS	510.00
LEXOLUTION	1,000.00
LGOFFNEYIP (SELF-EMPLOYED)	100.00
LHJONES EQUIPMENT CO	250.00
LIBERTY GLOBAL PARTNERS	100.00
LIBERTY MUTUAL	50.00
LIBERTY MUTUAL GROUP	500.00
LIBERTY MUTUAL SURETY	100.00
LIBERTY REVERSE MORTGAGE	2,300.00
LIBERTYBANK	90.25
LIBRARIES FOR THE FUTURE	400.00
LIBRARY OF CONGRESS	1,100.00
LIEBSTUDIOS	100.00

Contributions from employees of Baker Donelson

Political contributions disclosed by campaign committees to the Federal Election Commission, sorted by employer. The data, from the FEC, covers the years 1979 through 2008.

$7,750 from **13** Baker Donelson employees (**6.1%**) to Harold Ford

$6,600 from **9** Baker Donelson employees (**4.2%**) to Barack Obama

$6,000 from **13** Baker Donelson employees (**6.1%**) to Roger Wicker

$5,000 from **1** Baker Donelson employee (**0.5%**) to Thomas Daschle

$4,000 from **7** Baker Donelson employees (**3.3%**) to Patty Murray

$2,750 from **5** Baker Donelson employees (**2.3%**) to Jo Ann Emerson

$2,500 from **3** Baker Donelson employees (**1.4%**) to Mitch McConnell

$2,500 from **3** Baker Donelson employees (**1.4%**) to Jim Cooper

$2,500 from **4** Baker Donelson employees (**1.9%**) to Tim Johnson

$2,250 from **4** Baker Donelson employees (**1.9%**) to Artur Davis

$2,000 from **2** Baker Donelson employees (**0.9%**) to Maria Cantwell

$1,500 from **3** Baker Donelson employees (**1.4%**) to Ralph Regula

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$1,500 from **2** Baker Donelson employees (**0.9%**) to Marsha Blackburn

$1,500 from **2** Baker Donelson employees (**0.9%**) to Mark Pryor

$1,500 from **2** Baker Donelson employees (**0.9%**) to John Barrow

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$1,300 from **1** Baker Donelson employee (**0.5%**) to Earl Blumenauer

$1,250 from **2** Baker Donelson employees (**0.9%**) to Hillary Clinton

$1,250 from **2** Baker Donelson employees (**0.9%**) to Bob Corker

$1,000 from **1** Baker Donelson employee (**0.5%**) to Byron Dorgan

$1,000 from **2** Baker Donelson employees (**0.9%**) to Rahm Emanuel

$1,000 from **1** Baker Donelson employee (**0.5%**) to Stephen Cohen

$1,000 from **1** Baker Donelson employee (**0.5%**) to Steny Hoyer

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U.S. PRESIDENT BARACK OBAMA: THE DOWNFALL/DOOM OF THE OBAMA ADMINISTRATION – Corruption/Conspiracy/Cover-Up/Criminal Acts Made Public

1 message

Tue, Jul 13, 2010 at 6:04 PM

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cooper-darrell@msha.gov, charboneau-thomas@msha.gov, mcgann-denise@msha.gov, rowlett.john@msha.gov, carson.carroll@atf.gov, ardry.stucko@atf.gov, charlayne.armentrout@atf.gov, william.kullman@atf.gov, joseph.riehl@atf.gov, gregory.plott@atf.gov, gilbert.bartosh@atf.gov, debra.satkowiak@atf.gov, kenneth.coffey@atf.gov, ray.rowley@atf.gov, gary.bangs@atf.gov, christine.dixon@atf.gov, david.brown@atf.gov, john.spencer@atf.gov, michael.oneil@atf.gov, benjamin.mendoza@atf.gov, christopher.reeves@atf.gov, patricia.power@atf.gov, kevin.boydston@atf.gov, robert.thomas@atf.gov, mark.curtin@atf.gov, orlando.blanco@atf.gov, davy.aguilera@atf.gov, robert.levingston@atf.gov, charles.houser@atf.gov, gilbert.salinas@atf.gov, david.johnson@atf.gov, brenda.bennett@atf.gov, ben.hayes@atf.gov, colemanc@state.gov, millsc@state.gov, sullivanj@state.gov, steinbergjb@state.gov, millettejl@state.gov, jacobssk@state.gov, hembreeel@state.gov, asmalis@state.gov, ledbetterth@state.gov, kaplansl@state.gov, smithdb@state.gov, slaughteram@state.gov, johnmr1@state.gov, smithgb@state.gov, caramanicajf@state.gov, cantonja@state.gov, kohhh@state.gov, harrisonjc@state.gov, kearneydp@state.gov, williamsvx@state.gov, donoghueje@state.gov, thessinh@state.gov, schwartzjb@state.gov, biniazsn@state.gov, gallagherdj@state.gov, malinmc@state.gov, browncw@state.gov, mcleodm@state.gov, kokenkn@state.gov, rvisek@state.gov, olsonpm@state.gov, harrisrk@state.gov, groshlj@state.gov, johnscm2@state.gov, wiegmannjb@state.gov, kimjj@state.gov, buchwaldtf@state.gov, richecr@state.gov, frechetteaa@state.gov, tauschereo@state.gov, nelsondj2@state.gov, ferraoje@state.gov, weigoldea@state.gov, mitchelllm@state.gov, posnermh@state.gov, mclarenaj@state.gov, stewartkb@state.gov, jacobsjl@state.gov, ruterboriesja@state.gov, faillacerj@state.gov, kirbymd@state.gov, kathrynca2@state.gov, vydmantasrj@state.gov, barbara.lucas@dot.gov, raymond.lahood@dot.gov, joan.deoer@dot.gov, sandy.snyder@dot.gov, mark.bushing@dot.gov, 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david.kelly@usda.gov, matt.allen@usda.gov, william.jenson@usda.gov, mike.stewart@usda.gov, stephen.reilly@usda.gov, gloria.derobertis@usda.gov, joe.leonard@usda.gov, renee.allen@usda.gov, mary.mcneil@usda.gov, larry.newell@usda.gov, lisa.wilusz@usda.gov, denise.banks@usda.gov, david.king@usda.gov, rhonda.davis@usda.gov, christopher.l.smith@usda.gov, kate.hickman@usda.gov, mary.s.heard@usda.gov, ray.sheehan@usda.gov, mikem.edwards@usda.gov, ed.peterman@usda.gov, julia.carr@usda.gov, ellen.pearson@usda.gov, tonya.willis@usda.gov, dawn.bolden@usda.gov, wilma.bradley@usda.gov, ruby.goodman@usda.gov, ericka.luna@usda.gov, andrea.zizack@usda.gov, jachea.westbrook@usda.gov, joseph.ware@usda.gov, belinda.ward@usda.gov, barbara.lacour@usda.gov, glocke@doc.gov, mgeraghty@doc.gov, emoran@doc.gov, jandberg@doc.gov, kgriffis@doc.gov, jconnor@doc.gov, squehl@doc.gov, jcharles@doc.gov, ffanning@doc.gov, delznic@doc.gov, jjessup@doc.gov, cfields@doc.gov, saramaki@doc.gov, rmack@doc.gov, 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TO: UNITED NATION LEADERS/FOREIGN LEADERS
CHRISTIANS/SAINTS

This is an UPDATE to Newsome's previous E-mails that you may have received from Newsome. Newsome is sharing information with you and others in that it of PUBLIC/NATIONAL importance for the human rights, equal rights, and wellbeing of the lives of many people/citizens. Newsome prays that you find this information "educational," "helpful" "encouraging" and "uplifting."

PLEASE NOTE: *Newsome apologize for the constant change in the Email addresses; however, she has come under attack and her e-mails are being DISABLED to prevent her from sharing important information as that contained in this e-mail and the attachments. Nevertheless, Newsome perseveres through such oppositions and attempts to further obstruct justice.* ***This is information that the United States MEDIA/PRESS will not share with you although they are aware of what is going on. Nevertheless, apparently foreign leaders/foreign nations are taking such matters seriously!!***

No the United States Government thought that taking out Leaders such as Martin Luther King Jr., Malcolm X, Medgar Evers, and many more would silence African-Americans and keep them in CAPTIVITY. *However, it is finding out that* ***STRONGER*** *SHOOTS are springing forth and what these Leaders were murdered for (****to keep from public knowledge****) is* ***COMING TO THE LIGHT****!!! The TRUTH for what these Leaders were murdered/killed for to keep from being told- is COMING TO LIGHT!!*

United States President Barack Obama, his Administration and those they rely upon for counsel/advice have **ALL** made a ***WILLFUL, CONSCIOUS, DELIBERATE*** *and* ***MALICIOUS*** decision to take on Newsome and destroy her life WITHOUT just cause. In so doing, they have wedge a battle against Newsome and have REFUSED to address and correct the CORRUPTION, **CONSPIRACIES**, **RACIAL INJUSTICES/PREJUDICES/ DISCRIMINATION** brought timely, properly and adequately to their attention. Proverbs 16:18:

[18]Pride goeth before destruction, and an haughty spirit before a fall.

It was not like United States President Barack Obama was not FORWARNED. He simply had too much PRIDE and ARROGANCE that he felt invincible. Now as his people are distancing themselves, they are also willing to "THROW HIM UNDER THE BUS" if need be. Therefore, the ***DOWNFALL/DOOM*** of the Obama Administration is inevitable and President Barack Obama, his Administration and those they rely upon CANNOT say that Newsome FAILED to NOTIFY of the CRIMINAL/CIVIL wrongs addressed in this e-mail as well as prior e-mails and Complaints submitted. President Obama's counselors/advisors have tried to avoid having to address the issues contained in this e-mail as well as prior and correspondence submitted to his and his Administration's attention – as such advisors have done on legal matters involving Newsome, they have fallen flat on their faces in DISGRACE rising only to engage in CRIMINAL ACTS to obtain an undue/unlawful/illegal advantage over matters involving her.

You and as well as the PUBLIC/WORLD and Foreign Leaders/Foreign Nations need to know who is responsible for INCREASING the National Debt and whose counsel/advice United States President Barack Obama and his Administration is adhering to. ***If President Barack Obama and his Administration are willing to STEAL and EMBEZZLE monies owed Newsome as well as CONSPIRE to cover-up criminal/civil wrongs to prevent***

Newsome from collecting monies owed her from legal actions, then those countries to whom the United States is in debt may need to PULL/CALL in NOTES/DEBTS owed to them. Otherwise, to keep from paying its debt the United States may attempt to wedge wars to keep from having to pay and attempts to unlawfully/illegal getting its hands on those countries resources (i.e. oil, banks, etc.). *- - - If President Obama and his Administration's counsel/advisors CANNOT pay its debts owed to Newsome, then the* ***FOREIGN LEADERS/FOREIGN NATIONS will need to know that the United States may likely will engage in criminal acts*** *(i.e. wars, war crimes, etc.)* ***to keep from paying what it owes them*** *as it has done in the handling of legal matters involving Newsome.*

It is important for the PUBLIC/WORLD to see that if the United States Government (***i.e. doing the bidding of BAKER DONELSON and others to destroy Newsome's life***) cannot win the battles/wars leveled against Newsome (***i.e. even after resorting to CRIMINAL acts to obtain an undue advantage***), then why would its citizens and Foreign Leaders/Foreign Nations believe that the United States can win the wars in Afghanistan and Iran/Iraq. ***It is time to bring our troops home – IMMEDIATELY!!***

The Saints/Christians, family, friends and loved ones that know Newsome will also let you know that she is

not a racist and/or terrorist. That in her family and/or amongst her relatives there is a diversity of races. However, it is a known fact, that Newsome is very happy/proud to be an African-American and has **NEVER** wanted to be any other race. In fact, a dark-skinned African-American and proud and not ashamed!!! Furthermore, Newsome has no problems talking about RACIAL INJUSTICES, RACISM, PREJUDICES, DISCRIMINATION and other injustices that plague her and her people and/or people of color.

To help you better understand who Newsome is, she is an African-American female with a college degree from Florida A&M University – a TOP and ELITE African-American University in the United States (Tallahassee, Florida) and/or one of the Historical Black Colleges & Universities ("HBCU"). To answer many concerns as to Newsome's CHARACTER and WORK ETHICS she attaches a File Folder entitled, "NEWSOME'S CREDENTIALS" which in it you will find her **"Resume"** revealing her job experiences as well as **"Letters of References/Documentation"** which reveals her PROFESSIONALISM and ABILITIES in the performance of her jobs held, and **"COMPUTER SKILLS-DeniseNewsome"** – results taken from tests which support Newsome's LITERACY and ABILITY to use Software Applications to aid in the performance of the job duties assigned her. As it relates to the Cincinnati, Ohio matter, Newsome also provides you with a copy of the BRIEF Only of the ***Equal Employment Opportunity Commission*** **("EEOC") Complaint** and ***Family & Medical Leave Act Complaint*** filed against Wood & Lamping so that you and others can see for yourself the ties/relationships Wood & Lamping has to SPECIAL INTEREST Groups (LIBERTY MUTUAL and BAKER**,** DONELSON**,** BEARMAN**,** CALDWELL & BERKOWITZ ["Baker Donelson"]) **associated with** President Barack Obama and his Administration. You need to know that:

(a) ***Newsome has been BLACKLISTED*** and the United States Government, Liberty Mutual and its attorneys/law firms and former employers of Newsome are CONSPIRING together to see that she does not receive employment elsewhere. **UNLAWFUL/ILLEGAL practices clearly PROHIBITED by the laws of the United States.**

(b) *Newsome is* ***being stalked from State-to-State/Job-to-Job and her employers contacted and advised of her engagement in protected activities*** – i.e. the United States Government Agencies (Equal Employment Opportunity Commission ("EEOC"), Wage & Hour Division ("W&H"), Federal Bureau of Investigation ("FBI") and others such as Liberty Mutual and its attorneys/law firms that rely upon information obtained from their clients, etc. to track Newsome – ***for purposes of getting her employment terminated and/or for getting Newsome fired***. **UNLAWFUL/ILLEGAL practices clearly PROHIBITED by the laws of the United**

States.

(c) ***Newsome has filed the REQUIRED Complaints with the appropriate agencies reporting Civil/Criminal violations***. However, in so doing, this information is circulated throughout the Government and RETALIATION occurs in furtherance of CONSPIRACY leveled against Newsome because she has challenged and EXPOSED the United States Government in the role it is playing in the DESTRUCTION of the lives of African-Americans and/or people of color. United States President Obama, United States Attorney General Eric Holder, United States Secretary of Labor Hilda Solis and many other Government Officials in the Obama Administration and United States Legislature/Congress (i.e. Senate and House of Representatives) have been timely, properly and adequately advised of the CONSPIRACY and CRIMINAL ACTS leveled against Newsome; however, each are fulfilling their role in the COVER-UP of such criminal/civil wrongs and efforts of destroying the life of Newsome.

To also better understand the Wood & Lamping matter and United States President Barack Obama and his Administration's ROLE in the CONSPIRACY of this matter, you need to know the following:

1) That Newsome on or about December 2008, flew to Washington, D.C. to check on a Complaint filed with the United States Legislature/Congress – i.e. ***submitted to the attention of:*** *Senator Patrick Leahy, Congressman John Conyers, Senator John McCain (2008 Presidential Candidate), then Senator Barack Obama (2008 Presidential Candidate) and Congresswoman Debbie Wasserman Schultz*. Prior to her visit Newsome advised of her coming to Washington, D.C. to check on the status of Complaint filed. During her visit to Washington, D.C. Newsome requested a meeting with Senator Leahy and Congressman Conyers; however, *both RAN and HID as well as had their Staff provide LIES to Newsome to avoid meeting with her*. Then Senator Joseph Biden (now Vice President of the United States) was also advised of Newsome's visit and reasons for coming to Washington, D.C. Newsome met with a man (who provided her with a FALSE name) in office of the *Committee on the Judiciary* of Congressman Conyers. To memorialize the actions of Senator Leahy, Congressman Conyers, Vice President Joseph Biden, Newsome attaches correspondence surrounding this matter entitled, **"12-2008 DOCUMENTS-DC TRIP."** Newsome's research later yielding the CONSPIRACY to COVER-UP the CRIMINAL/CIVIL wrongs addressed in the July 14, 2008 ***Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Finding*** (which is attached to this e-mail entitled, "**071408-EMERGENCY COMPLAINT & MailingReceipts"** along with ***EVIDENCE supporting receipt/mailing to President Barack Obama and others to whom this Complaint was mailed***) being a direct result of the SENATORS and CONGRESSMEN/CONGRESSWOMAN attempting to AID & ABET in the CRIMINAL/CIVIL wrongs reported. Moreover, *keep the PUBLIC/WORLD and FOREIGN LEADERS/FOREIGN NATIONS in the dark as to the CONSPIRACY that has been leveled against Newsome as well as the African-*

Americans and/or people of color in the United States. **From the list provided below, you and others will see the connection that United States President Barack Obama and his Administration have to LIBERTY MUTUAL and its counsel (BAKER DONELSON) and their ties to the United States Senate as well as the United States House of Representatives**. This information is important because it will explain what happened to the July 14, 2008 ***Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Finding*** that was timely, properly and adequately filed ***as well as the role BAKER DONELSON and others may have played in the OBSTRUCTION OF JUSTICE and the OBAMA ADMINISTRATION'S COVER-UP and DESTRUCTION OF EVIDENCE for purposes of protecting his KEY/TOP Financial Contributors/Advisors***. Newsome's December 2008 trip to Capitol Hill was to determine where her Complaint was (i.e. the Original and four copies being submitted) as well as the attacks on her life as well as those of other African-Americans and/or people of color. Moreover, *the conspiracy leveled against the African-American race and their males. Sharing concerns of false imprisonments and practices of OPPRESSION against Newsome and those of African-Americans and/or people of color*. ***In RETALIATION of Newsome's December 2008 Washington, D.C. trip her employment with Wood & Lamping was terminated. LIBERTY MUTUAL/BAKER DONELSON as well as Government Officials using their POWER and INFLUENCE to affect Newsome's employment in furtherance of CONSPIRACY leveled against her and for purposes of destroying her life for being so out spoken and EXPOSING RACISM in the United States Government.***

IMPORTANT TO NOTE: This Complaint was submitted for filing in July 2008; however, to date, the United States Senate/United States House of Representatives are REFUSING to advise Newsome of the status of this Complaint. Newsome has **REPEATEDLY** requested that United States President Barack Obama (i.e. Obama receiving a copy via U.S. Mail – Tracking No. 2305 1590 0001 6380 5130) and United States Attorney General Eric Holder also provide her with a status as to where her July 14, 2008 ***Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Finding***. Both President Obama and U.S. Attorney General Eric Holder were provided with copies **AGAIN** of filing with Newsome's May 21, 2009 Complaint at Exhibit "2." Then as early as November 2008, Newsome contacted President Obama VIA FACSIMILE regarding the July 2008 Emergency Complaint and requested the status of his handling of this matter – See attached to this email entitled, **"11-2008 OBAMA CORRESPONDENCE."** **So please understand that President Obama is FULLY AWARE AS TO WHAT IS GOING ON!!** Furthermore, see for yourself from the information provided on BAKER DONELSON below. This law firm and others appear to be running the United States White House, United

States Senate, United States House of Representatives – the running the UNITED STATES GOVERNMENT AGENCIES!!

Come the November 2010 Elections, let us work to get these CAREER POLITICIANS and CAREER CRIMINALS out of the government by voting for their opponents and/or be ANTI-INCUMBENT. Yes, it is time for the people to take back the government and CLEAN out the CORRUPTION that United States President Barack Obama and his Administration is hiding from you, the PUBLIC/WORLD and FOREIGN LEADERS/FOREIGN NATIONS. From the information provided in this e-mail, you and others can see that he LIED to the American people as well as Foreign Leaders/Foreign Nations that he was about bringing CHANGE to Washington; however, it is CLEAR that United States President Barack Obama is now PART of the PROBLEM of the BROKEN GOVERNMENT that United States citizens as well as foreign nations are faced with.

IMPORTANT TO NOTE: *Approximately one month from her trip to Washington, D.C., members of the Senate and House of Representatives worked with TOP/KEY Financial Contributors/Advisors – LIBERTY MUTUAL and BAKER DONELSON – to President Barack Obama and his Administration as well as United States Senators and United States House of Representatives to see that Newsome's employment with Wood & Lamping was TERMINATED*. LIBERTY MUTUAL along with its arsenal of attorneys and others, obtained knowledge that Newsome was having problems with one of Liberty Mutual Insured's (Stor-All Alfred LLC in Cincinnati, Ohio); ***therefore, resorted to CRIMINAL ACTIONS to obtain an unlawful/illegal advantage over the situation***. ***Shortly after*** *Newsome's termination of employment, Liberty Mutual's insured (Stor-All)* ***had its attorney (David Meranus) file a lawsuit against Newsome.*** *To be successful in its endeavor LIBERTY MUTUAL and its counsel*

embarked on FURTHERING the CONSPIRACY it and its attorneys had leveled against Newsome for exercising rights secured/guaranteed under the Constitution. Engaging CONSPIRACY and REPEATED RETALIATORY practices in efforts of silencing Newsome.

LIBERTY MUTUAL and arsenal of attorneys in efforts of covering up the crimes of their clients and protecting their clients (i.e. Stor-All Alfred LLC and others – clients being sued in Louisiana and Mississippi) interest CONSPIRED with Newsome's employer (Wood & Lamping), United States Senators and United States House of Representatives to terminate her employment to eliminate the CONFLICT OF INTEREST that existed in the attorney's (David Meranus) representation of Stor-All. A CONFLICT OF INTEREST existed because the attorney that Newsome assisted at Wood & Lamping ("W&L) prior to coming to W&L worked for the same law firm (Schwartz Manes Ruby & Slovin) of the attorney who filed lawsuit on behalf of Stor-All. Actions have also been taken to keep you and the PUBLIC/WORLD and FOREIGN LEADERS/FOREIGN NATIONS of learning of the 2009 Federal Complaints filed:

(a) Family & Medical Leave Act Complaint filed with the Wage & Hour Division of the United States Department of Labor. This Complaint is attached to this e-mail entitled, **"011609-FMLA COMPLAINT (W&L)" –** U.S. President Barack, Obama, U.S. Attorney General Eric Holder, and U.S. Secretary of Labor Hilda Solis each received a copy of this Complaint with *Newsome's May 21, 2009 mailing at "Exhibit 58" –* ***May 21, 2009 USPS Mailing Receipts*** *following complaint attached to support mailing/receipt.*

(b) Equal Employment Opportunity Complaint filed with the United States Department of Labor. This Complaint is attached to this e-mail entitled, **"070909-EEOC COMPLAINT (W&L)" along with the "070709-USPS MAILING RECEIPTS" which follows to support mailing and receipt.**

United States President Barack Obama advised that he would not allow DISCRIMINATION under his Administration and during his WATCH. However, you can see that such statements like many made by President Obama are LIES. . . LIES. . .LIES and more LIES!!! It is a good thing Newsome documented transactions because it is the practice of the Obama Administration and/or the United States Government to make it appear that she is crazy when in fact Newsome is not. Moreover, efforts by the Obama Administration and/or United States Government to drive Newsome over the edge!!!

2) To understand just how much POWER and influence LIBERTY MUTUAL and it law firms such as BAKER DONELSON has and their reliance on BIG MONEY and TIES/RELATIONSHIPS to President Obama and/or Government Organizations/Officials, Newsome was able to pull the following information off of the Internet regarding the positions lawyers at Baker Donelson holds and/or held – this information is attached as "**BAKER DONELSON Info:"**

- **Chief of Staff** *to the President of the United States*
- **United States Secretary of State**
- United States **Senate** ***Majority*** Leader
- **Members of** the *United States Senate*
- **Members of** the *United States House of Representatives*
- **Director** of the ***Office of Foreign Assets Control for United States***
- **Department of Treasury**
- **Director** of the *Administrative Office of the United States*
- **Chief Counsel**, Acting **Director**, and Acting **Deputy Director** of **United States Citizenship & Immigration Services** within the *United States Department of Homeland Security*
- **Majority** and **Minority Staff Director** of the ***Senate Committee on Appropriations***
- ***Member of United States President's Domestic Policy Council***
- **Counselor** *to the Deputy Secretary for the United States* ***Department of HHS***
- **Chief of Staff** *of the Supreme Court of the United States*
- **Administrative Assistant** to the ***Chief Justice*** *of the United States*
- ***Deputy*** *under Secretary of International Trade for the United States Department of Commerce*
- ***Ambassador*** **to Japan**
- ***Ambassador*** **to Turkey**
- ***Ambassador*** **to Saudi Arabia**
- ***Ambassador*** **to the Sultanate of Oman**
- ***Governor*** *of Tennessee*
- ***Governor*** *of Mississippi*
- ***Deputy*** *Governor and* ***Chief of Staff*** *for the Governor of Tennessee*
- ***Commissioner*** *of Finance & Administration* (Chief Operating Officer) - State of Tennessee
- **Special Counselor** to the Governor of Virginia
- ***United States Circuit Court of Appeals Judge***
- ***United States District Court Judges***
- **United States Attorneys**
- ***Presidents*** *of State and Local Bar Associations*

This information is of PUBLIC record and **WAS** posted on the INTERNET. However, **only AFTER** Newsome made known Baker Donelson's role in the RUNNING of United States Government and/or White House, has it attempted to scrub this information from their Website – i.e. compare the information provided above now to the information Baker Donelson is revealing at its website located at:

http://www.martindale.com/Baker-Donelson-Bearman-Caldwell/1608579-law-firm-office.htm

Thank goodness Newsome retained a hard copy of posting on the INTERNET **as recent as March 2010**. *Actions taken by President Barack Obama, his Administration and Baker Donelson for DAMAGE CONTROL purposes; however, TOO LATE!!*

Perhaps now FOREIGN LEADERS/FOREIGN NATIONS will also see the **SPECIAL INTEREST** Baker Donelson and its BIG MONEY clients **have in the Wars started in Iran/Iraq and Afghanistan** and perhaps the role it may have played in the advice and starting of such wars. Furthermore, Baker Donelson's **REPEATED** *roles in* ***RACIST PRACTICES/RACIAL INJUSTICES*** *leveled against Newsome and/or African-Americans/People of Color*. The interest Baker Donelson and others having in the VAST mineral resources (**i.e. oil, etc. – TIES TO HALLIBURTON, former Vice President Dick Cheney – See document attached entitled "BAKER DONELSON – DC Ties at Page 13)** of Iran/Iraq and the ***ABUSE of their power/relationships/connections*** *with foreign countries to rely upon their* ***ABILITY TO INFLUENCE*** *and* ***MANIPULATE*** *Foreign Countries/Foreign Leaders* ***to engage in wars*** *(i.e. like Iran/Iraq)* ***based on LIES alleging "Weapons of Mass Destruction" when its eyes were really on the OIL and other vast resources of such countries***. Therefore, Baker Donelson and *others relied upon* ***their TIES/RELATIONSHIPS/ABILITY to INFLUENCE*** *the* ***United States President and others*** *(United States* ***Senate/House of Representatives****) as well as its INTEREST in the mineral resources of countries like Iran/Iraq to MISLEAD and* ***engage the United States' Allies to join them in NEEDLESS and SENSELESS wars*** *based on* ***PERSONAL GREED*** *and* ***PERSONAL MALICIOUS AMBITIONS*****.**

Now just as the ***United States and its allies are losing wars*** (i.e. in Iran/Iraq and Afghanistan) *because they* ***went in WITHOUT a PLAN*** - so are such law firms (i.e. as Baker & Donelson) that the **United States President Barack Obama** and others ***rely on for counsel, advice and filling of cabinet positions*** and their handling of matters with Newsome - they are LOSING their battles/wars against Newsome; therefore, resorting to CRIMINAL actions to obtain victories through unlawful/illegal and CORRUPT actions!

It is of PUBLIC/NATIONAL interest *that you and others KNOW and SEE the criminal acts of those associated with United States President Barack Obama and how President Obama, his Administration and counselors/advisors resort to CROMINAL behavior when they see their DEMISE is inevitable*. Newsome can assure you, that this **IS NOT** the CHANGE that United States citizens voted for when they cast their votes for Barack Obama as the next President of the United States in November 2008.

IT IS IMPORTANT TO NOTE *for you and others to see how President Barack Obama and his Administration who may rely upon the advice and counsel of Baker Donelson HANDLE matters when they are LOSING wars/battles – i.e. RESORTING to CRIMINAL ACTS, DECEPTIVE PRACTICES, SPECIAL FAVORS/RELATIONSHIPS to* ***BRIBE***, ***BLACKMAIL*** *and* ***EXTORTION***, ***EMBEZZLEMENT***, *etc. to achieve their desired outcome* – the DESTRUCTION of Newsome's life and those of African-Americans and/or people of color.

IT IS IMPORTANT that you, others, and especially FOREIGN LEADERS/FOREIGN COUNTRIES are not DECEIVED by President Barack Obama:

> Matthew 24:24 - - For there shall arise false . . . prophets, and shall shew great signs and wonders; insomuch that, **if it were possible**, **they shall deceive the very elect**.

and his Administration's recent filing of the Lawsuit against the State of Arizona. *You see* ***NOT*** *everybody is* ***SLEEPING ON THE JOB*** *and are* ***KEEPING WATCH***!! Baker Donelson and/or LIBERTY MUTUAL's counsel having a role in this and also relying upon their ties/relationships TO: **(a)** United States Attorney General and **(b) United States Citizenship & Immigration Services** within the *United States Department of Homeland Security* – these organizations are on the list above and provided in the attached document containing Baker Donelson Info – ***the filing of the Lawsuit against the State of Arizona is merely President Barack Obama and his Administration taking the advice of counsel in efforts of doing DAMAGE CONTROL because the MIDTERM elections in November 2010 IS FAST APPROACHING***—*I hope you and others* ***are not DECEIVED***!! *The Hispanic/Latino communities are CLEARLY aware of the TACTICS and the wool President Obama and his Administration are attempting to pull over their eyes. BAKER DONELSON may be counseling/advising in this matter as well because they have their people in or had them in* **United**

States Citizenship & Immigration Services within the *United States Department of Homeland Security. See Information provided above. Also, see the information contained in document attached entitled,* ***"BAKER DONELSON – DC Ties."***

IMPORTANT BECAUSE President Barack Obama and his Administration is RELYING upon COUNSEL and ADVICE from people that if they **CANNOT** win the small battles against INDIVIDUAL/SMALL citizens like Newsome (and have **lost ALL**; therefore, resulting to criminal practices), then how can citizens of the United States be expected to win wars AGAINST countries (i.e. Iran/Iraq and Afghanistan). ***Wars began through LIES and DECEPTION and for purposes of PERSONAL/FINANCIAL GAIN!!!***

3) You as well as the PUBLIC/WORLD and FOREIGN LEADERS/FOREIGN NATIONS need to know that United States President Barack Obama and his Administration may be relying upon the counsel and advice of BAKER DONELSON. Furthermore, may be relying on BAKER DONELSON advice to fill vacancies in his Administration as well as the Courts (i.e United States Supreme Court) – BAKER DONELSON securing/lining its bases so that when complaints and/or lawsuits are filed they have the people in office that they have purchased on behalf of LIBERTY MUTUAL and their other clients.

4) **This is very EMBARASSING!!** Why? *Because if President Barack Obama and his Administration's reliance upon counsel/advice that it may be receiving from Baker Donelson and other attorneys/law firms associated with LIBERTY MUTUAL in their handling of Newsome, you and the PUBLIC/WORLD need to know that they are LOSING against a* ***"One-Man/Woman"*** *army in Lawsuits brought against her and/or initiated through their UNLAWFUL/ILLEGAL actions, so how do they expect/intend to WIN battles/wars against COUNTRIES which are much larger/bigger than Newsome.* **Well that explains why the United States and their Allies are losing the wars in Afghanistan and/or Iran/Iraq**. As with Newsome, the United States prior to doing battle with her as well as other countries **DID NOT** count up the cost and, therefore, has OPENED itself up for MOCKERY/RIDICULE – Luke 14:28-32:

28 For which of you, intending to build a tower, sitteth not down first, and counteth

the cost, whether he have sufficient to finish it?

29Lest haply, after he hath laid the foundation, and **is not able to finish it**, *all that behold it* ***begin to mock him***,

30Saying, **This man began to build, and was not able to finish**.

31*Or* ***what king***, ***going to make war against another king***, *sitteth not down first, and consulteth whether he be able with ten thousand to meet him that cometh against him with twenty thousand?*

32Or else, *while the other is yet a great way off*, **he sendeth an ambassage, and desireth conditions of peace**.

(a) *Well this is exactly what former President George W. Bush did in the starting of wars with Afghanistan and Iran/Iraq – taking the United States and other countries* ***into wars WITHOUT a plan***. Now look how DISASTEROUS and COSTLY these wars have been. *The TERRORISTIC acts of the United States in these wars have cost the INNOCENT lives of many men/women/children*. For WHAT PURPOSES? The FILTHY GREED/FILTHY LUCRE and GAIN sought in unlawfully/illegally taking away the livelihood of the citizens of those countries and for purposes of STEALING THEIR MONIES, OIL (i.e. ***TIES TO HALLIBURTON, former Vice President Dick Cheney*** **– See document attached entitled "BAKER DONELSON – DC Ties at Page 13)** and/or other resources. **Now as a FOOLISH Leader, President Barack Obama seeks conditions of PEACE when the HAVOC wreaked WAS the own doing of the United States being led by a FOOLISH Leader.** *The Allies of the United States in these wars are doing correctly in getting their soldiers out because they were DECEIVED and LIED to by the BUSH Administration and his Administration's counselors/advisors that there were "weapons of mass destruction" when in fact THERE WAS NOT* – the United States were after these countries OIL, other MINERAL RESOURCES and MONIES as well as **did not care** about the **MURDERING OF INNOCENT LIVES** to accomplish their goals!!

5) What CITIZENS/PUBLIC as well as FOREIGN NATIONS/LEADERS need to know is that:

(a) United States President Barack Obama and his Administration (**through the Department of Treasury**) under the advisement of counsel/advisor (**i.e. from list above most likely BAKER DONELSON**) have STOLEN Newsome's 2009 Federal Income Tax Refund **of over $1,700.**

(b) That Newsome is **currently entitled to approximately $90,000** - i.e. which include monies STOLEN and EMBEZZLED by government officials, former employers and others *that was entrusted to the Court and placed in an ESCROW ACCOUNT (**approximately $16,000 – incident explained in the October 2008 FBI Criminal Complaint filed and attached hereto**) for safekeeping as well as monies owed in BACK WAGES (**approximately $74,000 – incident explained in the EEOC Complaint filed and attached hereto**)* from Wood & Lamping. However, President Barack Obama and those in his Administration are CONSPIRING to keep this information from PUBLIC/CITIZENS as well as FOREIGN LEADERS/ NATIONS.

(c) *One guess for the THEFT of Newsome's 2009 Federal Income Tax Refund (**which is over approximately $1,700**) as well as the BLOCKAGE by the United States Senate of extending Unemployment Benefits - efforts for FINANCIALLY DEVASTATE Newsome and efforts taken to get their hands on her property for purposes of DESTROYING EVIDENCE and keep you and others from knowing of the CONSPIRACY and COVER-UP of the Obama Administration.* **President Barack Obama and his Administration as well as the United States Senate are willing to "STRAIN AT A GNAT" take a whole nation down and/or make a whole nation suffer because of the information Newsome is sharing with you, the PUBLIC/WORLD and FOREIGN LEADERS/FOREIGN NATIONS.**

Matthew 23:24-28:

24 Ye ***blind*** guides, **which strain at a gnat**, and swallow a camel.
25 Woe unto you, scribes and Pharisees, **hypocrites**! for ye make clean the outside of the cup and of the platter, **but within** they are **full of extortion and excess**.
26 Thou blind Pharisee, **cleanse first that which is within the cup and platter**, that the outside of them may be clean also.
27 Woe unto you, scribes and Pharisees, **hypocrites**! for ye are like unto whited sepulchres, which indeed appear beautiful outward, but are within **full of dead men's bones**, and of **all uncleanness**.
28 Even so ye also outwardly appear righteous unto men, but **within ye are full of hypocrisy and iniquity**.

6) **The United States is already in HEAVY DEBT to foreign countries. Even with the HUGE DEBTS owed to foreign**

countries, United States President Barack Obama and his Administration **continue to RUN UP and/or INCREASE the national debt of the United States**. ***From the information provided above, you as well as others can see who is involved in the handling of FINANCIAL matters of the United States – i.e. Baker Donelson may have its hands in the pie.***

Therefore, **IT IS IMPORTANT TO NOTE** *that if President Barack Obama and his Administration **are willing to STEAL and EMBEZZLE monies owed to Newsome as well as refuse to pay the MILLIONS OF DOLLARS OWED Newsome and are willing to resort to criminal acts to keep from paying liability owed her**, then the PUBLIC/WORLD as well as FOREIGN NATIONS/FOREIGN LEADERS need to know* ***that the United States most likely will engage in criminal acts (i.e. engage in SENSELESS wars against small countries to STEAL their resources and acquire control over their government so that they will have control of foreign countries government/banks and mineral resources) to mask/shield the motive for their TERRORISTIC actions taken against smaller countries/nations***.

7) In her prior e-mail, Newsome shared information regarding the an upcoming Court date **of July 21, 2010 at 2:00 at the Hamilton County Court of Common Pleas in Cincinnati Ohio**; however, Newsome **WILL NOT** *be attending this hearing because under Ohio Law she is not required to do so and the Judge (John Andrew West) lacks jurisdiction to proceed.* Newsome has filed the required documents to sustain her defenses and such pleadings **are attached to the file entitled, "071010 MAILING."** Because Newsome filed the May 28, 2010 ***Affidavit of Disqualification***, Judge West lacked jurisdiction to execute any of the Orders of June 7, 2010 (*Order Lifting Stay Entered April 28, 2009* ***and*** *Order Denying Defendant's Motion for Default Judgment)*. See information at the LINKS attached to the Courts Website to track this matter at:

http://www.courtclerk.org/case_summary.asp?sec=history&casenumber=A0901302

As recent as July 10, 2010, Newsome submitted for filing the following pleadings:

(a) *Defendant's Notice of Nonattendence; and Defendant's Notice of Motion to Motion to Strike Plaintiff Stor-All Alfred LLC's 12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached; Request for Rule 11 Sanctions;*

(b) *Defendant's Motion for Leave to File Out of Time Motion for Findings of Fact Regarding June 7, 2010 Order Lifting Stay Entered April 28, 2009 and Order Denying Defendant's Motion for Default Judgment;*

(c) *Defendant's Request/Motion for Findings of Fact and Conclusion of Law; Motion to Vacate July 7, 2010 Order Lifting Stay Entered April 28, 2009* ***and*** *Order Denying Defendant's Motion for Default Judgment* – **NOTE:** This pleading is attached to Motion for Leave as **EXHIBIT "A".**

(d) *Affidavit of Disqualification* filed with the Ohio Supreme Court brought against Judge John Andrews West of the Hamilton County Court of Common Pleas.

and serving copies of these filing to United States President Barack Obama (United States Postal Tracking No. **0309 1830 0000 0661 8023**) and United States Attorney General Eric Holder (United States Postal Tracking No. **0309 1140 0001 9264 2721**) – Tracking numbers provided for those who wish to track their receipt of this information.

Just as LIBERTY MUTUAL and/or its attorneys/law firms own the majority of the Ohio Supreme Court – See for yourself in the document attached entitled, **"OH SupremeCourtJustices Info."** From information retrieved, Newsome was able to find that LIBERTY MUTUAL and/or its attorneys/law firms own **at least SIX of the SEVEN** Justices of the Ohio Supreme Court. Not only that, from information Newsome was able to pull off of the Internet, BAKER DONELSON and/or their clients own Judges/Justices in matters she is engaged in Louisiana, Mississippi - **"BAKER DONELSON-RelationshipToJudges."** - and now it appears have Justices of the United States Supreme Court based on information provided from the list above and/or provided in the document attached entitled, **"BAKER DONELSON Info."**

8) What the PUBLIC/WORLD also needs to know is that President Barack Obama

may have been HAND PICKED!! Why? Because:

(a) The United States realized that its reputation with foreign countries/leaders was damaged and foreign countries' LACK of TRUST in the United States Government.

(b) *President Barack Obama was* ***selected to DECEIVE foreign countries/leaders*** *to believe that the selection of an alleged African-American meant that the United States has changed its ways* – **when in fact the United States has NOT**. *The United States is still* ***as TERRORISTIC, RACIALLY PREJUDICE, DISCRIMINATORY, etc. as ever before*** – *if NOT worst since Barack Obama has become the United States President!!* ***Unemployment amongst African-Americans SKYROCKETING!!!***

> ***Furthermore, the attacks on Newsome escalating under United States President Barack Obama's LEADERSHIP, DIRECTION and INSTRUCTIONS!!***

(c) IMPORTANT for you and the PUBLIC/WORLD to know that while the United States is supposed to be a country of DEMOCRACY (***where the citizens select the President of the United States***), it is far from that. It **IS NOT** the people who elect the next President of the United States; however, it was the CREATION of the "Electoral Colleges" **to circumvent** and/or **deprive the citizens of the United States of their Constitutional Rights and their voices from**

being heard. Yes, *the "ELECTORAL COLLEGES" method was designed because the creators* ***FORESEEING the increase in the*** *African-American communities and/or people of color* (i.e. Hispanic/Latinos, Asians, etc.) ***communities and wanted to make sure that NO African-American and/or person of color ever made it to the White House***. *However, upon* ***seeing the DAMAGE of the United States' relationships with Foreign Countries/Foreign Leaders did a search and prepared Barack Obama for the job***. *Those who were in the selection process of President Barack Obama* ***first TESTED THE WATERS at the 2004 Democratic Convention to see how he would be received. Upon getting good reviews, proceeded to work on getting him elected as the next President of the United States and succeeded in doing so***. However, President Barack Obama, his Administration and those who worked on getting him elected **NEVER thought they would have to address the United States' TERRORISTIC actions leveled against Newsome, other citizens and other foreign countries, let alone the *RACIAL INJUSTICES/PREJUDICES/ DISCRIMINATION*** leveled against Newsome, other African-Americans, people of color and foreign countries/foreign leaders. ***No those who organized and worked with President Barack Obama thought that they could get him in the White House and AVOID and/or SIDE STEP having to address the TERRORISTIC, RACIAL/PREJUDICIAL/ DISCRIMINATORY practices of the United States Government/ Officials*; moreover, would not have to address the ISSUES and MATTERS raised by Newsome.**

You see the practice of President Barack Obama, his Administration and those who advise him and his Administration is *to* ***make it appear*** *that*

Newsome is **CRAZY**, **PARANOID**, a **LUNATIC**, **DILERIOUS**, **MENTALLY UNBALANCED**, and *attempts to drive her to a* **MENTAL BREAKDOWN** and/or to **COMMIT CRIMINAL ACTS** (i.e. murder, etc.) from the pressures placed on her through their unlawful/illegal practices. However, to President Barack Obama, his Administration and his counselors/advisors' disappointment, Newsome has not allowed them to take her to such points and instead has brought the proper LEGAL matters (i.e. Complaints and/or lawsuits to recover from damages sustained from criminal acts leveled against her).

IMPORTANT TO NOTE: *It is of PUBLIC* ***HUMILIATION*** *and* ***DISGRACE*** for the Public/World as well as Foreign Leaders/Foreign Nations having to learn that United States President Barack Obama and his Administration as well as the United States Senate/United States House of Representatives/United States Government ***are being RUNNED and CONTROLLED by businesses such as LIBERTY MUTUAL and BAKER DONELSON*** (*because of the BIG MONEY they pay out to POLITICIANS in support of their campaigns*) ***who promote TERRORISTIC ACTIONS****, have a* ***WELL-ESTABLISHED PATTERN-OF-BEHAVIOR*** *supporting* ***RACISM, RACIAL INJUSTICES*** *and* ***DISCRIMINATION*** *leveled against Newsome, African-Americans and/or people of color.* ***BAKER DONELSON who mask/hide their HATRED for the MIDDLE EAST and PEOPLE OF COLOR!!!*** ***Not only that, under whose counsel and advisement that the wars in Iran/Iraq and Afghanistan may have begun and the HIDDEN MOTIVES*** – i.e. greed, taking possession of lands, oil fields (i.e. **TIES TO HALLIBURTON, former Vice President Dick Cheney – See document attached entitled "BAKER DONELSON – DC Ties at Page 13),** mineral resources, banks, etc. **Such CRIMINAL behavior/actions which are clearly UNACCEPTABLE!!!** The United States President, his Administration, the United States Senate/United States House of Representatives may be taking counsel and/or advice from BAKER DONELSON – a law firm and its clients (i.e. like LIBERTY MUTUAL) who has **a WELL-ESTABLISHED** record of **losing ALL BATTLES/LAWSUITS** involving Newsome that

in efforts of obtaining an undue/unlawful/illegal advantage, resorted to CRIMINAL BEHAVIOR/ACTIONS to accomplish goals sought and deprive Newsome rights secured/guaranteed under the United States Constitution!!

9) *Newsome must admit that she found the fact that such people as United States President Barack Obama, those in his Administration and Advisors would seek to take her on and destroy her life;* ***however, as a CHILD of GOD such attacks from people such as Obama, those in HIGH PLACES/POSITIONS, and BIG MONEY was prophesied of before Newsome's birth as to what is to be expected*** – she **IS NOT** going to be popular; however, there is no way that she is going to keep SILENT and let the suffering of her people and others continue without being exposed – Ephesians 6:6-20:

[6] **Not** with eyeservice, **as menpleasers**; *but as the servants of Christ*, ***doing the will of God from the heart***;

[7] *With good will doing service, as to the Lord, and* ***not to men***:

[8] Knowing that whatsoever good thing any man doeth, the same shall he receive of the Lord, whether he be bond or free.

[9] And, ye masters, do the same things unto them, forbearing threatening: knowing that your Master also is in heaven; ***neither is there respect of persons with him***.

[10] Finally, my brethren, **be strong in the Lord**, **and in the power of his might**.

[11] ***Put on the whole armour of God, that ye may be able to stand against the wiles of the devil.***

[12] ***For we wrestle not against flesh and blood, but against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places.***

[13] *Wherefore take unto you the* ***whole armour*** *of God, that ye may* ***be able to withstand*** *in the evil day, and having done all, to stand.*

[14] Stand therefore, having your loins girt about with truth, and having on the breastplate of righteousness;

[15] And your feet shod with the preparation of the gospel of peace;

[16] Above all, taking the shield of faith, *wherewith ye shall be* ***able to quench all the fiery darts*** *of* ***the wicked***.

[17] And take the helmet of salvation, and the sword of the Spirit, which is the word of God:

[18] ***Praying always*** *with all prayer and supplication in the Spirit, and* ***watching*** *thereunto with all perseverance and supplication* ***for all*** *saints;*

[19] And for me, that utterance may be given unto me, *that I* ***may open my mouth boldly***, *to make known the mystery of the gospel*,

[20] For which I am an ambassador in bonds: ***that therein I may speak boldly, as I ought to speak***.

10) You as well as the PUBLIC/CITIZENS as well as Foreign Leaders/Foreign Countries need to know that President Barack Obama, his Administration as well as others in whom they seek counsel/advice from ***have tried to find "SKELETONS in Newsome's CLOSET – i.e. methods used for means of BLACKMAIL, BRIBERY,***

EXTORTION, etc. (as that used in getting the Health Care Reform Bill passed);" *however, has failed because there are none and those who know Newsome, know she TESTIFIES of God's goodness and all that He has delivered her from:*

Revelation 12: 11-12:

> [11]And they **overcame him by the blood of the Lamb**, and **by the word of their testimony**; and *they loved not their lives unto the death*.
> [12]Therefore rejoice, ye heavens, and ye that dwell in them. Woe to the inhabiters of the earth and of the sea! for the devil is come down unto you, having great wrath, because he knoweth that he hath but a short time.

I Timothy 1:13-15:

> [13]Who was before a blasphemer, and a persecutor, and injurious: but I obtained mercy, because I did it ignorantly in unbelief.
> [14]And the grace of our Lord was exceeding abundant with faith and love which is in Christ Jesus.
> [15]This is a faithful saying, and worthy of all acceptation, that Christ Jesus came into the world to save sinners; of whom I am chief.

11) For those who assert their faith in Christianity, it is no secret that those who persecuted and was behind the PERSECUTION and CRUCIFIXATION of Jesus and His followers were lead by the "GOVERNMENT" and other communities that mocked Him – for He came unto his own and was not received; therefore, opening the doors for outsiders (i.e. like Newsome) to become a part of the legacy left: John 1:10-12:

> [10]He was in the world, and the world was made by him, and the world knew him not.
> [11]***He came unto his own, and his own received him not.***
> [12]But as many as received him, to them gave he power to become the sons of God, even to them that believe on his name:

Nothing has changed – the descendents of these persecutors exist today; their seed/descendents are the people behind Newsome's persecution as well as other African-Americans and/or people of color.

> **ACTS 26:** [13]At midday, O king, I saw in the way a light from heaven, above the brightness of the sun, shining round about me and them which journeyed with me.
> [14]And when we were all fallen to the earth, I heard a voice speaking unto me, and saying in the Hebrew tongue, Saul, Saul, **why persecutest thou me**? it is hard for thee to kick against the pricks.
> [15]And I said, Who art thou, Lord? And he said, **I am Jesus whom thou persecutest**.
> [16]But rise, and stand upon thy feet: for I have appeared unto thee for this purpose, ***to make thee a minister and a witness both of these things which thou hast seen, and of those things in the which I will appear unto thee***;
> [17]Delivering thee from the people, and from the Gentiles, unto whom now I send thee,
> [18]To open their eyes, and to turn them from darkness to light, and *from the power of Satan unto God, that they may receive forgiveness of sins, and inheritance among them which are sanctified by faith that is in me*.
> [19]Whereupon, O king Agrippa, **I was not disobedient** unto the heavenly vision:
> [20]But shewed first unto them of Damascus, and at Jerusalem, and throughout all the coasts of Judaea, and then to the Gentiles, that they should repent and turn to God, and do works meet for repentance.

[21] *For these causes **the Jews caught me** in the temple, and **went about to kill me**.*

It is no secret as to who their "daddy" is and it is the work of their "daddy" and the WICKEDNESS/EVILNESS in their hearts/DNA that they STALK Newsome and seek to destroy her life as well as the starting of NUMEROUS wars against innocent and defenseless countries for the shedding of blood of men/women/children: John 8:44-47:

[44] **Ye are of your father the devil**, and the **lusts** of your father ye will do. **He was a murderer from the beginning**, and abode not in the truth, because there is no truth in him. When he speaketh a lie, he speaketh of his own: **for he is a liar, and the father of it**.
[45] And because I tell you the truth, ye believe me not.
[46] Which of you convinceth me of sin? And if I say the truth, why do ye not believe me?
[47] He that is of God heareth God's words: ye therefore hear them not, because ye are not of God.

12) Thank goodness for the Men and Women of God that He has placed in Newsome's life as well as FRIENDS, FAMILY, LOVED ONES and the SAINTS because attacks by President Barack Obama, his Administration and those in whom he seeks counsel/advice from have sought to DESTROY Newsome physically and mentally – ***i.e. recent attacks being the THEFT and EMBEZZLEMENT of her 2009 Federal Tax Refund of over approximately $1,700 dollars (monies due Newsome in that the IRS had already taken out the back taxes owed by her; however, the Department of Treasury which is MASTERED and ARMED by the Baker Donelson crew and others relied upon CRIMINAL acts and have stolen/embezzled monies owed Newsome).*** *See from the list above Baker Donelson's position with the Department of Treasury and/or ties to the White House and other Government Organizations*. ***Such criminal actions and behavior being done with United States President Barack Obama's permission and/or approval*** – i.e. **Obama has been timely, properly and adequately apprised/inform of these criminal practices occurring under his watch!!!!**

Then of course you and others are aware of the United States Senators BLOCKING of Unemployment Benefits as

recent as June 25, 2010 – One guess as to what they are embarking on and the additional injuries they are attempting to inflict on Newsome. Willing to make a WHOLE NATION suffer (i.e. willing to ***strain at a gnat*** in hopes of causing Newsome financial ruin) – See **Baker Donelson's ties to the United States Department of Treasury** listed above as well as **document attached entitled, "BAKER DONELSON INFO" which contains information they have had SCRUBBED from the Internet to keep you and others in the dark.** Also, see Baker Donelson's ties to the United States Senate/United States House of Representatives. From the list provided above, Yes, ***the counsel and advice that Baker Donelson may be providing is a MAJOR part in the DEMISE and the inevitable FALL of the United States and it appears may have KEY/MAJOR ties to the DECISIONS that come out of Washington, D.C.***

How could one law firm and its clients ***have been allowed to become so powerful*** and bring down a country through its **TERRORISTIC** and **RACIAL/PREJUDICIAL/ DISCRIMINATORY** practices and HATRED for people of color and the Middle East?

As God did with the Prophet Elijah in providing him with RAVENS to provide him with food by morning and night – I Kings 17:4-7-24:

[4]And it shall be, that thou shalt drink of the brook; and I have commanded the ravens to feed thee

there.

5 So he went and did according unto the word of the LORD: for he went and dwelt by the brook
Cherith, that is before Jordan.

6 And ***the ravens brought him bread and flesh in the morning, and bread and flesh in the evening; and he drank of the brook***.

7 And it came to pass after a while, that the brook dried up, because there had been no rain in the land.

8 And the word of the LORD came unto him, saying,

9 Arise, get thee to Zarephath, which belongeth to Zidon, and dwell there: behold, I have commanded a widow woman there to sustain thee.

10 So he arose and went to Zarephath. And when he came to the gate of the city, behold, the widow woman was there gathering of sticks: and he called to her, and said, Fetch me, I pray thee, a little water in a vessel, that I may drink.

11 And as she was going to fetch it, he called to her, and said, Bring me, I pray thee, a morsel of bread in thine hand.

12 And she said, As the LORD thy God liveth, I have not a cake, but an handful of meal in a barrel, and a little oil in a cruse: and, behold, I am gathering two sticks, that I may go in and dress it for me and my son, that we may eat it, and die.

13 And Elijah said unto her, Fear not; go and do as thou hast said: but make me thereof a little cake first, and bring it unto me, and after make for thee and for thy son.

14 For thus saith the LORD God of Israel, The barrel of meal shall not waste, neither shall the cruse of oil fail, until the day that the LORD sendeth rain upon the earth.

15 And she went and did according to the saying of Elijah: and she, and he, and her house, did eat many days.

16 And the barrel of meal wasted not, neither did the cruse of oil fail, according to the word of the LORD, which he spake by Elijah.

17 And it came to pass after these things, that the son of the woman, the mistress of the house, fell sick; and his sickness was so sore, that there was no breath left in him.

18 And she said unto Elijah, What have I to do with thee, O thou man of God? art thou come unto me to call my sin to remembrance, and to slay my son?

19 And he said unto her, Give me thy son. And he took him out of her bosom, and carried him up into a loft, where he abode, and laid him upon his own bed.

20 And he cried unto the LORD, and said, O LORD my God, hast thou also brought evil upon the widow with whom I sojourn, by slaying her son?

21 And he stretched himself upon the child three times, and cried unto the LORD, and said, O LORD my God, I pray thee, let this child's soul come into him again.

22 And the LORD heard the voice of Elijah; and the soul of the child came into him again, and he revived.

23 And Elijah took the child, and brought him down out of the chamber into the house, and delivered him unto his mother: and Elijah said, See, thy son liveth.

24 And the woman said to Elijah, Now by this I know that thou art a man of God, and that the word of the LORD in thy mouth is truth.

CHRISTIANS/SAINTS, FAMILY, FRIENDS and LOVED ONES who know Newsome and her attacks on her life have seen to it that the DEVIL and his CHILDREN are DEFEATED.

Psalm 27:1-2 - - 1 The LORD is my light and my salvation; whom shall I fear? the LORD is the strength of my life; of whom shall I be afraid?

2 ***When the wicked, even mine enemies and my foes, came upon me to eat up my flesh, they stumbled and fell***.

Special people and Children of God who have been placed in Newsome's life to see that her bills are paid and that she is fed (for many are called but only a few can carry the mantle handed off to Newsome because it comes with a great price/sacrifice – i.e. being envied, hated without a cause, unjustly persecuted, etc.)
Matthew 10:38-42:

38 And ***he that taketh not his cross, and followeth after me, is not worthy of me.***

39 He that findeth his life shall lose it: and ***he that loseth his life for my sake shall find it.***

40 ***He that receiveth you receiveth me, and he that receiveth me receiveth him that sent me***.
41 He that ***receiveth a prophet in the name of a prophet shall receive a prophet's reward; and he that receiveth a righteous man in the name of a righteous man shall receive a righteous man's reward***.
42 And ***whosoever shall give to drink unto one of these little ones a cup of cold water only in the name of a disciple, verily I say unto you, he shall in no wise lose his reward***.

Mark 9:40-42:

40 For he that is not against us is on our part.
41 ***For whosoever shall give you a cup of water to drink in my name, because ye belong to Christ, verily I say unto you, he shall not lose his reward.***
42 And ***whosoever shall offend one of these little ones that believe in me, it is better for him that a millstone were hanged about his neck, and he were cast into the sea.***

Matthew 25:41-46

40 And the King shall answer and say unto them, Verily I say unto you, Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me.
41 Then shall he say also *unto them on the left hand*, *Depart from me, ye cursed, into everlasting fire,* ***prepared for the devil and his angels***:
42 For **I was an hungred, and ye gave me no meat**: **I was thirsty, and ye gave me no drink:**
43 ***I was a stranger, and ye took me not in: naked, and ye clothed me not: sick, and in prison, and ye visited me not.***
44 Then shall they also answer him, saying, Lord, when saw we thee an hungred, or athirst, or a stranger, or naked, or sick, or in prison, and did not minister unto thee?
45 Then shall he answer them, saying, ***Verily I say unto you, Inasmuch as ye did it not to one of the least of these, ye did it not to me.***
46 *And these shall go away into everlasting punishment: but the righteous into life eternal.*

13) You and others ***may recall the DECEPTIVE practices used by United States President Barack Obama, his Administration and those they seek counsel/advice from and may have engaged in, in getting the HEALTH CARE REFORM BILL passed***. However, did you know that the counsel/advisors (i.e. for example like BAKER DONELSON) that President Barack Obama and his Administration rely upon for counsel/advice, have *a* ***WELL-ESTABLISHED PATTERN-OF-BEHAVIOR*** *to resort to criminal actions (i.e.* ***EXTORTION***, ***BLACKMAIL, BRIBERY***, *etc.) to achieve their goals – as used against Newsome and legal counsel that she has retained in the past to get her to withdraw her lawsuits; however, they failed in ALL attempts and while Newsome was abandoned, she proceeded pro se in the preservation of her rights.* **Did you know that those in whom President Barack Obama and his Administration rely upon for counsel/advice** ***RELY upon such tactics to win the BATTLES/WARS***

leveled against Newsome to obtain their goals – i.e. using methods/tactics prohibited/forbidden BY LAW to obtain the object of their CONSPIRACY?

Since Newsome is talking about the HEALTH CARE REFORM BILL, **did you know that the FIRST Person that President Barack Obama wanted for the position as United States Secretary of the Department of Health and Human Services was THOMAS DASCHLE** – see:

http://en.wikipedia.org/wiki/Tom_Daschle

(Newsome is attaching a printout of HARD COPY) which is attached and entitled **"DASCHLE-Tom Info"** and states in part:

> Daschle was an early supporter of Barack Obama's presidential candidacy, and was offered the position of Secretary of the Department of Health and Human Services after the 2008 election. He was President Barack Obama's nominee to serve as the Secretary of Health and Human Services (HHS) in Obama's Cabinet, but withdrew his name on February 3, 2009, amid a growing controversy over his failure to accurately report and pay income taxes. . . .
>
> Daschle took a position with the lobbying arm of the K Street law firm Alston & Bird. Because he was prohibited by law from lobbying for one year after leaving the Senate, he instead worked as a "special policy adviser" for the firm.. . .
>
> The firm was paid $5.8 million between January and September 2008 to represent companies and associations before Congress and the executive branch, with 60 percent of that money coming from the health industry. . . .
>
> Daschle's salary from Alston & Bird for the year 2008 ***was reportedly $2 million***. . .
>
> On February 21, 2007, the Associated Press reported that Daschle, after ruling out a presidential bid of his own in December 2006, had thrown his support behind Sen. Barack Obama of Illinois for the 2008 presidential election, saying that Obama "personifies the future of Democratic leadership in our country."
>
> Daschle exited the Senate just as Obama entered in 2004 and suggested that Obama take on some of his staffers. These included Daschle's outgoing chief-of-staff Pete Rouse who helped to create a two year plan in the Senate that would fast-track Obama for the presidential nomination. Daschle himself told Obama in 2006 that "windows of opportunity for running for the presidency close quickly. And that he shouldn't assume, if he passes up this window, that there will be another."
>
> During the 2008 presidential campaign, Daschle **served as a key advisor** to Obama and one of the national co-chairs for Obama's campaign. . .
>
> Two days later, sources indicated Daschle "is interested in universal health care and might relish serving as HHS secretary."In the general election campaign, Daschle continued to consult Obama, campaign for him across swing states, and advise his campaign organization until Obama was ultimately elected the 44th President of the United States on November 4, 2008.

Did you know that Thomas Daschle's wife, **Linda Hall Daschle**, is one of Baker

Donelson's **TOP/KEY LOBBYISTS**? Yes. See for yourself information pulled from the Internet (attached entitled, **"DASCHLE-Linda Info"**) which states in part:

> Also Wednesday, three sources close to the transition said Obama has chosen former Sen. Tom Daschle to be Secretary
> of Health and Human Services, and the former Senate majority leader has indicated he wants the job.
>
> The sources said that Daschle negotiated that he will also serve as the White House health "czar," or point person, so
> that he will report directly to the incoming president.
>
> ***By wearing two hats, Daschle -- not White House staffers -- will be writing the health care plan that Obama submits to Congress next year***.
>
> The sources said the timing of the announcement has not been worked out, but Daschle is likely to join the Obama
> transition team as the lead adviser on health issues in the next few weeks.
>
> An Obama transition official would not comment.
>
> *Daschle is* ***currently billed as a "special public policy adviser"*** *in the Washington* office of the law firm Alston & Bird.
>
> He is not a federally registered lobbyist, but his wife, *Linda Daschle, is a registered lobbyist at the firm* ***Baker Donelson****, which* ***has clients in health-related fields***.
>
> Critics question whether Obama's top staff picks so far represent the "change" that he promised during the campaign.
>
> ***More than half*** *of the people named to Obama's transition or staff posts have ties to President Clinton's administration*.

IMPORANT AGAIN so you can see just how POWERFUL and where the BIG MONEY is at **that is running the White House** and ***who the PLAYERS may be that are APPOINTING people for the VACANT positions*** *in the Obama Administration*. ***Remember, President Barack Obama was HAND PICKED for this job and the CARRYING OUT and MASKING/SHIELDING of***

TERRORISTIC ACTS, RACIAL INJUSTICES/PREJUDICES/DISCRIMINATION going on in the United States. His election was to DECEIVE Foreign Leaders/Foreign Countries to believe that "ALL IS WELL" in the United States and the United States Government has changed its ways – ***WHEN IN FACT, the United States has NOT***.

It is important for you as well as the PUBLIC/WORLD and Foreign Nation/Foreign Leaders to know that *President Barack Obama may have allowed himself to be HAND PICKED and USED for the passing of the Health Care Reform Bill* ***because those who picked him knew that what PRIOR white United States Presidents could not get passed, they would use the first alleged African-American President to get the Bill passed***. *Then* ***when challenged, would play the "RACE CARD" argument to throw citizens*** *and foreign leaders/nations* ***off course as to what their REAL MOTIVES are***. *As you and others may know, that in getting the Health Care Reform Bill passed, President Barack Obama* ***resorted to "BEHIND-THE-DOOR DEALS and ARM TWISTING" tactics to get the votes and Bill passed***. *Such tactics are those COMMONLY used by United States President Barack Obama's TOP/KEY Financial Supporters/Advisors (LIBERTY MUTUAL and its law firms, BAKER DONELSON and others) to get Judges/Justices to violate the laws in lawsuits brought against Newsome and/or initiated against Liberty Mutual's clients for legal wrongs committed against Newsome. Such* ***TACTICS President Obama advised he would not resort to during the 2008 Presidential Campaign – as you can see from the evidence "LIES and DECEPTIVE PRACTICES."***

14) BAKER DONELSON secures its CONTROL and DOMINENCE in the running of the White House, United States Senate/United States House of Representatives, and United States Government/Agencies by being very CERTAIN to have ***PLANTED/EMPLOYED THROUGHOUT GOVERNMENT AGENCIES*** in place for whoever is placed in the White House (i.e. it could be Democrats or Republicans). Baker Donelson STRATEGICALLY have placed their people in either Democratic or Republican Administrations so that they can continue to RUN/CONTROL through their counseling and advisory responsibility sought their OWN SPECIAL INTERESTS as well as those of their CLIENTS (i.e as LIBERTY MUTUAL). To better understand how BAKER DONELSON uses its resources and place their people in the White House as well as in very high positions in the United States Government, Newsome attaches information pulled from the Internet entitled, **"BAKER DONELSON – DC Ties."** Documentation which will further support just how much POWER this law firm and others have in the RUN OF THE WHITE HOUSE, GOVERNMENT, etc. ***Baker Donelson securing***

its hold on both political parties (DEMOCRATS and REPUBLICANS) so regardless of which party wins the White House, BAKER DONELSON is still in control. Some of this information (IF NOT SCRUBBED – this is why Newsome retained HARD COPIES of articles just in case attempts would be made to pull information from PUBLIC VIEW) can be found at the following websites for example:

http://en.wikipedia.org/wiki/Howard_Baker

HOWARD BAKER:
Baker is currently Senior Counsel to the law firm of Baker, Donelson, Bearman, Caldwell & Berkowitz.
He is also an Advisory Board member for the Partnership for a Secure America, a not-for-profit organization dedicated to recreating the bipartisan center in American national security and foreign policy. Baker also holds a seat on the board of the International Foundation for Electoral Systems', a non-Profit which provides international election support.
Capping a distinguished public-service career as senator, presidential advisor and ambassador, Howard H. Baker, Jr. returned in February 2005 to Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, the law firm his grandfather founded and where he formerly practiced with his father, the late U.S. Rep. Howard H. Baker. As Senior Counsel to the Firm, Senator Baker focuses his practice on public policy and international matters.
Senator Baker's return followed his service as 26th **U.S. Ambassador to Japan**, **a position to which President George W. Bush appointed him in 2001**. The appointment was yet another milestone in a public-service career that began in 1966, when Senator Baker became the first Republican popularly elected to the U.S. Senate from Tennessee. . . .
Three years later, he was keynote speaker at the Republican National Convention and was a 1980 candidate for the Republican presidential nomination. He concluded his Senate career in 1985 after two terms as Majority Leader (1981 to 1985) and two terms as Minority Leader (1977 to 1981). He was President Reagan's Chief of Staff from February 1987 to July 1988.
Professional Experience: U.S. Ambassador to Japan, 2001 to 2005; **Chief of Staff, President Ronald Reagan**, 1987 to 1988; U.S. Senate (R-TN), 1967 to 1985; **U.S. Senate Majority Leader**, 1981 to 1985; **U.S. Senate Minority Leader**, 1977 to 1981; U.S. Navy, 1943 to 1946

http://www.bakerdonelson.com/Bio.aspx?NodeID=32&PersonID=1788

http://www.gambrell.com/careers.aspx/Bio.aspx?NodeID=32&PersonID=11774

http://www.ilw.com/seminars/200925.shtm

http://www.zoominfo.com/people/Kennedy_J._107874837.aspx

15) Keep in mind that leading up to the November 2010 Mid-Term Elections, President Barack Obama, those in his Administration, United States Senators, United States House of Representatives and others may ***be SLAMMING YOU WITH E-MAILS*** and ***BANGING DOWN YOUR CHURCH/HOUSE doors courting your votes*** – so it is IMPORTANT that you, your friends and love ones have this information and **DO NOT** allow yourself to be further DECEIVED (if you have been). Will you continue to strengthen the hands of EVILDOERS? – **Jeremiah 23:14**

This is why President Barack Obama and those who

counsel and advise him ***do <u>not</u>*** *make changes and are getting FAT OFF OF YOUR MONETARY DONATIONS and the wickedness and evil deeds of the United States continues to increase.* **If so, you need to know how your money is being spent**. <u>While Newsome voted for President Barack Obama, she ***NEVER paid any money into his Campaign*** nor would she finance or support his criminal activities and cover-up by providing him with monies which enables him to do what he is doing to the children of God</u>.

> **<u>IMPORTANT TO NOTE:</u>** *While President Obama advised that he would not tolerate DISCRIMINATION under his Watch and/or Administration, he has done to the contrary and now AUTHORIZES, DIRECTS, and LEADS in the CONSPIRACY and COVER-UP of criminal/civil wrongs brought to his attention by Newsome. He is FULLY AWARE of the RACIAL INJUSTICE/PREJUDICES/ DISCRIMINATION leveled against Newsome, African-Americans and/or people of color.*

You may recall President Barack Obama disowned his pastor, Jeremiah Wright, during the 2008 Presidential Campaign. ***Like many politicians, they merely make church affiliations as their POLITICAL strategy to win an election; however, it is important to know whether they are walking the walk of the God they claim to serve.*** As President Barack Obama in DISOWNING his faith and religion when placed under fire – being ASHAMED to step up and speak out boldly as to his Christian/Spiritual beliefs – how many IN-THE-CLOSET CHRISTIANS/SAINTS are doing the same thing and not taking a stand. United States President Barack Obama has REPEATEDLY displayed POOR JUDGMENT as a Leader and now he and his family are DRIFTERS with no roots. Psalms 1:1,4-6:

> [1]***Blessed is the man that walketh not in the counsel of the ungodly, nor standeth in the way of sinners, nor sitteth in the seat of the scornful***.. .
>
> [4]The *ungodly are not so: but are like the chaff which the wind driveth away.*
>
> [5]Therefore the ungodly shall not stand in the judgment, nor sinners in the congregation of the righteous.
>
> [6]For the LORD knoweth the way of the righteous: ***but the way of the ungodly shall perish.***

16) You and others need to understand **that United States President Barack Obama and United States Attorney**

General Eric Holder *are WILLFUL pawns in the DECEPTIVE practices* going on in the Administration as well as WILLFUL participants in the CONSPIRACY and COVER-UP of criminal/civil wrongs that have been leveled against Newsome as well as other African-Americans and/or people of color committed by the FBI/Government Agencies/Officials and others who seek to destroy the lives of these ethnic groups.

17) The United States Government has REPEATEDLY preyed on the POOR and DEFENSELESS citizens as well as smaller Foreign Countries/Foreign Leaders way too long and remain UNPUNISHED; however, it is REAPING TIME NOW and time for the United States Government to reap from the HAVOC and NEEDLESS DESTRUCTION that it has sown: Galatians 6:7-9:

> [7]***Be not deceived; God is not mocked: for whatsoever a man soweth, that shall he also reap.***
> [8]***For he that soweth to his flesh shall of the flesh reap corruption;*** but he that soweth to the Spirit shall of the Spirit reap life everlasting.
> [9]And let us not be weary in well doing: for in due season we shall reap, if we faint not.

18) As you may know *United States President Barack Obama* ***is schooled in the law*** and holds his Degree from Harvard Law School. As you may know that *United States Attorney General Eric Holder* ***is schooled in the law*** and holds his Degree from Columbia Law School. Therefore, there ***IS NO*** *excuse for President Obama and his Administration's* ***NEGLIGENCE and FAILURE to enforce the laws and INDICT those who have committed the crimes*** *alleged in the FBI Criminal Complaints brought by Newsome*.

19) *Newsome realizes that unlike many of the citizens here in the United States who will find it difficult to believe that President Barack Obama would be engaging in CONSPIRACIES and COVER-UP of Racial Injustices/Prejudices/Discrimination leveled against Newsome*, African-Americans and/or people of color, Foreign Leaders/Foreign Countries **ARE NOT** going to be as naïve and know that the **evidence/documentation** and CASE LAWS/LEGAL CONCLUSIONS provided in this e-mail as well as past e-mails solidifies the arguments and criminal acts of those attacking Newsome and relying upon their TIES/RELATIONSHIPS to cover-up their criminal activities targeting her and those of her race and/or people of color.

Foreign Leaders/Foreign Countries have their own legal counsel/lawyers that can check and see the VALIDITY of the information provided in my e-mails and are not willing to STICK THEIR HEAD IN THE SAND!

Why do you think the relationships with the United States and Foreign Leaders/Nations are changing *and President Barack Obama and his Administration in efforts of* ***doing DAMAGE CONTROL is relying upon the MEDIA/PRESS to withhold this information from you and others as well as SCRUBBING INFORMATION FROM WEBSITES?***

20) *Newsome understand that those who* ***do not*** *have the Spirit of God will hate her as well as despise her for being BLESSED and favored to carry the mantle that has been given her. Nevertheless, this* ***has not*** *discouraged Newsome to continue to fight for her people and equality for all regardless of their race.* ***As a Child of God and Woman of God, there is no way that Newsome can see the EVILNESS and WICKEDNESS leveled against her and others and not SOUND THE TRUMPET and SPEAK OUT BOLDLY against such RACIAL INJUSTICES/PREJUDICES/ DISCRIMINATION. Like David, it is obvious an ARMY is not needed TO BRING DOWN GOLIATH because those on the sidelines WATCHING are full of FEAR. God will provide you with the proper ROCK/STONE to take down the GIANT****!!! Yes it has cost Newsome plenty; however, not her SOUL!!!* Matthew 10:22, 23:

> **22** And ***ye shall be hated of all men for my name's sake***: but he that endureth to the end shall be saved.
>
> **23** But **when they persecute you in this city**, **flee ye into another**: *for verily I say unto you, Ye shall not have gone over the cities of Israel, till the Son of man be come*.

Even following such instructions, President Obama and his Administration's counsel/advisors continue to STALK Newsome from STATE-TO-STATE/CITY-TO-CITY and JOB-TO-JOB/EMPLOYER-TO-EMPLOYER and have CONSPIRED to see that she is BLACKLISTED and unable to obtain employment anywhere.

Just as Jesus was hated for EXPOSING the truth, *Newsome most likely will be hated because she is exposing the TRUTH about her enemies – it just happens that the first alleged African-American United States President has made a WILLFUL, CONCIOUS and DELIBRATE choice to CONSPIRE and act upon the counsel and advisement of his attorneys/advisors which appears to be BAKER DONELSON and others tied to LIBERTY MUTUAL and their BIG MONEY.* **Because Newsome is exposing the CORRUPTION in the United States Government and in President Barack Obama and his Administration, they now seek to destroy her life:**

John 8:40:

> [40] But now **ye seek to kill me**, ***a man that hath told you the truth***, which I have heard of God: this did not Abraham.
> [41] ***Ye do the deeds of your father.*** Then said they to him, We be not born of fornication; we have one Father, even God.

IT IS OBVIOUS WHO THEIR DADDY IS – John 8:44-47:

> [44] ***Ye are of your father the devil***, and *the lusts of your father ye will do*. ***He was a murderer*** from the beginning, and *abode not in the truth, because there is no truth in him*. When ***he speaketh a lie, he speaketh of his own: for he is a liar, and the father of it***.
> [45] And *because I tell you the truth, ye believe me not*.
> [46] Which of you convinceth me of sin? And if I say the truth, why do ye not believe me?
> [47] He that is of God heareth God's words: ***ye therefore hear them not, because ye are not of God***.

for this is in their DNA; therefore, they seek to KILL and MURDER (***taking the lives of many souls***) through the starting of SENSELESS wars/battles (i.e. as that in Iran/Iraq and Afghanistan) for ILL and MALICIOUS intent (***i.e. possession of oil and/or natural resources*** - **TIES TO HALLIBURTON, former Vice President Dick Cheney – See document attached entitled "BAKER DONELSON – DC Ties at Page 13**).

21) **ALERT. . . ALERT. . . ALERT: Foreign Leaders/Nations need to be aware** that the United States is gearing up for the 2012 Presidential Elections and presently **"TESTING THE FIELD" to place a candidate like Sarah Palin in the White House**. You need to be on guard and watch the News and do your research.

*Palin has been labeled a **"ROGUE" Politician** and is a person that **will not hesitate if being elected, fueling up "AIR FORCE ONE" and leading the United States into wars herself against those countries she believes are terrorist countries**; moreover, **is one that would attempt to send African-Americans and/or people of color back into slavery/bondage.*** From what Newsome sees, her mentality appears to be one that ***would even HIGHJACK Air Force One and attempt to fly the plane (loaded with her supporters) into war herself***. Palin is also a person who appears to promote herself as a CONSERVATIVE; however, actions are neither BIBLICALLY or SPIRITUALLY sound – i.e. as former George W. Bush and look what happened under his Presidential Administration. Merely, a walking TIME BOMB with the United States White House in her sights!!

Thank you for our time, consideration, patience and/or support in such CHALLENGING times as these. Newsome will keep you informed and/or updated when it is convenient and she has the time to do so. However, should you have any questions, please do not hesitate to contact her.

With Warmest Regards,

Vogel Denise Newsome
Post Office Box 14731
Cincinnati, Ohio 45250
(513) 680-2922 or (601) 885-9536

3 attachments

NEWSOME CREDENTIALS.zip
2336K

071310-EMAIL DOCUMENTS.zip
9002K

071010-COURT FILINGS.zip
274K

DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

August 12, 2009

VIA U.S. PRIORITY MAIL: SIGNATURE CONFIRMATION TRACKING NO.: 23051590000163820720
ATTN: Thomas B. Miller, Commissioner
Commonwealth of Kentucky Department of Revenue
501 High Street
Frankfort, KY 40620

VIA USPS EXPRESS MAIL: TRACKING NO. EH 972421753 US
U.S. Department of Justice
ATTN: Attorney General Eric H. Holder, Jr.
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

RE: COMPLAINT RE: XXX-XX-XX37 (VOGEL D. NEWSOME)
REBUTTAL TO AUGUST 1, 2009, FINAL NOTICE BEFORE SEIZURE
REQUEST FOR RESPONSE BY FRIDAY, AUGUST 21, 2009[1]

Dear Mr. Miller and U.S. Attorney General Holder:

Please accept this as my Complaint and Rebuttal to the Commonwealth of Kentucky Department of Revenue's August 1, 2009, FINAL NOTICE BEFORE SEIZURE. Mr. Holder was provided with a copy of said FINAL NOTICE BEFORE SEIZURE on or about August 8, 2009, via U.S. Express Mail Tracking No. EH488249595US – received in his office on or about August 10, 2009 pursuant confirmation obtained. See attached hereto.

PLEASE BE ADVISED: Pursuant to the Kentucky Taxpayers' Bill of Rights ("KTBOR") it states at Kentucky Revised Statutes ("KRS") 131.041 it states:

> The provisions of KRS 131.041 to 131.081 shall be known and may be cited as the "Kentucky Taxpayers' Bill of Rights."

See attached hereto.

PLEASE BE ADVISED: Pursuant to KRS **131.061 KRS 131.041 to 131.081 to apply to all taxes administered by Department of Revenue**, it states:

> In addition to all other rights or privileges afforded Kentucky taxpayers, and notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, the provisions of KRS 131.041 to 131.081 ***shall apply with regard to all taxes administered*** by the Department of Revenue.

See attached hereto.

---

[1] Boldface, italics and/or underline added for emphasis.

EXHIBIT 26

PLEASE TAKE NOTICE: That the Commonwealth of Kentucky Department of Revenue ("COKDOR") has deprived Newsome rights secured/guaranteed under the Kentucky Taxpayers' Bill of Rights and failed to follow the policies and procedures mandated by statutes/laws governing the above referenced matter. In further support Newsome states pursuant to KRS **131.081 Rules applicable to the administration of all taxes under jurisdiction of Department of Revenue** which states in part:

> The following rules, principles, or requirements ***shall*** *apply in the administration of* ***all*** *taxes* subject to the jurisdiction of the Department of Revenue.
>
> (1) The department shall develop and implement a Kentucky tax education and information program *directed at* ***new*** *taxpayers, . . .*
>
> (2) The department ***shall*** *publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the department.* These statements ***shall*** *be provided to taxpayers with the* ***initial*** *notice . . .* ***each*** ***original*** *notice of tax due; . . .* and, if practical and appropriate, in informational publications by the department distributed to the public.. .
>
> (6) If any taxpayer's *failure to submit* a timely return or payment to the department is due to the taxpayer's reasonable *reliance on written advice from the department, the taxpayer* ***shall*** *be relieved of any penalty or interest with respect thereto, provided the taxpayer requested the advice in writing from the department and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the department did not subsequently rescind or modify the advice in writing,* and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the department's earlier written advice no longer valid. . .
>
> (8) The department ***shall*** *include with* ***each*** *notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against the taxpayer, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made.* Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.
>
> (9) Taxpayers ***shall have the right to an installment payment agreement*** *for the payment of delinquent taxes, penalties, and interest owed, provided the taxpayer requests the agreement in writing clearly demonstrating his inability to pay in full and that the agreement will facilitate collection by the department of the amounts owed.* The department may modify or terminate an installment payment agreement if it determines the taxpayer has not complied with the terms of the agreement; *the taxpayers'*

> ***financial condition has sufficiently*** *changed*; the taxpayer fails to provide any requested financial condition update information; the taxpayer gave false or misleading information in securing the agreement; or the taxpayer fails to timely report and pay any other tax due the Commonwealth. The department shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the department has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay. . . .
>
> (12) The department shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges ***as the direct result of any erroneous lien or levy by the department***, *provided the erroneous lien or levy was caused by department error* and, **prior to issuance of the erroneous** *lien or levy*, the *taxpayer* ***timely responded to all*** *contacts by the department and* ***provided information*** *or documentation sufficient to* ***establish his or her position***. When the department releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation, shall be mailed to the major credit reporting companies located in the county where it was filed. . . .
>
> (14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the Board of Claims for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, and intentional disregard by department employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the department. In the awarding of damages pursuant to this subsection, the board shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any proceeding brought by a taxpayer is ruled frivolous by the board, the department shall be reimbursed by the taxpayer for its costs in defending the action.
>
> (15) Taxpayers ***shall have the right to privacy*** with regard to the information provided on their Kentucky tax returns and reports, including any attached information or documents. Except as provided in KRS 131.190, no information pertaining to the returns, reports, or the affairs of a person's business shall be divulged by the department to any person or be intentionally and without authorization inspected by any present or former commissioner or employee of the Department of Revenue, member of a county board of assessment appeals, property valuation administrator or employee, or any other person.

See attached hereto.

PLEASE TAKE NOTICE: **(a)** That Newsome, as a *new resident* to the Commonwealth of Kentucky and new taxpayer of said Commonwealth, **was not** advised of and/or provided any tax education or information program regarding the Commonwealth's income tax practices as required by the KTBOR which may have enhanced Newsome's understanding of and compliance with Kentucky tax laws. **(b)** That the Kentucky Department of Revenue ***failed*** *to provide* Newsome with brief statements in simple and nontechnical language which explains procedures, remedies, and the rights and obligations of taxpayer – failing to provide Newsome with an ***original*** *Notice of Tax Due* as well as the required *Notification of Tax Assessment* required under the KRS; therefore, depriving Newsome rights secured/guaranteed under the KTBOR. **(c)** Newsome's failure to provide any payments and/or setting up of payment arrangements *are a direct and proximate result of the* COKDOR's actions and its failure to comply with the KRS when Newsome (in good faith) *requested both verbally and in writing* to establish payment arrangements due to her financial/economical circumstances. The COKDOR was timely, properly and adequately notified both verbally and in writing of Newsome's UNEMPLOYMENT status and inability to pay the alleged taxes asserted to be owed. Moreover, Newsome's notifying verbally and in writing of contesting/disputing said debt alleged owed as early as November 21, 2008 (see letter correspondence attached hereto). **(d)** The record of the COKDOR will support that Newsome's requests were followed up in writing (for example) advising in May 12, 2009 correspondence,

> I contacted Ms. Freeman upon receipt of the attached NOTICE OF LIEN prepared on 03/10/2009 advising of my objection. To date, I ***have not*** *received the information from Ms. Freeman to support and/or sustain the debt the Department of Revenue asserts is owed. Ms. Freeman advised that she is going over my record to determine whether or not there is an error. I advised Ms. Freeman that the Kentucky Department of Revenue and its officials are governed by the statutes/laws governing said matters are required to comply with same. Moreover, said officials are not above the law. . . . I am requesting a* ***CERTIFIED COPY*** *of debt the Commonwealth of Kentucky is alleged is owed. . . Through this request, I am demanding that the Kentucky Department of Revenue also provide me with a* ***CERTIFIED COPY*** *of the* ***worksheet*** *it relied upon to reach such computations rather than simply providing me with the total lump sum amount alleged is owed.* ***It is important to me to see how the Department of Revenue derived such alleged debt owed – authenticity of such alleged debt.*** *I believe this request and/or demand is reasonable due to my concerns of a* ***pattern of abuse of authority/power*** *by officials of ate State of Kentucky.*

To date (approximately **three [3]** months later), Newsome **has not** received any copies of Ms. Freeman's work papers, written narrative setting forth how she derived at such figures and the COKDOR's failure to provide her with the required *Notice of Tax Due* and *Notification of Tax Assessment*. Thus, depriving

Newsome rights secured/guaranteed under the KTBOR. Ms. Freeman was advised of said request, however, feels that she is above the law and is no required to provide Newsome with the information demanded. Therefore, Ms. Freeman ignored Newsome's request and refused to provide her CERTIFIED COPIES and the WORKSHEET (containing how she derived at her computations).

Title 42, U.S.C., Section 14141
Pattern and Practice

> This civil statute was a provision within the Crime Control Act of 1994 and **makes it unlawful** for any governmental authority, or agent thereof, or any person acting on behalf of a governmental authority, *to engage in a* ***pattern*** *or* ***practice*** *of conduct by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration . . . justice. . .* ***that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.***
>
> Whenever the Attorney General has reasonable cause to believe that a violation has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.

(e) Pursuant to KRS 131.081 (9) Newsome has the right to enter into an *installment payment agreement*. The record of the COKDOR will support that Newsome has requested both verbally and in writing that she timely, properly and adequately requested to be allowed to pay any alleged debt (once proper amount owed was determined) *via installment payments*; however, such demands by Newsome *have also been* ***rejected*** by the COKDOR and the COKDOR has failed to contact Newsome (although requested in writing) and discuss and establish installment payment arrangement/agreement. Therefore, depriving Newsome rights secured/guaranteed under the KTBOR.

Title 18, U.S.C., Section 242
Deprivation of Rights Under Color of Law

> This statute makes it *a* ***crime*** for **any person acting under color of law, statute, ordinance, regulation,** or custom *to* ***willfully*** *deprive* or *cause to be deprived from* any person those rights, privileges, or immunities secured or protected by the Constitution and laws of the U.S.
>
> This law *further* ***prohibits*** *a person* ***acting under color of law, statute, ordinance, regulation or custom*** *to willfully subject or*

> *cause to be subjected any person to* ***different*** *punishments, pains, or penalties, than those prescribed for punishment of citizens on account of such person being an alien or* ***by reason of his/her color or race.***
>
> Acts under "color of any law" include acts not only done by federal, **state**, or **local** officials within the bounds or limits of their lawful authority, but also *acts done* ***without*** and ***beyond*** *the bounds of their lawful authority*; provided that, *in order for unlawful acts of any official to be done under "color of any law,"* the unlawful acts **must be done** *while such official* ***is purporting or pretending to act*** *in the performance of his/her* ***official*** *duties*. This definition includes, in addition to law enforcement officials, . . .persons who are bound by laws, statutes ordinances, or customs.. . .

CUT & PASTED: http://www.**fbi**.gov/hq/cid/civilrights/statutes.htm.

(f) Pursuant to KRS 131.081(12), *the COKDOR* ***is to be held liable*** *for any costs, expenses, charges, etc. that has been assessed of and against Newsome in that it has failed to comply with the statutes/laws of the Commonwealth of Kentucky in regards to such matters*. Moreover, the COKDOR **has acted in bad faith and/or ill/malicious intent** to cause Newsome injury/harm in its filing of **erroneous** ***Notice of Lien***. Said filing of the Notice of Lien was ***prematurely filed*** by the COKDOR without following policies and procedures MANDATED by statutes/laws under which it is governed. The COKDOR filing of *Notice of Lien* and allowing the reporting of **erroneous** *debt to credit bureaus was done with ill/malicious intent*. The record evidence of the COKDOR will support that Newsome, timely, properly and adequately *responded to* ***all*** *contacts by the COKDOR* and notified and/or provided information or documentation sufficient to establish her position. *Nevertheless, the COKDOR through its* ***willful, malicious*** *and* ***wanton*** *acts released erroneous information and/or erroneously filed Notice of Lien* ***on or about March 24, 2009, with the County (JEFFERSON not Kenton County) Clerk*** *with knowledge that it had not complied with the statutes/laws governing said matters and allowed such erroneous information to be reported to credit bureaus with knowledge that information was false and that the COKDOR was engaging in unlawful/illegal acts*. AS A **DIRECT AND PROXIMATE RESULT**, *Newsome has sustained injury/harm*. **(g)** Pursuant to KRS 131.081(14), *Newsome has the right to bring action of and against the Commonwealth to the Board of Claims for actual and direct monetary damages sustained* by her as a direct and proximate result of the COKDOR's ***willful, reckless***, and ***intentional disregard*** by the Commissioner (Thomas B. Miller) and its employees of the rights of Newsome secured under the KTBOR and as set forth in **KRS 131.041 to 131.081** or in the tax laws governing said matters. Newsome believes the record evidence will support that any and all unlawful/illegal acts leveled against her was a direct and proximate result of the COKDOR's negligence or omissions – of which the record will reflect Newsome timely, properly and notified it of. **(h)** Pursuant to KRS 131.081(15), Newsome believes that in the handling of this matter, the COKDOR failed to secure the privacy of taxpayers and provided

Newsome with personal tax information regarding another Taxpayer – i.e. JOHNSON DENNIS & T K. Information to which Newsome *was **not*** entitled to receive.

Pursuant to KRS **131.110 Protest of assessment by Department of Revenue -- Review – Appeal,** it states in part:

> (1) The Department of Revenue ***shall*** ***mail*** *to the taxpayer a notice of any tax assessed by it*. The **assessment** *shall be due and payable **if not protested** in writing to the department within forty-five (45) days from the date of notice.* Claims for refund of paid assessments may be made under KRS 134.580 and denials appealed under KRS 131.340. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the department may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of the extension may be reviewed in the same manner as a protested assessment.
>
> (2) **After** a *timely* protest has been filed, *the taxpayer may request a conference with the department. The request shall be granted in writing stating the date and time set for the conference*. The taxpayer may appear in person or by representative. Further conferences may be held by mutual agreement. . .

See attached hereto.

PLEASE TAKE NOTICE: **(a)** That the COKDOR failed to provide Newsome with ***Notice of Tax Assessment*** as required by the statutes/laws governing said matters. The COKDOR is wanting Newsome to pay taxes alleged although she has timely notified (in writing) of dispute and has (in writing) requested documentation as to how the COKDOR derived the alleged taxes claimed to be owed, etc. Newsome believes the record evidence of the COKDOR will support her correspondence complies with KRS 131.110 and she has set forth the grounds upon which her protest is made. **(b)** That although the record of the COKDOR supports Newsome filed a timely protest; *it has **failed** to handle her protest in compliance with the statutes/laws of the Commonwealth of Kentucky governing said matters*. Furthermore, the record evidence will support that Newsome out of concerns of criminal acts by the COKDOR notified the proper authority – Thomas B. Miller, Commissioner of the COKDOR, *so that the record would reflect that those with decision making authority as well as the head over said department was timely, properly and adequately placed on notice and **FULLY AWARE** of what was going on in regards to this matter*. **(c)** The record evidence of the COKDOR will support that although Newsome has notified in writing of a timely protest, the COKDOR **has not** issued a FINAL RULING on any matter still in controversy, nor has it acknowledged Newsome's dispute through the proper policies/procedures of the COKDOR. *Pursuant to KRS 131.110 the COKDOR **is required** to provide a FINAL RULING which states the issues in controversy, the department's position thereon and set forth the procedure for prosecuting an appeal to the Kentucky Board of Tax Appeals* – all of which to date has not been done and/or complied with. Nevertheless, the COKDOR has **jumped-the-gun** and has ***repeatedly*** *failed to comply* with the KRS and KTBOR.

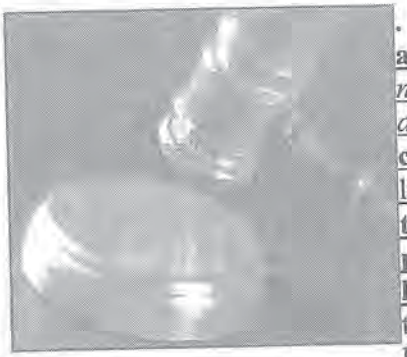
PLEASE TAKE NOTICE: That instead of complying with the KTBOR and/or tax laws in the handling of this matter, the COKDOR breached its own policies/procedures and MANDATORY statutes/laws and **(a)** on or about November 4, 2008, the COKDOR sent Newsome correspondence notifying that "THE ATTACHED SCHEDULE HAS/HAVE NOT BEEN PAID. . .;" to which Newsome timely responded to on November 21, 2008, advising "*Please be advised that I dispute the amount owed and am requesting additional time to obtain copies of the Returns in question.* ***While I provided your office with the originals of my Kentucky returns (retaining a copy for my records), on or about October 9, 2008, my residence was subjected to burglary, etc and these documents taken.*** *The appropriate criminal complaint and charges has been filed with the appropriate agency. However, in the meantime, I am requesting that you send me a copy of my tax documents submitted with my 2007 Tax Returns filing to your office."* A copy of this correspondence is November 12, 2008, is attached hereto.

> **IT IS IMPORTANT TO NOTE:** That the criminal acts the COKDOR was notified of, occurred on or about **October 9, 2008**. Newsome filed a Criminal Complaint with Federal Bureau of Investigations on or about **October 13, 2008** (which to her knowledge is still pending) – **coincidentally**, on or about **November 4, 2008**, the COKDOR began its unlawful/illegal practices in trying to SEIZE Newsome's property. *Leaving a reasonable mind to conclude that the timing of the criminal acts of October 9, 2008, the filing of the FBI Criminal Complaint and the COKDOR's actions less than a month of the October 9, 2008 criminal activities are acts of conspiracy by the COKDOR to UNLAWFULLY/ILLEGALLY seize the property of Newsome for purposes of COVERING UP THE CRIMINAL ACTIONS of crooks involved in the crimes committed against her.* Moreover, the COKDOR's engagement in a CONSPIRACY with others to destroy evidence.
>
> **IT IS IMPORTANT TO NOTE:** That while as early as **November 21, 2008**, Newsome advised of **DISPUTE** and request for documentation, the COKDOR ***did not*** provide Newsome with this information until about March 5, 2009 – approximately **four (4) months** later. Furthermore, the COKDOR began its THREATS of collection and SEIZURE of property about February 10, 2009 – approximately one (1) month from the date of Newsome's termination from employment. ***Coincidental*** *– Newsome does not believe so.* Acts deliberately and maliciously orchestrated by the COKDOR and others to unlawfully/illegally get their hands on evidence and for purpose of obstructing a federal investigation. THUS WARRANTING AN INVESTIGATION BY THE UNITED STATES DEPARTMENT OF JUSTICE.

PLEASE TAKE NOTICE: *That Newsome has filed the required Criminal Complaint with the FBI and therefore, any and all property, etc. that the COKDOR is asserting it is entitled to is a part of a federal investigation and is not subject to any FRIVOLOUS Notice of Lien and/or Seizure, etc. (criminal activity) the COKDOR is intending to subject Newsome to. NEITHER HAS THE COKDOR COMPLIED WITH THE KTBOR and/or KRS prior to filing its Notice of Lien and services of FINAL NOTICE BEFORE SEIZURE.* The COKDOR was first timely, properly and adequately notified that Newsome

contested/disputed the alleged debt claimed to be owed on or about November 21, 2008, and provided additional information involving statute in her May 12, 2009 correspondence (attached hereto) which provided the following:

CUT & PASTED AS OF 4/30/09 - http://www.fbi.gov/hq/cid/civilrights/color.htm



. . . **Preventing abuse of this authority**, however, *is equally necessary to the health of our nation's democracy*. That's why **it's a federal crime** for anyone acting under "color of law" willfully **to deprive or conspire to deprive a person of a right protected by the Constitution or U.S. law**. "Color of law" simply means that the person is using authority given to him or her by a local, state, or federal government agency.

The FBI is the lead federal agency for investigating color of law abuses, which include acts carried out by government officials operating both within and beyond the limits of their lawful authority. Off-duty conduct may be covered if the perpetrator asserted his or her official status in some way.

During Fiscal Year 2005, the FBI investigated more than 1,100 color of law cases. Most of these crimes fall into five broad areas:

- . . . **fabrication of evidence;**
- **deprivation of property**; and
- **failure to keep from harm**. . . .

False arrest and fabrication of evidence: The Fourth Amendment of the U.S. Constitution guarantees the right against **unreasonable searches or seizures**. A law enforcement official using authority provided under the color of law is allowed to stop individuals and, under certain circumstances, to search them and retain their property. **It is in the abuse of that discretionary power—such as** an unlawful detention or ***illegal confiscation of property*—that a violation of a person's civil rights may occur.**

Fabricating evidence against . . . an individual also violates the color of law statute, *taking away the person's rights of due process and unreasonable seizure*. In the case of deprivation of property, the color of law statute would be violated by unlawfully obtaining or maintaining a person's property, which oversteps or misapplies the official's authority.

The Fourteenth Amendment secures the right to due process; the Eighth Amendment prohibits the use of cruel and unusual punishment. During an arrest or detention, these rights can be violated by the use of force amounting to punishment (summary judgment). The person accused of a crime must be allowed the opportunity to have a trial and should not be subjected to punishment without having been afforded the opportunity of the legal process.

Failure to keep from harm: The public counts on its law enforcement officials to protect local communities. ***If it's shown that an official willfully failed to keep an individual from harm, that official could be in violation of the color of law statute***.

Filing a Complaint

To file a color of law complaint, contact your local FBI office by telephone, in writing, or in person. . . .

You may also contact the United States Attorney's Office in your district or send a written complaint to:

Assistant Attorney General
Civil Rights Division
Criminal Section
950 Pennsylvania Avenue, Northwest
Washington, DC 20530

FBI investigations vary in length. Once our investigation is complete, we forward the findings to the U.S. Attorney's Office within the local jurisdiction and to the U.S. Department of Justice in Washington, D.C., which decide whether or not to proceed toward prosecution and handle any prosecutions that follow.

Civil Applications

Title 42, U.S.C., Section 14141 **makes it unlawful** *for state* or *local* law enforcement agencies ***to allow officers to engage in a pattern or practice of conduct that deprives persons of rights protected by the Constitution or U.S. laws***. This law, commonly referred to as the Police Misconduct Statute, gives the Department of Justice authority to seek civil remedies in cases where *law enforcement agencies have policies or practices that foster a **pattern of misconduct** by employees*. This action is directed against an agency, not against individual officers. The types of issues which may initiate a pattern and practice investigation include:

- **Lack of supervision/monitoring of officers' actions;**
- **Lack of justification or reporting by officers on incidents involving the use of force;**
- **Lack of, or improper training of, officers;** and
- **Citizen complaint processes that treat complainants as adversaries. . . .**

On or about February 26, 2009, Newsome began her correspondence with Thomas B. Miller (Commission of COKDOR) when it appeared she was getting nowhere with the Commission's staff (see 02/26/09 correspondence attached herto). Newsome doing so, so that the record would also reflect that the proper authority (i.e. Commissioner and/or top official(s)) were timely, properly and adequately notified and made aware of the criminal intention of the COKDOR against Newsome.

PLEASE TAKE NOTICE: That any actions taken by the Commonwealth of Kentucky Department of Revenue to act upon its NULL/VOID *Notice of Lien* is prohibited by state and federal law. Moreover, *would be an **interference with a federal investigation** into the criminal complaint filed by Newsome*; moreover, *an **interference with civil rights, obstruction of justice** and would deprive Newsome equal protection of the laws, due process of laws and other rights secured to her under the Kentucky Constitution, U.S. Constitution, Kentucky Taxpayers' Bill of Rights, Kentucky Revised Statutes and other applicable statutes/laws governing said matters.* **PLEASE BE ADVISED:** *Any acts by the COKDOR to initiate and/or carry out the unlawful/illegal acts noted in its August 1, 2009, **will be taken as this agency's willful, malicious and wanton acts** of Obstruction of Criminal Investigation pursuant to 18 USC § 1510 and any and all other applicable statutes/laws governing said matters.* Wherein **such acts are punishable by fines under this title, or imprisoned not more than five (5) years, or both**.

IMPORTANT TO NOTE: In Newsome's May 12, 2009,[2] facsimile to Thomas B. Miller (Commissioner), he (as well as the COKDOR) was timely, properly and adequately placed on notice of criminal acts the

[2] A copy of this letter has been provided to U.S. Attorney Eric Holder and U.S. President Barack Obama. Moreover, a copy was provided with August 8, 2009 correspondence to them notifying and providing of the COKDOR's August 1, 2009, FINAL NOTICE BEFORE SEIZURE.

Commission would be engaging in if it were to carry out such an UNLAWFUL SEIZURE. Moreover, in said correspondence the COKDOR was timely, properly and adequately notified that Newsome had contacted the U.S. Department of Justice (U.S. Attorney General Eric Holder) and advised him of the criminal acts the COKDOR is determined to engage in.

PLEASE TAKE NOTICE: That as a matter of statutes/laws the Commonwealth of Kentucky Department of Revenue *was not entitled to* and **should not have filed** a *Notice of Lien* of and against Newsome and that it **FAILED** to adhere to the statutes/laws prior to filing said *Notice of Lien* and **has not** complied with the Kentucky Taxpayers' Bill of Rights, Kentucky Revised Statues, Kentucky Constitution, U.S. Constitution, Civil Rights Act, Kentucky Tax Laws, etc. regarding this matter. Therefore, *there is no legal basis/authority* which can sustain/warrant the COKDOR's August 1, 2009 FINAL NOTICE BEFORE SEIZURE.

PLEASE TAKE NOTICE: That while the August 1, 2009 FINAL NOTICE BEFORE SEIZURE states, "*If you believe that all or a portion of your tax liability is not past due or is not legally enforceable, you may, within 60 days from the date of this notice, present evidence to support your position. After reviewing your evidence, the Department will notify you of its decision before any offset action is taken.*" **IT IS IMPORTANT TO NOTE: 60 days from August 1, 2009, WOULD GIVEN NEWSOME A DEADLINE OF ABOUT OCTOBER 1, 2009; however, the COKDOR is threatening SEIZURE action by 08/31/2009 – LESS THAN 60 DAYS – if FULL payment of the amount due does not reach its office by August 31, 2009.** Then on Page 2, the COKDOR ***again*** *advises of the ability to make payment arrangements*; however, *as its record already supports, such good faith demands for an installment payment agreement have been extended to the COKDOR in writing by Newsome* – but to no avail. The COKDOR continues to subject me to such THREATS and unlawful/illegal actions of its recent August 1, 2009 FINAL NOTICE BEFORE SEIZURE. The COKDOR is doing so with full knowledge Newsome's financial and economic circumstances.

Therefore, **PLEASE TAKE NOTICE** that Newsome hereby **DEMANDS** the **FOLLOWING RELIEF**:

I. The United States Department of Justice's investigation into the Commonwealth of Kentucky Department of Revenue's handling of the above referenced matter to determine whether or not it is engaging in criminal activities – i.e. interference with federal investigation/criminal investigation, obstruction of justice, and any other unlawful/illegal acts known to it;

II. That the Commonwealth of Kentucky Department of Revenue provide its response to this instant Complaint and Rebuttal to August 1, 2009, FINAL NOTICE BEFORE SEIZURE – providing U.S. Attorney Eric Holder with a copy of said response as well.

III. That a U.S. Department of Justice investigate the handling of this matter to determine whether or not criminal acts and/or civil violations have occurred in the Commonwealth

of Kentucky Department of Revenue's filing of Notice of Lien and allowing such false information to be reported to credit bureaus.

IV. That the U.S. Department of Justice investigate to determine whether the Commonwealth of Kentucky Department of Revenue engaged in a conspiracy with others and whether its actions in handling of this matter has been done with intent obstruct the administration of justice, interference with civil rights, deprivation of rights – i.e noting: **(a)** that Newsome was unlawfully/illegally subjected to criminal actions on October 9, 2008 by her landlord and others to which she has filed a Criminal Complaint with the FBI. At the time of the criminal acts, there was a legal and binding INJUNCTION and RESTAINING ORDER prohibiting the criminal activities rendered Newsome (see copy of Injunction and Restraining Order attached); **(b)** that Newsome was in compliance with the Order of the Kenton County Circuit Court and rent was current and landlord having knowledge that October 2008 rent had been paid prior to committing criminal actions against Newsome (see Fax and copy of Receipt of Payment attached); and **(c)** that prior to committing the October 9, 2008 criminal acts against Newsome, the landlord, County officials and others had sufficient information and/or resources available to them (based on Court record and posted NOTICE on Newsome's door which read:

> **IMPORTANT NOTICE**
> The Circuit Court has ORDERED Injunction and Restraining Order against owners, GMM Properties from taking any type of eviction (Removal or Obtaining Premises) action against this tenant.

that the ***Eviction Notice: Warrant for Possession*** *issued and filed in the Kenton County Sheriff's Office WAS NULL/VOID (see copy of document attached)* – **in fact the Officer writing the contents of the notice on my door on the back of warrant SUPPORTS knowledge that he and others were about to commit criminal acts.**

V. Newsome further seeks any and all additional relief to which she is entitled to correct said injustices and/or legal wrongs known to the Commonwealth of Kentucky Department of Revenue and U.S. Department of Justice. Moreover, should criminal actions by the Commonwealth of Kentucky Department of Revenue be found, that the applicable persons be prosecuted to the full extent of the laws governing said matters.

Respectfully submitted this 12th day of **August, 2009.**

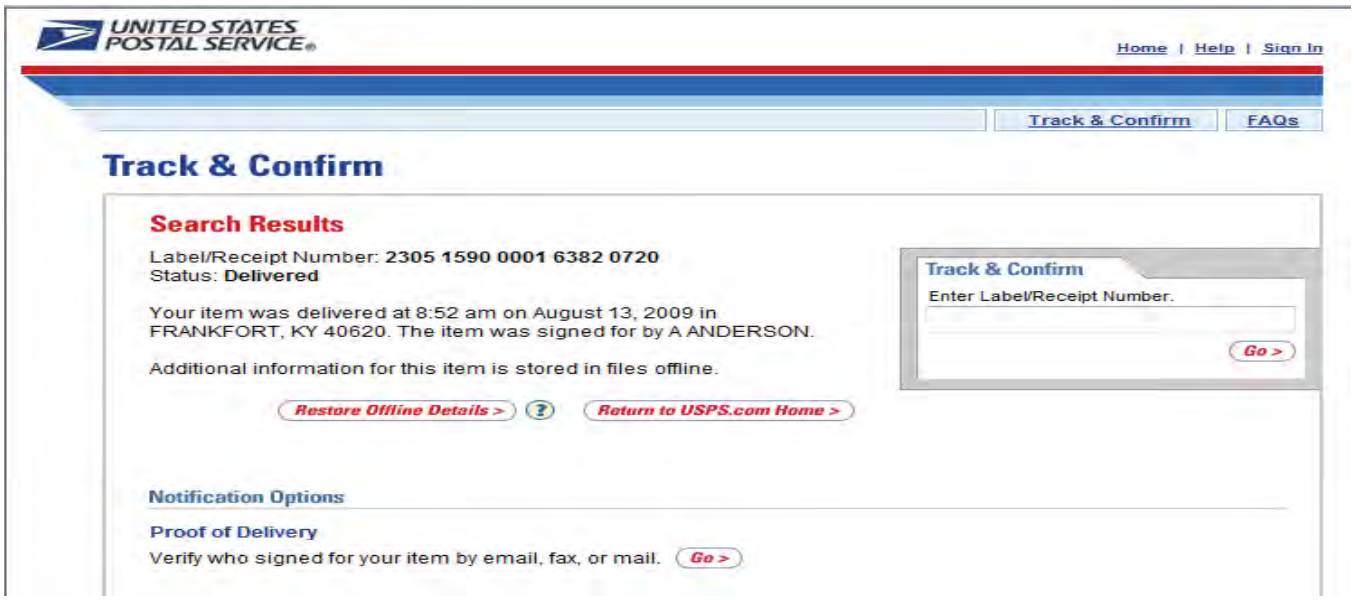
Denise Newsome

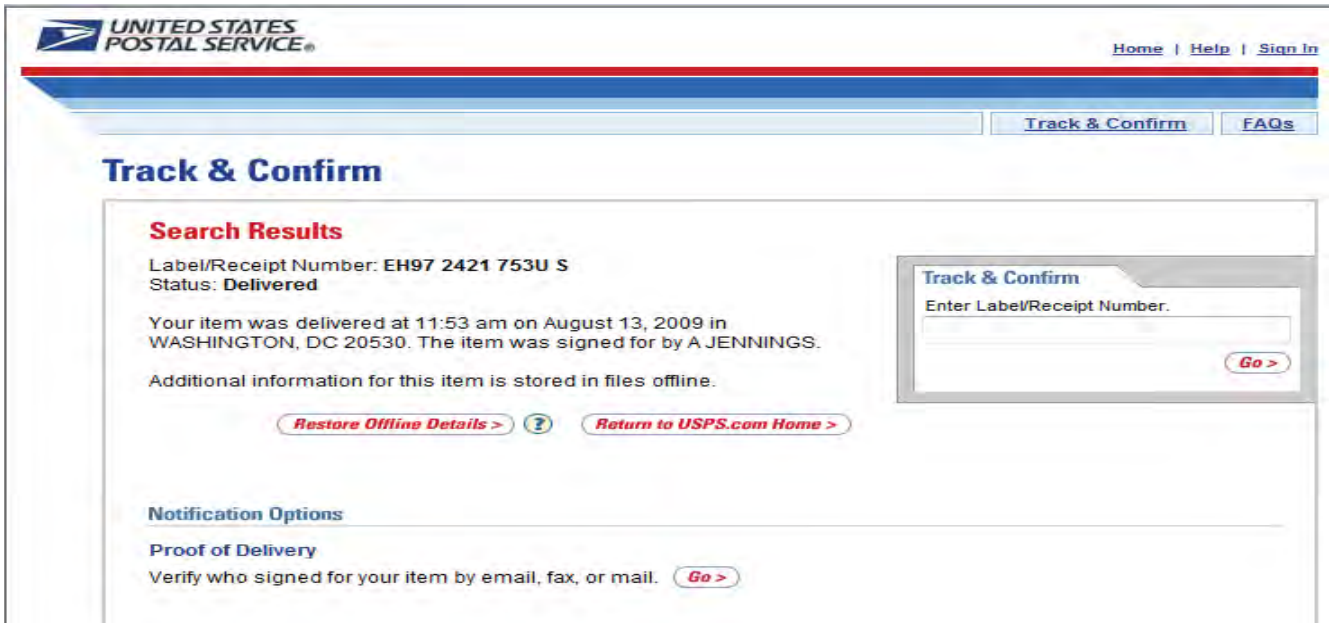
DENISE NEWSOME
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (601) 885-9536 or (513) 680-2922

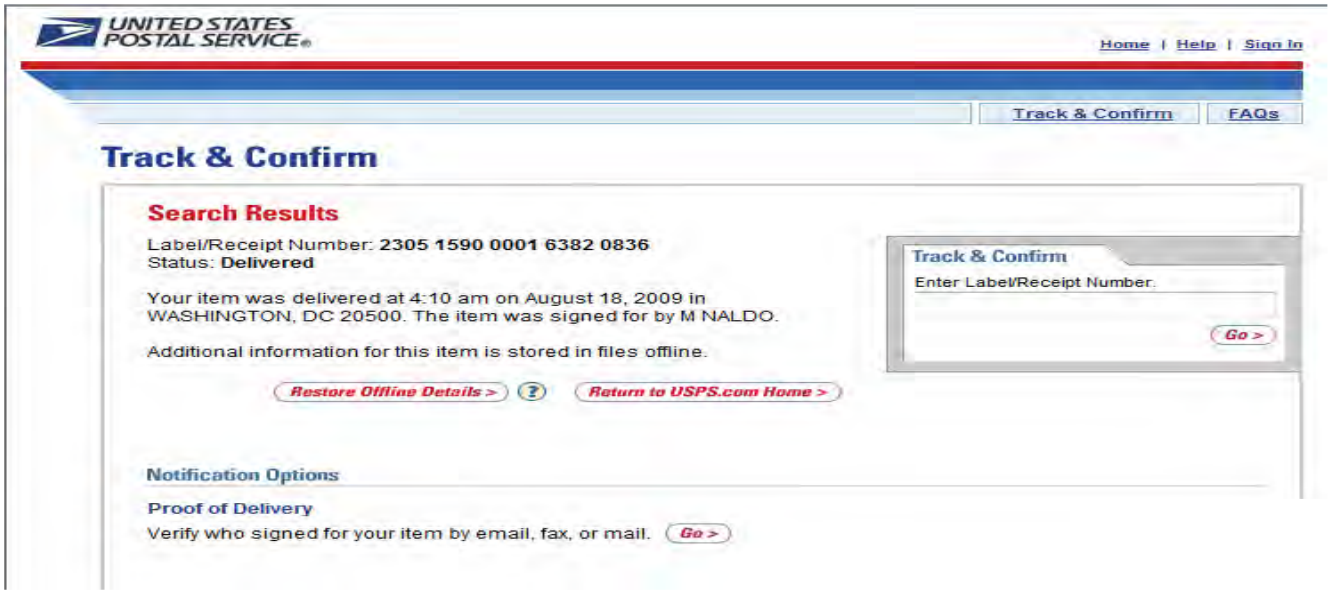
Enclosures: As referenced above.

Courtesy Copy To:

VIA U.S. PRIORITY MAIL: SIGNATURE CONFIRMATION TRACKING NO. 23051590000163820836
The United States White House
ATTN: U.S. President Barack Obama
1600 Pennsylvania Ave NW
Washington, DC 20500


UNITED STATES POSTAL SERVICE
Home | Help | Sign In
Track & Confirm
FAQs
Track & Confirm
Search Results
Label/Receipt Number: 2305 1590 0001 6382 0720
Status: Delivered
Your item was delivered at 8:52 am on August 13, 2009 in FRANKFORT, KY 40620. The item was signed for by A ANDERSON.
Additional information for this item is stored in files offline.
Restore Offline Details >
Return to USPS.com Home >
Track & Confirm
Enter Label/Receipt Number.
Go >
Notification Options
Proof of Delivery
Verify who signed for your item by email, fax, or mail.
Go >


UNITED STATES POSTAL SERVICE
Home | Help | Sign In
Track & Confirm
FAQs
Track & Confirm
Search Results
Label/Receipt Number: EH97 2421 753U S
Status: Delivered
Your item was delivered at 11:53 am on August 13, 2009 in WASHINGTON, DC 20530. The item was signed for by A JENNINGS.
Additional information for this item is stored in files offline.
Restore Offline Details >
Return to USPS.com Home >
Track & Confirm
Enter Label/Receipt Number.
Go >
Notification Options
Proof of Delivery
Verify who signed for your item by email, fax, or mail.
Go >


UNITED STATES POSTAL SERVICE
Home | Help | Sign In
Track & Confirm
FAQs
Track & Confirm
Search Results
Label/Receipt Number: 2305 1590 0001 6382 0836
Status: Delivered
Your item was delivered at 4:10 am on August 18, 2009 in WASHINGTON, DC 20500. The item was signed for by M NALDO.
Additional information for this item is stored in files offline.
Restore Offline Details >
Return to USPS.com Home >
Track & Confirm
Enter Label/Receipt Number.
Go >
Notification Options
Proof of Delivery
Verify who signed for your item by email, fax, or mail.
Go >

12B020-5
10/1997

201007140702001
STATE M61

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF REVENUE

NOTICE OF LEVY - DATA MATCH KRS 131 672(5)

JP MORGAN CHASE BANK, NA
P O BOX 260164
BATON ROUGE LA 70826-0164

OPERATOR 6

DATE 07/17/2010

YOUR ATTENTION IS INVITED TO THE PROVISIONS ON THE REVERSE OF THIS FORM DETAILING THE PENALTIES FOR FAILURE TO HONOR THIS NOTICE OF LEVY

YOU ARE NOTIFIED THAT THERE IS NOW DUE OWING AND UNPAID TO THE COMMONWEALTH OF KENTUCKY FROM THE DEBTOR WHOSE NAME APPEARS BELOW THE SUM OF $4,677 54 INTEREST HAS BEEN COMPUTED TO 08/16/2010 ADDITIONAL INTEREST WILL CONTINUE TO ACCRUE UNTIL THE BALANCE IS FULLY PAID

ACCORDINGLY, YOU ARE NOTIFIED THAT ALL PROPERTY OR RIGHTS TO PROPERTY INCLUDING BUT NOT LIMITED TO MONIES, CREDITS BANK DEPOSITS, CERTIFICATES OF DEPOSIT, ANNUITIES, INVESTMENT FUNDS OF ANY TYPE, BROKERAGE OR INVESTMENT ACCOUNTS MONIES OR PROPERTY IN ANY CONTAINER OR UNIT USED FOR STORAGE OR SECURITY OR HELD IN TRUST OR ESCROW, SECURITIES, AND DEPOSIT SAVINGS, BROKERAGE OR INVESTMENT ACCOUNTS NOW IN YOUR POSSESSION AND BELONGING TO THIS DEBTOR OBLIGATIONS OWING FROM YOU TO THIS DEBTOR OR ON WHICH THERE IS A LIEN, PROVIDED UNDER KRS 134 420 ARE HEREBY LEVIED UPON FOR SATISFACTION OF THE AFORESAID DEBT PLUS ALL ADDITIONS PROVIDED BY LAW, THE SUM OF $4 677 54 INTEREST HAS BEEN COMPUTED TO 08/16/2010 ADDITIONAL INTEREST WILL CONTINUE TO ACCURE UNTIL THE BALANCE IS FULLY PAID

DEMAND IS HEREBY MADE UPON YOU FOR THE AMOUNT NECESSARY TO SATISFY THIS LIABILITY OR FOR SUCH LESSER SUMS AS YOU MAY BE INDEBTED TO THE DEBTOR, TO BE APPLIED AS PAYMENT ON THIS LIABILITY CHECKS SHOULD BE MADE PAYABLE TO THE KENTUCKY STATE TREASURER

FOR INQUIRIES CONTACT LEVY SECTION
501 HIGH STREET, P O BOX 491
FRANKFORT, KENTUCKY 40602
(502)564-4921 EXT NO 5354

NAME AND ADDRESS OF TAXPAYER VOGEL DENISE NEWSOME
PO BOX 14731
CINCINNATI OH 45250
SOC SEC
SOC SEC

EXHIBIT
27

JUL 27 2010 10:49 FR CHASE NSF OD DEPT 16142136703 TO 9151372132 94 P.02/05

KRS 131 520 provides:

"(1) Any person in possession of or obligated with respect to property or rights to property subject to levy upon which a levy has been made shall, upon demand of the secretary or his delegate, surrender such property or rights or discharge such obligation to the secretary or his delegate, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

"(2) Any person who fails or refuses to surrender any property or rights to property subject to levy shall be liable in his own person and estate to the Commonwealth in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at the rate of twelve percent (12%) per annum from the date of such levy. Any amount other than costs recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.

"(3) Any person in possession of or obligated with respect to property or rights to property subject to levy upon which a levy has been made who, upon demand by the secretary or his delegate, surrenders such property or rights to property or discharges such obligation to the secretary or his delegate shall be discharged from any obligation or liability to the delinquent taxpayer with respect to such property or rights to property arising from such surrender or payment.

KRS 131.510(2)(a) provides:

"The effect of a levy on salary or wages payable to or received by a person shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time.

KRS 131.130(11) provides:

"(11) The cabinet may enter into annual memoranda of agreement with any state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization to assume the collection duties for any liquidated debts due the state entity and may renew that agreement for up to five (5) years. Under such an agreement, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of those liquidated debts as provided under:

(a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and
(b) Any applicable statutory provisions governing the state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization for the collection, refund, and administration of any liquidated debts due the state entity.

Pursuant to KRS 131.130(11) the Department of Revenue has entered into a memoranda of agreement with the Cabinet for Health and Family Services, Division of Child Support. The memoranda of agreement authorizes the Department of Revenue to assist the Cabinet for Health and Family Services in the collection of child support, which includes attaching the delinquent parent's assets maintained in financial institutions. The above statute authorizes the Department of Revenue to utilize the same collection tools to collect child support arrearages as used to collect delinquent taxes. As a result, the financial institutions will receive the Department of Revenue's levy, instead of the Order to Withhold and Deliver or an order from the court, for the child support cases enforced by the Department of Revenue.

Attachments

JUL 27 2010 10:49 FR CHASE NSF OD DEPT 16142136703 TO 9151372132 94 P.03/05

JP MORGAN CHASE BANK, NA

201007140702001
STATE H61

THE FOLLOWING TO BE COMPLETED BY PERSON SERVED
AND RETURNED TO DEPARTMENT OF REVENUE

ACCOUNT YES_____ NO_____ ACCOUNT NO _____

ACTIVE _____ INACTIVE _____ CLOSED _____

AMOUNT ATTACHED: _____

_____ CHECK HERE IF ACCOUNT IS AN IRA SUCH AS A 401(K) OR OTHER ACCOUNT EXEMPT UNDER KRS 427 150(2)(F)

_____ _____
SIGNATURE/TITLE DATE

YOU ARE AUTHORIZED TO CHARGE A LEVIED ACCOUNT A FEE OF NO MORE THAN TWENTY DOLLARS ($20 00) PER KRS 131 672(5) THIS FEE MAY BE OFFSET AGAINST THE LEVIED ACCOUNT PRIOR TO REMITTANCE OF FUNDS TO THE COMMONWEALTH

UNDER THE PENALTIES OF PERJURY, I HEREBY DECLARE THAT THE STATEMENTS MADE ABOVE ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF

SCHEDULE OF TAX LIABILITY

TYPE TAX	PERIOD ENDING	ACCOUNT NUMBER	NOTICE NUMBER	AMOUNT DUE
INDIVIDUAL INCOME	12/31/2008		104986441	1,549 40
INDIVIDUAL INCOME	12/31/2008		104986440	$0 78
INDIVIDUAL INCOME	12/31/2007		104645586	3,054 70
LIEN FEE	03/10/2009		104869550	10 00
ADMINISTRATIVE COST	03/10/2009		104869551	12 66
TOTAL DUE				4 677 54

JUL 27 2010 10:49 FR CHASE NSF OD DEPT 16142136703 TO 9151372132 94 P.04/05

KRS 131.520 provides:

"(1) Any person in possession of or obligated with respect to property or rights to property subject to levy upon which a levy has been made shall, upon demand of the secretary or his delegate, surrender such property or rights or discharge such obligation to the secretary or his delegate, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

"(2) Any person who fails or refuses to surrender any property or rights to property subject to levy shall be liable in his own person and estate to the Commonwealth in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at the rate of twelve percent (12%) per annum from the date of such levy. Any amount other than costs recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.

(3) Any person in possession of or obligated with respect to property or rights to property subject to levy upon which a levy has been made who, upon demand by the secretary or his delegate, surrenders such property or rights to property or discharges such obligation to the secretary or his delegate shall be discharged from any obligation or liability to the delinquent taxpayer with respect to such property or rights to property arising from such surrender or payment.

KRS 131.510(2)(a) provides:

"The effect of a levy on salary or wages payable to or received by a person shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time.

KRS 131.130(11) provides:

"(11) The cabinet may enter into annual memorandaof agreementwith any state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization to assume the collection duties for any liquidated debts due the state entity and may renew that agreement for up to five (5) years. Under such an agreement, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of those liquidated debts as provided under

(a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and
(b) Any applicable statutory provisions governing the state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization for the collection, refund, and administration of any liquidated debts due the state entity.

Pursuant to KRS 131.130(11) the Department of Revenue has entered into a memoranda of agreement with the Cabinet for Health and Family Services, Division of Child Support. The memorandaof agreement authorizes the Department of Revenueto assist the Cabinet for Health and Family Servicesin the collection of child support, which includes attaching the delinquent parent's assets maintainedin financial institutions. The above statute authorizes the Department of Revenueto utilize the same collection tools to collect child support arrearages as used to collect delinquent taxes. As a result, the financial institutions will receive the Department of Revenue's levy, instead of the Order to Withhold and Deliveror an order from the court, for the child support cases enforced by the Department of Revenue.

Attachments

131.130 General powers and duties of department -- Prosecution duties.

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the Department of Revenue:

(1) The department may promulgate administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state. To assist taxpayers in understanding and interpreting the tax laws, the department may, through incorporation by reference, include examples as part of any administrative regulation. The examples may include demonstrative, nonexclusive lists of items if the department determines such lists would be helpful to taxpayers in understanding the application of the tax laws.

(2) The department, by representatives it appoints in writing, may take testimony or depositions, and may examine hard copy or electronic records, any person's documents, files, and equipment if those records, documents, or equipment will furnish knowledge concerning any taxpayer's tax liability, when it deems this reasonably necessary to the performance of its functions. The department may enforce this right by application to the Circuit Court in the county wherein the person is domiciled or has his or her principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the department.

(3) The department shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating the forms by reference.

(4) The department shall advise on all questions respecting the construction of state revenue laws and the application thereof to various classes of taxpayers and property.

(5) Attorneys employed by the Finance and Administration Cabinet and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a Finance and Administration Cabinet attorney undertakes any of the actions prescribed in this subsection, that attorney shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including the authority to sign, file, and present any complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(6) In the event of the incapacity of attorneys employed by the Finance and Administration Cabinet or at the request of the secretary of the Finance and Administration Cabinet, the Attorney General or his or her designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he or she shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

EXHIBIT 28

(7) The department may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the department for administration.

(8) The department may research the fields of taxation, finance, and local government administration, and publish its findings, as the commissioner may deem wise.

(9) The department may make administrative regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require the taxpayer to place on any return, report, statement, or other document required to be filed, any number assigned pursuant to such administrative regulations.

(10) The department may, when it is in the best interest of the Commonwealth and helpful to the efficient and effective enforcement, administration, or collection of sales and use tax, motor fuels tax, or the petroleum environmental assurance fee, enter into agreements with out-of-state retailers or other persons for the collection and remittance of sales and use tax, the motor fuels tax, or the petroleum environmental assurance fee.

(11) The department may enter into annual memoranda of agreement with any state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization to assume the collection duties for any debts due the state entity and may renew that agreement for up to five (5) years. Under such an agreement, the department shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of those liquidated debts as provided under:

(a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and

(b) Any applicable statutory provisions governing the state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization for the collection, refund, and administration of any liquidated debts due the state entity.

(12) The department may refuse to accept a personal check in payment of taxes due or collected from any person who has ever tendered a check to the state which, when presented for payment, was not honored. Any check so refused shall be considered as never having been tendered.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 81, sec. 1, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 10, sec. 31, effective January 1, 2010. -- Amended 2005 Ky. Acts ch. 85, sec. 113, effective June 20, 2005; and ch. 184, sec. 2, effective June 20, 2005. -- Amended 2004 Ky. Acts ch. 118, sec. 5, effective July 13, 2004. -- Amended 2003 Ky. Acts ch. 135, sec. 1, effective June 24, 2003. -- Amended 2002 Ky. Acts ch. 117, sec. 1, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 314, sec. 3, effective July 15, 1998; and ch. 536, sec. 2, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 56, sec. 1, effective July 15, 1996. -- Amended 1988 Ky. Acts ch. 322, sec. 12, effective July 15, 1988. -- Amended 1962 Ky. Acts ch. 56, sec. 2. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4019a-10c, 4114h-2, 4149b-12, 4202a-31, 4223b-10, 4224a-5, 4224c-3, 4224c-5, 4281a-33, 4281a-40, 4281b-23, 4281c-20, 4281e-9, 4281f-5, 4281f-27, 4281g-13, 4281h-12, 4281i-6, 4281j-4.

HAMILTON COUNTY CLERK OF COURT
Municipal Civil Division

COPY

RECEIPT

CMSR4055

Receipt Number: 09ISS1001334
Date: 02/02/2009
Time: 15:08
Clerk: DKIL

QUANTITY	DESCRIPTION	FEE	AMOUNT	COMMENT
1	COUNTERCLAIM	@ 15.00	15.00	
1	JURY DEMAND FEE	@ 10.00	10.00	
		TOTAL	25.00	

Check No. 2520 Check Amount: 25.00

Cash Amount: 0.00
Change: 0.00

Received: 25 Dollars & 00/100**********$25.00
From: NEWSOME

EXHIBIT
29

CRIMINAL COMPLAINT AND REQUEST FOR INVESTIGATION FILED BY VOGEL DENISE NEWSOME WITH THE FEDERAL BUREAU OF INVESTIGATION – CINCINNATI, OHIO SEPTEMBER 25, 2009[1]

COMES NOW, Vogel Denise Newsome ("Newsome") and files this, her ***Criminal*** *Complaint and Request for Investigation with the Federal Bureau of Investigation* **TO THE ATTENTION OF:**

VIA PRIORITY MAIL: DELIVERY CONFIRMATION TRACKING NO. 0308 2040 0000 22036163
U.S. Department of Justice
ATTN: Attorney General Eric H. Holder, Jr.
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

COPY TO: **VIA PRIORITY MAIL:** DELIVERY CONFIRMATION TRACKING NO. 0308 2040 0000 2203 6170
The United States White House
ATTN: U.S. President Barack Obama
1600 Pennsylvania Ave NW
Washington, DC 20500

through the Cincinnati, Ohio Office of and against the following persons for the ***crimes set forth herein that were committed on or about September 9-10, 2009*** – Stating as follows:

Conspirator(s)[2] include:

1) David M. Meranus ("Meranus") – Counsel for Stor All Alfred, LLC
2) Michael E. Lively ("Lively") – Counsel for Stor All Alfred, LLC
3) Patrick B. Healy ("Healy") – Co-Counsel for Stor All Alfred, LLC
4) Molly G. Vance ("Vance") – Counsel for Liberty Mutual Insurance
5) Raymond H. Decker, Jr. ("Decker") – Counsel for Liberty Mutual

---

[1] Boldface, Italics, Underline, etc. added for emphasis.

[2] *Dorger v. State*, 179 N.E. 143 (Ohio.App.1.Dist.**Hamilton**.Co.,1931) - Where evidence showed conspiracy . . . each conspirator is bound by other's acts in furtherance of conspiracy.
State v. Carver, 283 N.E.2d 662 (Ohio.App.4.Dist. 1971) - Each party to a conspiracy is criminally responsible for all acts done in furtherance of the conspiratorial design.
Bertear v. State, 8 Ohio Law Abs. 252 (Ohio.App.8.Dist. 193) - Where conspiracy was established, each conspirator was liable for the acts performed by the others in furtherance thereof.
English v. Matowitz, 72 N.E.2d 898 (Ohio,1947) - One need not be present at place of the crime in order to be charged as an aider and abettor or conspirator, but constructive presence is sufficient.
State v. Rogers, 27 N.E.2d 791 (Ohio.App.7.Dist. 1938) - One who enters into a conspiracy to commit an unlawful act is guilty of any unlawful act of his coconspirators in furtherance of the conspiracy, and it is not necessary that the conspiracy be one to commit the identical offense charged in the indictment, or even a similar one, but it is enough that the offense charged was one which might have been contemplated as resulting from the conspiracy.
Maple Hts. v. Ephraim, 2008 -Ohio- 4576 (Ohio.App.8.Dist. 2008) - Much like the rule of aiding and abetting, the overt acts of one person in a criminal conspiracy are attributable to all persons in the conspiracy.

EXHIBIT 30

6) Lori A. Whiteside ("Whiteside") – Agent of Stor All Alfred, LLC

7) Leslie Smart ("Smart") – President of Operations of Stor All Alfred, LLC

8) Leslie Calhoun ("Calhoun") – Representative of Stor-All

9) Nadine L. Allen ("Judge Allen" or "Allen") – In her Individual Capacity

10) John Andrew West ("Judge West" or "West") – Judge Hamilton County Court of Common Pleas

11) Andrea Griffith – Human Resources Representative for Wood & Lamping

12) C. J. Schmidt – Managing Partner for Wood & Lamping

13) Thomas J. Breed – Attorney for Wood & Lamping

14) Wood & Lamping LLP – Includes owners, shareholders, partners, attorneys (Conspirator Nos. 11 through 13) collectively known as "W&L "

15) Schwartz Manes Ruby & Slovin's – Includes owners, shareholders, partners, attorneys (Conspirator No. 1) collectively known as "SMR&S "

16) Markesbery & Richardson Co., LPA - Includes owners, shareholders, partners, attorneys (Conspirator Nos. 2 and 3) collectively known as "M&R"

17) Stor All Alfred, LLC's - Includes owners, representatives (including Conspirator Nos. 6 through 8), shareholders, attorneys (including Conspirator Nos. 1 through 5), insurance company/representatives (including Conspirator Nos. 6 through 8) collectively known as "Stor-All"

18) Liberty Mutual Insurance Company - Includes owners, shareholders, partners, attorneys (including Conspirator No. 4 and 5) collectively known as "LMIC "

19) Bailiff - Hinds County Municipal Court in his Individual and/or Official Capacity - name(s) to be determined during this investigation

20) Locksmith/Person - Name(s) to be determined upon receipt through this investigation

21) John/Jane Doe(s) – Name(s) to be determined upon receipt through this investigation

for the following criminal acts and/or charges set forth herein (i.e. and those known to the Federal Bureau of Investigation's ("FBI") Investigator(s)/Agent(s) that should be filed for the crimes/criminal acts asserted herein):

I. CONSPIRACY[3]

> ***Conspiracy*** - An agreement by two or more persons to commit an unlawful act, coupled with an intent to achieve the agreement's objective, and (in most states) action or conduct that furthers the agreement; a combination for an unlawful purpose. 18 USC § 371. . .

[3] Definition taken from Blacks Law Dictionary – 8th Edition.

> "When two or more persons combine for the purpose of inflicting upon another person an injury which is unlawful in itself, or which is rendered unlawful by the mode in which it is inflicted, and in either case the other person suffers damage, they commit the tort of conspiracy." P.H. Winfield, *A Textbook of the Law of Tort* §128, at 434 (5th ed. 1950)

Chain Conspiracy - A single conspiracy in which each person is responsible for a distinct act within the overall plan. . . .*All participants are interested in the overall scheme and liable for all other participants' acts in furtherance of that scheme. (Conspiracy §24(3) C.J.S. Conspiracy §§117-118).

Conspire - To engage in conspiracy; to join in a conspiracy.

Conspirator - A person who takes part in a conspiracy.

O.R.C. § 2923.01 CONSPIRACY.

(A) No person, with purpose to commit or to promote or facilitate the commission of aggravated . . . burglary, burglary, engaging in a pattern of corrupt activity, . . . shall do either of the following:

> (1) With another person or persons, ***plan or aid*** in planning the commission of any of the specified offenses;
>
> (2) *Agree with another person or persons that one or more of them will engage in conduct that facilitates the commission of any of the specified offenses.*

(B) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the accused or a person with whom the accused conspired, subsequent to the accused's entrance into the conspiracy. For purposes of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.

(C) When the offender knows or has reasonable cause to believe that a person with whom the offender conspires also has conspired or is conspiring with another to commit the same offense, the offender is guilty of conspiring with that other person, even though the other person's identity may be unknown to the offender.

(D) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the conspiracy was impossible under the circumstances.

(E) A conspiracy terminates when the offense or offenses that are its objects are committed or when it is abandoned by all conspirators. In the absence of abandonment, it is no defense to a charge under this section that no offense that was the object of the conspiracy was committed.

(F) A person who conspires to commit more than one offense is guilty of only one conspiracy, when the offenses are the object of the same agreement or continuous conspiratorial relationship.

(G) When a person is convicted of committing or attempting to commit a specific offense or of complicity in the commission of or attempt to commit the specific offense, the person shall not be convicted of conspiracy involving the same offense.

(H)(1) No person shall be convicted of conspiracy upon the testimony of a person with whom the defendant conspired, unsupported by other evidence.

(2) If a person with whom the defendant allegedly has conspired testifies against the defendant in a case in which the defendant is charged with conspiracy and if the testimony is supported by other evidence, the court, when it charges the jury, shall state substantially the following:

> "The testimony of an accomplice that is supported by other evidence does not become inadmissible because of the accomplice's complicity, moral turpitude, or self-interest, but the admitted or claimed complicity of a witness may affect the witness' credibility and make the witness' testimony subject to grave suspicion, and require that it be weighed with great caution.
>
> It is for you, as jurors, in the light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth."

(3) "Conspiracy," as used in division (H)(1) of this section, does not include any conspiracy that results in an attempt to commit an offense or in the commission of an offense.

(I) The following are affirmative defenses to a charge of conspiracy:

(1) After conspiring to commit an offense, the actor thwarted the success of the conspiracy under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.

(2) After conspiring to commit an offense, the actor abandoned the conspiracy prior to the commission of or attempt to commit any offense that was the object of the conspiracy, either by advising all other conspirators of the actor's abandonment, or by informing any law enforcement authority of the existence of the conspiracy and of the actor's participation in the conspiracy.

(J) Whoever violates this section is guilty of conspiracy, which is one of the following:

(1) A felony of the first degree, when one of the objects of the conspiracy is aggravated murder, murder, or an offense for which the maximum penalty is imprisonment for life;

(2) A felony of the next lesser degree than the most serious offense that is the object of the conspiracy, when the most serious offense that is the object of the conspiracy is a felony of the first, second, third, or fourth degree;

(3) A felony punishable by a fine of not more than twenty-five thousand dollars or imprisonment for not more than eighteen months, or both, when the offense that is the object of the conspiracy is a violation of any provision of Chapter 3734. of the Revised Code, other than section 3734.18 of the Revised Code, that relates to hazardous wastes;

(4) A misdemeanor of the first degree, when the most serious offense that is the object of the conspiracy is a felony of the fifth degree.

(K) This section does not define a separate conspiracy offense or penalty where conspiracy is defined as an offense by one or more sections of the Revised Code, other than this section. In such a case, however:

(1) With respect to the offense specified as the object of the conspiracy in the other section or sections, division (A) of this section defines the voluntary act or acts and culpable mental state necessary to constitute the conspiracy;

(2) Divisions (B) to (I) of this section are incorporated by reference in the conspiracy offense defined by the other section or sections of the Revised Code.

(L)(1) In addition to the penalties that otherwise are imposed for conspiracy, a person who is found guilty of conspiracy to engage in a pattern of corrupt activity is subject to divisions (B)(2) and (3) of section 2923.32, division (A) of section 2981.04, and division (D) of section 2981.06 of the Revised Code.

CUT & PASTED FROM:
http://www.law.cornell.edu/uscode/html/uscode18/usc_sec_18_00000241----000-.html

(a) TITLE 18 U.S.C § 241. CONSPIRACY AGAINST RIGHTS:

If two or more persons **conspire to injure**, **oppress**, **threaten**, or **intimidate any person** in any State, Territory, Commonwealth, Possession, or District **in the free exercise or enjoyment of any right or privilege** secured to him by the Constitution or laws of the United States, or ***because of his having so exercised the same***; or

If two or more persons **go** in . . . ***on the premises of another*, *with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured***—

They **shall be fined** under this title or **imprisoned** *not more than* ***ten*** *years*, or **both**; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

CUT & PASTED FROM:
http://www.fbi.gov/hq/cid/civilrights/statutes.htm

TITLE 18, U.S.C., SECTION 241 - CONSPIRACY AGAINST RIGHTS

This statute makes it unlawful for two or more persons to conspire to injure, oppress, threaten, or intimidate any person of any state, territory or district in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the United States, (or because of his/her having exercised the same).

It further makes it unlawful for two or more persons to go in disguise on the highway or on the premises of another with the intent to prevent or hinder his/her free exercise or enjoyment of any rights so secured.

Punishment varies from a fine or imprisonment of up to ten years, or both; and if death results, or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title or imprisoned for any term of years, or for life, or may be sentenced to death.

(b) CONSPIRACY DEFINED/PREREQUISITES: [4]

A "conspiracy" requires (1) an object to be accomplished, (2) a plan or scheme embodying means to accomplish that object, and (3) an agreement or understanding between two or more of the defendants, whereby they become definitely committed to cooperate for the accomplishment of the object by the means embodied in the agreement, or by an effectual means. – *U.S. v. Gibbs,* 182 F.3d 408, 1999 Fed.App. 0140P, certiorari denied 120 S.Ct. 592, 528 U.S. 1051, 145 L.Ed.2d 492, appeal after new sentencing hearing *U.S. v. Hough,* 276 F.3d 884, 2002 Fed.App. 0018P, rehearing and suggestion for rehearing denied, and rehearing and suggestion for rehearing denied, certiorari denied 122 S.Ct. 1986, 535 U.S. 1089, 152L.Ed.2d 1042, certiorari denied *Woods v. U.S.*, 123 S.Ct. 199, 537 U.S. 898, 154 L.Ed.2d 169.

Essential elements of a "conspiracy" are: that the conspiracy described in indictment was willfully formed and was existing at or about the time alleged, that the accused willfully became a member of conspiracy, that one of the conspirators thereafter knowingly committed at least one overt act charged in indictment at or about the time and place alleged, and that such overt act was knowingly done in furtherance of some object or purpose of the conspiracy

[4] Ohio Jur 3d Words & Phrases – *"Conspiracy."*

charged. *U.S. v. Kraig,* 99 F.3d 1361, 1996 Fed.App. 0355P - (C.A. 6 Ohio 1996).

(c) CONSPIRACY TO DEFRAUD:[5]

Words *"conspiracy to defraud"* import moral obliquity and, according to their natural meaning, signify an attempt to deceive by fraud, and such conduct may not be presumed nor established by surmise or conjecture but must be proved by direct evidence or by justifiable inferences from established facts and circumstances. *Pumphrey v. Quillen,* 141 N.E.2d 675, 102 Ohio App. 173, 2 O.O.2d 152, affirmed 135 N.E.2d 328, 165 Ohio St. 343, 59 O.O. 460.

(d) INTENTIONAL INTERFERENCE WITH EMPLOYMENT –MALICIOUS CONSPIRACY TO CAUSE DISCHARGE FROM EMPLOYMENT:[6]

Malicious Acts:[7] The terms "malice" and "malicious" are defined not only as relating to the intentional commission of a wrongful act, but also as involving wickedness, depravity and evil intent.

Willful, Wanton, and Reckless Acts:[8] Tort liability may be based on willful, wanton, or reckless acts. A willful act is one done intentionally, or on purpose, and not accidentally. **Willfulness** implies intentional wrongdoing. . . Willfulness is sufficiently established where there is a knowledge that the act will probably result in an injury to another, and an utter disregard of the consequences.. . A finding of willful misconduct will be sustained where it is clear from the facts that the defendant, whatever his state of mind, has proceeded in disregard of a high degree of danger, whether known to him or apparent to a reasonable person in his position.. . .**Wanton** act is a wrongful act done on purpose or in malicious disregard of the rights of others. A tort having some of the characteristics of both negligence and willfulness occurs when a person with no intent to cause harm intentionally performs an act so unreasonable and dangerous that he knows, or should know, it is highly probable that harm will result from it.

To establish prima facie case of retaliation under "opposition" clause . . ., protecting employees who oppose unlawful employment practices against retaliation, plaintiff must establish: statutorily protected expression; adverse employment action; and causal link between protected expression and adverse action. *Aldridge v. Tougaloo College*, 847 F.Supp. 480.

To establish a violation of § 2000e-3(a), it must be shown that the employer had actual or imputed knowledge that the plaintiff participated in a protected activity; and, further that based on such knowledge the discharge was in fact retaliatory – that is, motivated by the employee's

[5] Ohio Jur 3d Words & Phrases – *"Conspiracy To Defraud."*

[6] Am. Jur. Pleading and Practice Forms – Torts § 9.

[7] 74 Am. Jur. 2d Torts § 17. *Voss v. American Mut. Liability Ins. Co.,* 341 S.W.2d 270 (1960); *Buckeye Union Ins. Co. v. New England Ins. Co.,* 720 N.E.2d 495 (1999).

[8] 74 Am. Jur. 2d Torts § 18. *Bessemer Coal, Iron & Land Co. v. Doak*, 44 So. 627; *Parker v. Pennsyvania Co.,* 34 N.E. 504.

participation in protected activity with the intent to retaliate against the employee for such participation, and not by unrelated legitimate business reasons. However, while retaliation must be the principal reason for the discharge it need not be the sole reason; and an employment action based in part on an unlawful consideration is not rendered lawful by the coexistence of a nondiscriminatory reason. If any element of retaliation or reprisal played any part in the discharge, no matter how remote or slight or tangential, it is in violation of the law. The trier of fact determines the reasons for the employee's discharge based on a reasonable based on reasonable inferences drawn from the totality of facts, the conglomerate of activities, and the entire web of circumstances presented by the evidence. In examining the evidence, the trier of fact may consider such factors as the timing of the discharge; departures from customary dismissal notice or procedures afforded other employees; harassment, surveillance, or other disparate treatment or special conditions of employment in comparison to similarly situated employees or to prior treatment of the plaintiff immediately following the protected activity and leading up to the discharge; threats or retaliation against other employees for engaging in similar conduct; absence of a reasonable alternative reason for the discharge. . .[9]

(1) **(a)** **TACIT AGREEMENT** -

Occurs when two or more persons pursue by their acts the same object by the same means. One person performing one part and the other another part, so that upon completion they have obtained the object pursued. Regardless whether each person knew of the details or what part each was to perform, the end results being they obtained the object pursued. Agreement is implied or inferred from actions or statements.

(b) **TACIT DEFINED:** [10]

Implied but not actually expressed; implied by silence or silent acquiescence <a tacit understanding>.

(c) **TACIT CONTRACT DEFINED:** [11]

A contract in which conduct takes the place of written or spoken words in the offer of acceptance (or both).

1. As a matter of law, Conspirators accomplished the object of their conspiracy when committed the crimes set forth in this Complaint and unlawfully/illegally seized, destroyed, etc. for purposes of covering up their unlawful/illegal seizure of Newsome's storage unit and property located at 1109 Alfred Street – Unit 173, Cincinnati, Ohio 45214 without legal/lawful authority. Therefore, Newsome is requesting through this instant Complaint that an investigation into the claims and allegations set forth herein and that those found to have acted in such unlawful/illegal manner be prosecuted and indicted for said legal wrongs.

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[9] 7 Am. Jur. Proof of Facts 2d 38, 39.
Tidwell v. American Oil Co., 332 F.Supp. 424.
United States v. Hayes International Corp., 7 CCH Employment Practices Decisions ¶ 9164.
Aeronca Mfg. Co. v. NLRB, 385 F.2d 724 (9th Cir.).

[10] Blacks Law Dictionary – 9th Edition.
[11] Blacks Law Dictionary – 9th Edition.

2. Newsome learned of the criminal actions of Conspirators upon contacting the Clerk of Court's Office in the Hamilton County Municipal Court on September 10, 2009.

3. Through this instant Complaint, Newsome is requesting an investigation into the claims/crimes and allegations set forth herein to determine whether any and/or all of the above referenced Conspirators engaged in a conspiracy toward Newsome and committed crimes [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] which were the object of said conspiracy. If so, that the proper prosecution and indictments be rendered and the applicable punishment permissible and/or required by statutes/laws be had and against all/any of the Conspirators found to be guilty of said crime and/or unlawful/illegal action.

4. Newsome believes that an investigation into allegations and claims against the above referenced Conspirators will support that two or more of said Conspirators agreed to commit unlawful/illegal acts coupled with the intent to achieve the agreements' objectives: **(a)** to conspire against Newsome in exercise of protected rights; **(b)** subject Newsome to stalking; **(c)** subject Newsome to harassment, threats, hostile treatments, intimidation, discrimination, malicious prosecution, corruption, hatred, hostility, etc.; **(d)** interfere with Civil Rights of Newsome through the obstruction of justice; **(e)** power/failure to prevent, theft, burglary, larceny, **(f)** aiding and abetting; **(g)** conspiracy against rights; **(h)** conspiracy to interfere with civil rights; **(i)** color of law; **(j)** extortion; **(k)** blackmail; **(l)** bribery; **(m)**unlawful entries/forcible entries; **(n)** burglary; **(o)** larceny; **(p)** invasion/invasion of privacy; **(q)** theft; **(r)** breaking and entering, **(s)** trespass, etc.; and **(t)** any such unlawful/illegal acts found during the handling of this investigation.

5. Conspirators conspired for the purpose of inflicting upon Newsome intentional and deliberate injury/harm which they knew was unlawful/illegal and inflicted in a manner known to said Conspirators to be unlawful/illegal and prohibited by statutes/laws. Such actions which resulted in criminal wrong doing of and against Newsome by Conspirators as a direct and proximate result of the conspiracy leveled against her.

6. Conspirators were responsible for a distinct act within the overall plan of the conspiracy in which they were willing participants. Said Conspirators having an interest in the overall scheme and the outcome of said scheme/conspiracy and is therefore, liable for their action and/or those of other's in the carrying out of their role in the illegal/unlawful actions against Newsome in furtherance of the conspiracy alleged.

7. The completion of the most recent conspiracy involving the above referenced Conspirators was executed on or about September 9, 2009.

8. Conspirators, under color of their office or authority, knowingly deprived or conspired to deprive Newsome of constitutional and statutory rights.

9. Conspirators, under color of their office or authority, knowingly interfered with Newsome's civil rights.

10. The plan or scheme embodied by Stor-All was done for the purpose of accomplishing the

object[12] of conspiracy by: (a) Filing a malicious forcible entry and detainer action to cover-up the criminal actions of Stor-All committed in their unlawful/illegal seizure of Newsome's storage unit and property. (b) Furthering the Pattern-of-Practice/Pattern-of-Conduct in the conspiracy leveled against Newsome. (c) Prejudicing factfinder, judges and others, etc. against Newsome by advising of knowledge of her engagement in protected activities unrelated to the Stor-All matter. (d) Projecting Newsome as a ***"serial/vexatious"*** litigator, ***paranoid***, ***psychotic***, ***hostile***, ***potential murderer***, ***boy-who-cried-wolf***, etc. (e) Getting factfinders, judges and others to engage in conspiracy and/or in furtherance of pattern-of-practice/pattern-of-conduct underlying the conspiracy against Newsome. (f) Obtaining NULL/VOID and/or UNENFORCIBLE judgments/rulings from the courts to aid and abet Stor-All in the commission of criminal acts leveled against Newsome for the completion and/or obtaining of object of conspiracy leveled against her. Do so with knowledge that any such judgments/rulings could not be enforced and/or acted upon. Obtaining of such judgments/rulings was done to further conspiracy initiated by Stor-All and to join with other conspirators to carry out acts in conspiracies that they have initiated against Newsome that is unrelated to Stor-All matter; however, became joined upon Stor-All's knowledge of Newsome's engagement other protected activities.

11. There was an agreement/understanding between persons – *Conspirators* – wherein they became definitely committed to cooperate, play their part for the accomplishment of object[13] by the agreement/understanding embodied in said agreement/understanding.

12. The conspiracy engaged in by Conspirators was willfully formed and existed at or about the time the alleged crimes were committed. All Conspirators willfully became a member of the conspiracy and that one or more of said Conspirators committed at least one overt act alleged in the criminal complaint and that such overt act was knowingly done in furtherance of the object[14] or purpose of the conspiracy alleged.

13. Conspirators did knowingly and willingly deceive by fraud through the obtaining of a NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* in furtherance of Pattern-of-Practice/Pattern-of-Conduct underlying conspiracy leveled against Newsome to get others to aid and abet in the object[15] of the conspiracy.

14. The act of Conspirators was malicious, willful and wanton and acts were done to the intentional and knowingly commission of a wrongful act/crime [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by*

[12] Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights

[13] Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights.

[14] Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights.

[15] Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights.

Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights] said Conspirators doing so with wickedness, depravity, and evil intent. Said Conspirators' acts were willful and intentional for the purpose of causing Newsome injury/harm, to cover-up the criminal acts of Stor-All and in furtherance of conspiracy leveled against Newsome to deprive her of protected rights secured under the Constitution (Ohio and U.S.), Civil Rights Act, Landlord & Tenant Act and other statutes/laws governing said matters. Said Conspirators knew and/or should have known of the crimes committed against Newsome would cause her injury/harm; nevertheless, Conspirators having an utter disregard of the consequences. There is evidence, facts, and legal conclusions in the record of Stor-All and Courts to sustain that said Conspirators were timely, properly and adequately placed on notice by Newsome that they were engaging in criminal activity. Nevertheless, Conspirators proceeded in disregard of a high degree of danger either known or apparent to him/her or to a reasonable person in his/her position.

15. Conspirators conspired to commit criminal acts made known in the criminal complaint with knowledge or should have known of their engagement in wrongful acts done on purpose and in malicious disregard to Newsome's rights.

16. Conspirators acted with negligence and willfulness with deliberate intent to harm/injure Newsome – acts said Conspirators knew were unlawful/illegal, unreasonable and dangerous and having knowledge that Newsome would be injured/harmed.

17. Record evidence of Conspirators and that of courts will sustain said Conspirators' knowledge of Newsome's engagement in protected activities and their eagerness to share said knowledge with each other in furtherance of Pattern-of-Practice/Pattern-of-Conduct underlying conspiracy against Newsome. Record evidence and that of courts will support Conspirators having knowledge of Newsome's engagement in statutorily protected rights [i.e. Title VII, Fair Housing Act, Landlord & Tenant Act, etc.], and with said knowledge subjected Newsome to an adverse action [i.e. contacting employers, factfinders, judges and others to notify of Newsome's engagement in protected activities – either present or past]. The record evidence of Conspirators will support there is a causal link between protected activities Newsome is engaged in and the adverse criminal actions Conspirators have leveled against her. In the present matter, Stor-All's counsel, David Meranus, on February 6, 2009, made it known to Newsome said knowledge of her engagement in protected activities. (See **EXHIBIT "1"** – 02/06/09 Letter to David Meranus, attached hereto and incorporated by reference as if set forth in full herein). Therefore, a reasonable mind may conclude that the same eagerness Meranus had in sharing said knowledge and the manner in which it was conveyed to Newsome, is that in which Stor-All and Co-Conspirators have spread information regarding her engagement in protected activities.

18. Conspirators conspired to injure, oppress, threaten and intimidate Newsome in the free exercise or enjoyment of any right or privilege of the United States and the State of Ohio secured to her under the Constitution (Ohio and U.S.), Civil Rights Act, Landlord & Tenant Act, and any/all statutes/laws governing said matters because of Newsome having exercised said rights.

19. Conspirators went to the storage unit of Newsome with intent to prevent or hinder her free exercise or enjoyment of rights or privileges so secured to her under the applicable statutes/laws governing said matters.

20. There is record evidence to sustain Conspirators engaged in furtherance of Pattern-of Practice/Pattern-of-Conduct underlying the conspiracy leveled against Newsome that has existed for approximately 24 years and is still ongoing. That the egregious acts of Conspirators in the carrying out of object [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights,*

Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights] of conspiracy was willful, malicious and wanton warranting the maximum punishment – i.e. fine(s) ***and*** imprisonment for maximum time required under the laws. The maximum punishment may be warranted to deter the furtherance and temptation of others to engage and/or join such conspiracies as that leveled against Newsome.

21. There is record evidence to support that Newsome has (in good faith) filed the required actions which preclude such criminal wrongs with the appropriate agencies; however, her acts were met by retaliation by Conspirators. Such matters which are presently under investigation in that Newsome have filed the Complaints with the proper authorities as with this instant matter.

22. Conspirators pursued by their acts the same ***components of the object*** [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] ***needed to bring about the completion of the object/goal*** [i.e. **COVER-UP** and ***destroying evidence*** through criminal acts of Stor-All in the unlawful/illegal seizure of Newsome's storage unit and property without legal/lawful authority. Said cover-up and destroying of evidence could not be accomplished without: (a) Stor-All obtaining an unlawful/illegal Entry by Judge West on or about April 29, 2009, Granting Bifurcation and Remand. ***Once Judge West completed his role in the conspiracy – with knowledge that Municipal Court lacked jurisdiction*** – *Stor-All* ***pounced on such criminal acts*** *of Judge West and filed in the Hamilton County Municipal Court* (Case No. 09CV01690) *its Motion for Partial Summary Judgment With Affidavit of Leslie Smart Attached*; and (b) Judge Allen on September 9, 2009, executed NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. Once Judge Allen completed her role in the conspiracy, Stor-All and other Co-Conspirators moved swiftly to act Allen's rulings. As a direct and proximate result of Judge West's and Judge Allen's role in the conspiracy, they aided and abetted the commission of a series of crimes to be carried out by other Conspirators. Judge West and Judge Allen aided and abetted with knowledge they were engaging in criminal activity – moreover, the record evidence will support that courts were timely, properly and adequately notified through filing of Newsome of criminal acts. To no avail. Judge Allen and Judge West willingly and knowingly authorized the carrying out of criminal acts against Newsome. Having the power to prevent, elected instead to engage in the crimes of their Co-Conspirators.] ***which was accomplished.*** - - - Now Stor-All is attempting to use the NULL/VOID *of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* as a defense to obtain a **lifting of a court-ordered stay** and **dismissal of Newsome's counterclaim**. Such efforts are memorialized in Stor-All's pleadings in the Hamilton County Court of Common Pleas (Case No. A0901302) submitted for filing: September 10, 2009 ***Motion to Lift the Court Ordered Stay*** and September 18, 2009 ***12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached***] – ***to support charges in FBI Criminal Complaint***. Each Conspirator performing his/her part and the other his/her part, that that upon completion they have obtained the components of the object pursued. Said agreement, as a matter of law, may be implied or inferred from actions or statement.[16]

[16] *Linder v. Am. Natl. Ins. Co.,* 798 N.E.2d 1190 (Ohio.App.1.Dist.**Hamilton.**Co.,2003) -Ohio recognizes three types of contracts: express, implied in fact, and implied in law (or quasi-contract).

Hollis Towing v. Greene, 800 N.E.2d 1178 (Ohio.App.2.Dist. 2003) - An **"implied contract"** is a contract inferred by a court from the circumstances surrounding the transaction, making a reasonable or necessary assumption that a contract exists between the parties by tacit understanding.

Paramount Film Distributing Corp. v. Tracy, 176 N.E.2d 610 (Ohio.Com.Pl.,1960) - Contracts implied in fact rest upon intention of parties.

23. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

24. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

II. PUBLIC CORRUPTION

CUT & PASTED FROM: http://www.fbi.gov/hq/cid/pubcorrupt/pubcorrupt.htm
Public corruption is one of the FBI's top investigative priorities—behind only terrorism, espionage, and cyber crimes. Why? Because of its impact on our democracy and national security. Public corruption can affect everything from how well our borders are secured and our neighborhoods protected…to verdicts handed down in courts…

CUT & PASTED FROM: http://www.fbi.gov/page2/june05/obrien062005.htm
CRACKING DOWN ON PUBLIC CORRUPTION



Why We Take It So Seriously...and Why It Matters To You

It's #4 in our top 10 list of investigative priorities—following counterterrorism, espionage, and cyber. Why do we rank it so highly? What are we doing to stop it? For the answers to these questions and more, we talked with Supervisory Special Agent Dan O'Brien, chief of our Public Corruption and Government Fraud program at FBI Headquarters.

Q: Why's the FBI so concerned about public corruption?
Dan: Two main reasons. First, it strikes at the core of what our country's about. Our democracy depends on a healthy, efficient, and ethical government—whether it's in the courtroom or the halls of Congress. . . .

CUT & PASTED FROM:
http://www.fbi.gov/page2/march04/greylord031504.htm

That's really the whole point. *Abuse of the public trust **cannot** and **must not** be tolerated*. Corrupt practices in government strike at the heart of social order and justice. And that's why the *FBI has the ticket on investigations of **public corruption as a top priority***. . . .

What kind of crimes? Bribery, kickbacks, and fraud. Vote buying, voter intimidation, impersonation. Political coercion. Racketeering and obstruction of justice. Trafficking of illegal drugs.

How serious of a problem is it? Last year the FBI investigated 850 cases; brought in 655 indictments/informations; and got 525 who were either convicted or chose to plead.

Last words: Straight from Teddy Roosevelt: "*Unless a man is honest we have no right to keep him in public life, it matters not how brilliant his capacity*, it hardly matters how great his power of doing good service on certain lines may be... No man who is corrupt, no man who condones corruption in others, can possibly do his duty by the community."

1. Because of the corruption and dishonesty, etc. of Conspirators – regardless of their titles or profession (i.e. judges, lawyers, etc.) – there is no need to keep them in public life to allow them to commit such terrorist and criminal acts and/or threats to other citizens. Said Conspirators belong behind bars for the safety of the public and/or other citizens.

2. No judge, lawyer, etc. who condones such corrupt and criminal practices/acts; moreover, engage in such corrupt and criminal acts, can possibly do his duty by the community.

3. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

4. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

III. COMPLICITY

O.R.C. § **2923.03 Complicity.**

(A) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:

(1) Solicit or procure another to commit the offense;
(2) Aid or abet another in committing the offense;

(3) Conspire with another to commit the offense in violation of section 2923.01 of the Revised Code;
(4) Cause an innocent or irresponsible person to commit the offense.

(B) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.

(C) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of section 2923.02 of the Revised Code.

(D) If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense, or an offense, the court, when it charges the jury, shall state substantially the following:

> "The testimony of an accomplice does not become inadmissible because of his complicity, moral turpitude, or self-interest, but the admitted or claimed complicity of a witness may affect his credibility and make his testimony subject to grave suspicion, and require that it be weighed with great caution.
>
> It is for you, as jurors, in the light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth."

(E) It is an affirmative defense to a charge under this section that, prior to the commission of or attempt to commit the offense, the actor terminated his complicity, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose.

(F) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense.

Complicity Defined:
Association or participation in a criminal act; the act or state of being an accomplice. ● Under the Model Penal Code, a person can be an accomplice as a result of either that person's own conduct or the conduct of another (such as an innocent agent) for which that person is legally accountable.

Deceit Defined:
1. The act of intentionally giving a false impression . 2. A false statement of fact made by a person knowingly or recklessly (i.e. not caring whether it is true or false) with the intent that someone else act upon it. FRAUD – 3. A tort

arising from a false representation made knowingly or recklessly with the intent that another person should detrimentally rely on it.

Defraud Defined: [17]
To cause injury or loss to (a person) by deceit.

Egregious Defined: [18]
Extremely or remarkably bad; flagrant.

Incite Defined: [19]
To provoke or stir up (someone to commit a criminal act, or the criminal act itself). Abet.

1. Conspirators committed the crime of complicity. Conspirators solicited and/or procured another to commit criminal actions. Conspirators aided and abetted in the commission of criminal acts. Conspirators conspired with co-conspirators and/or another to commit criminal acts in violation of this section. Conspirators caused an innocent or irresponsible person to commit criminal acts. Conspirators relied upon fraud by deception through the obtaining of a NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* that was obtained through fraud, deception, extortion and bribery to get others to engage in conspiracy so that ***components of the object*** [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] ***needed to bring about the completion of the object/goal*** [i.e. **COVER-UP** and ***destroying evidence*** through criminal acts of Stor-All in the unlawful/illegal seizure of Newsome's storage unit and property without legal/lawful authority. Said cover-up and destroying of evidence could not be accomplished without: (a) Stor-All obtaining an unlawful/illegal Entry by Judge West on or about April 29, 2009, Granting Bifurcation and Remand. ***Once Judge West completed his role in the conspiracy – with knowledge that Municipal Court lacked jurisdiction*** – *Stor-All* ***pounced on such criminal acts*** *of Judge West and filed in the Hamilton County Municipal Court* (Case No. 09CV01690) *its Motion for Partial Summary Judgment With Affidavit of Leslie Smart Attached*; and (b) Judge Allen on September 9, 2009, executed NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. Once Judge Allen completed her role in the conspiracy, Stor-All and other Co-Conspirators moved swiftly to act Allen's rulings. As a direct and proximate result of Judge West's and Judge Allen's role in the conspiracy, they aided and abetted the commission of a series of crimes to be carried out by other Conspirators. Judge West and Judge Allen aided and abetted with knowledge they were engaging in criminal activity – moreover, the record evidence will support that courts were timely, properly and adequately notified through filing of Newsome of criminal acts. To no avail. Judge Allen and Judge West willingly and knowingly authorized the carrying out of criminal acts against Newsome. Having the power to prevent, elected instead to engage in the crimes of their Co-Conspirators.] ***which was accomplished.*** - - - Now Stor-All is attempting to use the NULL/VOID *of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* as a defense to obtain a **lifting of a court-ordered stay** and **dismissal of Newsome's counterclaim**. Such efforts are memorialized in Stor-All's pleadings in the Hamilton County Court of Common Pleas (Case No. A0901302) submitted for filing: September 10, 2009 ***Motion to Lift the Court Ordered Stay*** and September 18, 2009 ***12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With***

[17] Blacks Law Dictionary – 8th Edition.
[18] Blacks Law Dictionary – 8th Edition.
[19] Blacks Law Dictionary – 8th Edition.

Affidavits of Leslie Smart and Lori Whiteside Attached] – ***to support charges in FBI Criminal Complaint.*** Conspirators committed criminal offenses of and against Newsome warranting prosecution under this section. Conspirators either associated themselves or participated in the criminal acts rendered against Newsome on or about September 9, 2009 and/or September 10, 2009. Under the *Model Penal Code* Conspirators can be an accomplice as a result of his/her conduct or the conduct of another for which that person is legally accountable. Conspirators intentionally gave a false impression for the purposes of accomplishing the object of the conspiracy pursued. Certain Conspirators knowingly made false statement and/or obtained fraudulent documentation – i.e. *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* and on or about April 29, 2009 Judge West's executed *Entry Granting Bifurcation and Remand* for the purpose of intentionally and deceiving through the issuance of a false and unlawful/illegal document to get Co-Conspirators to act upon it. As a direct and proximate result of Conspirators' deceitful actions, Newsome has sustained ***irreparable*** injury/harm and deprived protected rights. The egregious acts of Conspirators were a flagrant disregard and respect to the statutes/laws governing said matters. Conspirators provoked, stirred up and encouraged the commission of the criminal acts leveled against Newsome. Newsome through this instant Complaint request the prosecution and punishment of Conspirators found guilty of committing crimes under said statute.

2. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

3. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

4. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

IV. CORRUPTION

O.R.C. § 2923.31 Corrupt activity definitions.

As used in sections 2923.31 to 2923.36 of the Revised Code:

(A) "Beneficial interest" means any of the following:

(1) The interest of a person as a beneficiary under a trust in which the trustee holds title to personal or real property;

(2) The interest of a person as a beneficiary under any other trust arrangement under which any other person holds title to personal or real property for the benefit of such person;
(3) The interest of a person under any other form of express fiduciary arrangement under which any other person holds title to personal or real property for the benefit of such person.. . .

(E) "Pattern of corrupt activity" means two or more incidents of corrupt activity, whether or not there has been a prior conviction, that are related to the affairs of the same enterprise, are not isolated, and are not so closely related to each other and connected in time and place that they constitute a single event.

At least one of the incidents forming the pattern shall occur on or after January 1, 1986. Unless any incident was an aggravated murder or murder, the last of the incidents forming the pattern shall occur within six years after the commission of any prior incident forming the pattern, excluding any period of imprisonment served by any person engaging in the corrupt activity.

For the purposes of the criminal penalties that may be imposed pursuant to section 2923.32 of the Revised Code, at least one of the incidents forming the pattern shall constitute a felony under the laws of this state in existence at the time it was committed or, if committed in violation of the laws of the United States or of any other state, shall constitute a felony under the law of the United States or the other state and would be a criminal offense under the law of this state if committed in this state.. . .
(G) "Person" means any person, as defined in section 1.59 of the Revised Code, and any governmental officer, employee, or entity.

(H) "Personal property" means any personal property, any interest in personal property, or any right, including, but not limited to, bank accounts, debts, corporate stocks, patents, or copyrights. Personal property and any beneficial interest in personal property are deemed to be located where the trustee of the property, the personal property, or the instrument evidencing the right is located.

(I) "Corrupt activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the following:. . .

(2) Conduct constituting any of the following:

(a) A violation of section 1315.55, 1322.02, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 2905.11, 2905.22, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.05, 2913.06, 2921.02, 2921.03, 2921.04, 2921.11, 2921.12, 2921.32, 2921.41, 2921.42, 2921.43, 2923.12, or 2923.17; division (F)(1)(a), (b), or (c) of section 1315.53; division (A)(1) or (2) of section 1707.042; division (B), (C)(4), (D), (E), or (F) of section 1707.44; division

(A)(1) or (2) of section 2923.20; division (J)(1) of section 4712.02; section 4719.02, 4719.05, or 4719.06; division (C), (D), or (E) of section 4719.07; section 4719.08; or division (A) of section 4719.09 of the Revised Code.. . .

(J) "Real property" means any real property or any interest in real property, including, but not limited to, any lease of, or mortgage upon, real property. Real property and any beneficial interest in it is deemed to be located where the real property is located. . . .

O.R.C. § **2923.32 Engaging in pattern of corrupt activity.**

(A)(1) No person employed by, or associated with, any enterprise shall conduct or participate in, directly or indirectly, the affairs of the enterprise through a pattern of corrupt activity or the collection of an unlawful debt.

(2) No person, through a pattern of corrupt activity or the collection of an unlawful debt, shall acquire or maintain, directly or indirectly, any interest in, or control of, any enterprise or real property.

(3) No person, who knowingly has received any proceeds derived, directly or indirectly, from a pattern of corrupt activity or the collection of any unlawful debt, shall use or invest, directly or indirectly, any part of those proceeds, or any proceeds derived from the use or investment of any of those proceeds, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.

A purchase of securities on the open market with intent to make an investment, without intent to control or participate in the control of the issuer, and without intent to assist another to do so is not a violation of this division, if the securities of the issuer held after the purchase by the purchaser, the members of the purchaser's immediate family, and the purchaser's or the immediate family members' accomplices in any pattern of corrupt activity or the collection of an unlawful debt do not aggregate one per cent of the outstanding securities of any one class of the issuer and do not confer, in law or in fact, the power to elect one or more directors of the issuer.

(B)(1) Whoever violates this section is guilty of engaging in a pattern of corrupt activity. Except as otherwise provided in this division, engaging in corrupt activity is a felony of the second degree. Except as otherwise provided in this division, if at least one of the incidents of corrupt activity is a felony of the first, second, or third degree, aggravated murder, or murder, if at least one of the incidents was a felony under the law of this state that was committed prior to July 1, 1996, and that would constitute a felony of the first, second, or third degree, aggravated murder, or murder if committed on or after July 1, 1996, or if at least one of the incidents of corrupt activity is a felony under the law of the United States or of another state that, if committed in this state on or after July 1, 1996, would constitute a felony of the first, second, or third degree, aggravated murder, or murder under the law of this state, engaging in a pattern of corrupt activity is a felony of the first degree. If the offender also is convicted of or

> pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense, engaging in a pattern of corrupt activity is a felony of the first degree, and the court shall sentence the offender to a mandatory prison term as provided in division (D)(7) of section 2929.14 of the Revised Code and shall order the offender to make restitution as provided in division (B)(8) of section 2929.18 of the Revised Code. Notwithstanding any other provision of law, a person may be convicted of violating the provisions of this section as well as of a conspiracy to violate one or more of those provisions under section 2923.01 of the Revised Code.

1. Conspirators had a personal or beneficial interest in the commission of the crimes committed against Newsome. Two or more of the above reference Conspirators engaged in two or more corrupt activities to bring about the ***components of the object*** [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] ***needed to bring about the completion of the object/goal*** [i.e. **COVER-UP** and ***destroying evidence*** through criminal acts of Stor-All in the unlawful/illegal seizure of Newsome's storage unit and property without legal/lawful authority. Said cover-up and destroying of evidence could not be accomplished without: (a) Stor-All obtaining an unlawful/illegal Entry by Judge West on or about April 29, 2009, Granting Bifurcation and Remand. ***Once Judge West completed his role in the conspiracy – with knowledge that Municipal Court lacked jurisdiction*** – *Stor-All* ***pounced on such criminal acts*** *of Judge West and filed in the Hamilton County Municipal Court* (Case No. 09CV01690) *its Motion for Partial Summary Judgment With Affidavit of Leslie Smart Attached*; and (b) Judge Allen on September 9, 2009, executed NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. Once Judge Allen completed her role in the conspiracy, Stor-All and other Co-Conspirators moved swiftly to act Allen's rulings. As a direct and proximate result of Judge West's and Judge Allen's role in the conspiracy, they aided and abetted the commission of a series of crimes to be carried out by other Conspirators. Judge West and Judge Allen aided and abetted with knowledge they were engaging in criminal activity – moreover, the record evidence will support that courts were timely, properly and adequately notified through filing of Newsome of criminal acts. To no avail. Judge Allen and Judge West willingly and knowingly authorized the carrying out of criminal acts against Newsome. Having the power to prevent, elected instead to engage in the crimes of their Co-Conspirators.] ***which was accomplished.*** - - - Now Stor-All is attempting to use the NULL/VOID *of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* as a defense to obtain a **lifting of a court-ordered stay** and **dismissal of Newsome's counterclaim**. Such efforts are memorialized in Stor-All's pleadings in the Hamilton County Court of Common Pleas (Case No. A0901302) submitted for filing: September 10, 2009 ***Motion to Lift the Court Ordered Stay*** and September 18, 2009 ***12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached***] – ***to support charges in FBI Criminal Complaint***.

2. The criminal actions of the Conspirators were done in furtherance of conspiracy; moreover, **"PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT"** ***underlying the conspiracy against Newsome.*** Conspirators relying upon their knowledge of the criminal/civil wrongs leveled against Newsome in Louisiana, Mississippi, Kentucky and other information to fuel their criminal activities. As it relates to crimes committed against Newsome simulated by Stor-All and other Conspirators/Co-Conspirators, Conspirators in this instant matter have resorted to criminal activities either known and/or should be known to them regarding Newsome that occurred in Jackson Mississippi

on or about February 14, 2006 – FBI Complaint filed on or about June 26, 2006; in Covington, Kentucky on or about October 9, 2008 – FBI Complaint filed on or about October 13, 2008; and its knowledge of Newsome's engagement in protected activities involving Title VII violations, Fair Housing Act violations, Civil Rights Violations, Constitutional Rights violations, and any and all applicable statutes/laws governing said matters. The criminal act committed by Conspirators constitutes, through such **"PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT"** ***underlying the criminal wrongs leveled against Newsome,*** *a conspiracy under this statute and/or the applicable statutes/laws governing said matters.* Conspirators engaged in the criminal actions underlying this Complaint for the purposes of unlawful/illegally seizing her personal property. Conspirators engaged in corrupt/criminal activities [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] for the purposes of unlawfully/illegally obtaining Newsome's storage unit and property and purposes of obtaining the object of conspiracy. Conspirators engaged in conspiring to extort, coerce and intimidate Newsome to force her to forego protected rights. Record evidence will support that Conspirators knew and/or should have known that Newsome would not waive her rights and neither did Conspirators have permission to enter her storage unit and take her property. Through such coercion Stor-All for the purposes of extortion, blackmail, intimidation, etc. filed a malicious Forcible Entry and Detention action against Newsome on or about January 20, 2009. Stor-All's Forcible Entry and Detainer action was met with Newsome's ***Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim and Demand for Jury Trial*** as required by law.[20] Stor-All doing so with efforts to get Newsome to forego protected rights – such efforts which failed.[21] Stor-All was very aggressive, hostile, intimidating and threatening, etc. in trying to get Newsome to forego protected rights and attempting to set her up into going onto its property to retrieve her property wherein it knew and/or should have known that for Newsome to do so would preclude her from obtaining relief through the appropriate legal processes. When Newsome refused to waive protected rights, Conspirators set out to commit the crimes set forth herein and/or known to the FBI and/or its FBI Agents.

3. Conspirators conducted and participated in, either directly or indirectly, the conspiracy leveled against Newsome in the collection of an unlawful debt fraudulently claimed. Conspirators doing so through **"PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT"** ***underlying the conspiracy against Newsome.*** Certain Conspirators through a **"PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT"** ***underlying the conspiracy against Newsome*** in efforts to collect unlawful debt alleged owed, acquired and maintains directly or indirectly an interest in or control of Newsome's storage unit

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[20] *Sherman v. Pearson,* 673 N.E.2d 643 (Ohio.App.1.Dist.**Hamilton.**Co.,1996) - Forcible entry and detainer is action at law based on contract, and is subject to counterclaim by tenant. R.C. § 5321.04(A)(3).

[21] **65 Ohio Jur.3d § 164 –** ***Notice to vacate; bringing possessory action*****:**

A notice by the landlord that the tenancy is being terminated, combined with a demand by him or her for possession of the premises, and voluntary compliance therewith by the tenant without protest, *is not an* eviction for which damages may be recovered. (*Greenberg v. Murphy,* 16 Ohio C.D. 359, 1904 WL 1147 (Ohio Cir. Ct. 1904)). [**Practice Guide:** If the tenant is *rightfully in possession and entitled to remain*, **the tenant SHOULD AWAIT legal proceedings that are threatened**, and make *defense* thereto, ***RATHER THAN COMPLY** with the demand*, **and then bring an action for alleged damages that perhaps never would have resulted**. (*Greenberg)*]

Where a tenant, upon request or notice to vacate, **VOLUNTARILY** abandons the premises without protest, **no action for damages against the landlord**, based on fraud or misrepresentations as to the reasons for such request **can be maintained under rights recognized by the common law, or any statute of Ohio.** (*Ferguson v. Buddenberg,* 87 Ohio App. 326, 42 Ohio Op. 488, 57 Ohio L. Abs. 473, 94 N.E.2d 568 (1st Dist. **Hamilton** County 1950)).

In an eviction action for nonpayment of rent brought by a landlord **pursuant to RC Ch 1923**, a *tenant MAY RESPOND by asserting any legal defense he has to that action*, pursuant to RC 1923.061(A), and/or **by filing a COUNTERCLAIM for damages** caused by the landlord's breach of the rental agreement and/or the landlord's breach of his duties under RC 5321.04. *Smith v. Wright* (Ohio App. 1979) 65 Ohio App.2d 101, 416 N.E.2d 655, 19 O.O.3d 59.

and property that was unlawfully seized. Certain Conspirators have knowingly received proceeds derived directly or indirectly from the **"PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT"** ***underlying the conspiracy against Newsome.***

4. Conspirators in this instant Complaint have engaged in a PATTERN OF CORRUPT ACTIVITY. Conspirators in this instant Complaint by engaging in PATTERN OF CORRUPT ACTIVITY has committed a felony under this section.

5. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

6. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

V. AIDING AND ABETTING

> **AID AND ABET DEFINED:** [22]
> To assist or facilitate the commission of a crime, or to promote its accomplishment. – Aiding and abetting is a crime in most jurisdictions.
>
> >>>To "aid" is to assist to help another. To "abet" means, literally, to bait or excite. . . In its legal sense, it means to encourage, advise, or instigate the commission of a crime." 1 Charles E. Torcia, *Wharton's Criminal Law §* 29, at 181 (15th ed. 1993).

1. In the carrying out of their roles in the conspiracy leveled against Newsome, Conspirators aided and abetted Co-Conspirators in the commission of crimes leveled against Newsome; by so doing, allowed Conspirators to accomplish ***components of the object*** [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] ***needed to bring about the completion of the object/goal*** [i.e. **COVER-UP** and ***destroying evidence*** through criminal acts of Stor-All in the unlawful/illegal seizure of Newsome's storage unit and property without legal/lawful authority. Said cover-up and destroying of evidence could not be accomplished without: (a) Stor-All obtaining an unlawful/illegal Entry by Judge West on or about April 29, 2009, Granting Bifurcation and Remand. ***Once Judge West completed his role in the conspiracy – with knowledge that Municipal Court lacked jurisdiction*** *– Stor-All* ***pounced on such criminal acts*** *of Judge West and filed in the Hamilton County Municipal Court* (Case No. 09CV01690) *its Motion for Partial Summary Judgment With Affidavit of Leslie Smart Attached*; and (b) Judge Allen on September 9,

[22] Blacks Law Dictionary – 8th Edition.

2009, executed NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. Once Judge Allen completed her role in the conspiracy, Stor-All and other Co-Conspirators moved swiftly to act Allen's rulings. As a direct and proximate result of Judge West's and Judge Allen's role in the conspiracy, they aided and abetted the commission of a series of crimes to be carried out by other Conspirators. Judge West and Judge Allen aided and abetted with knowledge they were engaging in criminal activity – moreover, the record evidence will support that courts were timely, properly and adequately notified through filing of Newsome of criminal acts. To no avail. Judge Allen and Judge West willingly and knowingly authorized the carrying out of criminal acts against Newsome. Having the power to prevent, elected instead to engage in the crimes of their Co-Conspirators.] ***which was accomplished.*** - - - Now Stor-All is attempting to use the NULL/VOID *of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* as a defense to obtain a **lifting of a court-ordered stay** and **dismissal of Newsome's counterclaim**. Such efforts are memorialized in Stor-All's pleadings in the Hamilton County Court of Common Pleas (Case No. A0901302) submitted for filing: September 10, 2009 ***Motion to Lift the Court Ordered Stay*** and September 18, 2009 ***12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached***] – ***to support charges in FBI Criminal Complaint.***

2. Conspirators were able to accomplish the object of conspiracy by obtaining an UNENFORCIBLE and/or NULL/VOID ruling from Judge Allen and Judge West.

3. Through the unlawful/illegal entry of judgments/rulings of Judge West and Judge Allen, each encouraged, advised, and instigated the criminal acts of Co-Conspirators were determined to carry out for purposes of obtaining the object [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] of the conspiracy leveled against Newsome.

4. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

VI. EXTORTION and BLACKMAIL

EXTORTION DEFINED:[23]

(1) The offense committed by a public official who illegally obtains property under the color of office; esp., an official's collection of an unlawful fee.

(2) The act or practice of obtaining something or compelling some action by illegal means, as by force or coercion.

Extort Defined: [24]

[23] Blacks Law Dictionary – 8th Edition.
[24] Blacks Law Dictionary – 8th Edition.

(1) To compel or coerce (a confession, etc.) by means that overcome one's power to resist.

(2) To gain by wrongful methods; to obtain in an unlawful manner; to exact wrongfully by threat or intimidation.

O.R.C. § 2905.11 Extortion.

(A) No person, with purpose to obtain any valuable thing or valuable benefit or to induce another to do an unlawful act, shall do any of the following:

(1) Threaten to commit any felony;
(2) Threaten to commit any offense of violence;
(3) Violate section 2903.21 or 2903.22 of the Revised Code;
(4) Utter or threaten any calumny against any person;
(5) Expose or threaten to expose any matter tending to subject any person to hatred, contempt, or ridicule, or to damage any person's personal or business repute, or to impair any person's credit.

(B) Whoever violates this section is guilty of extortion, a felony of the third degree.

(C) As used in this section, "threat" includes a direct threat and a threat by innuendo.

Blackmailing:

Jones v. State, 14 Ohio C.C. 363 (Ohio.Cir.,1897) - The crime of **blackmailing** . . . may be committed by accusing one of a crime punishable by law, or of any immoral conduct, etc., with **intent to extort** or **gain** from him **any chattel**, **money**, etc., or by knowingly sending or delivering any letter or writing, or any printed or written communication, accusing or threatening to accuse any person of a crime punishable by law, etc., or ***to do an injury to the person or property of any person with intent to extort or gain***, etc.

State v. Brunswick, 44 N.E.2d 116 (Ohio.App.8.Dist. 1941) - Under statute defining **blackmail** and providing in substance that "Whoever, with menaces, orally * * * threatening to * * * do any injury to the person or property of another * * * with intent to compel him to do an act against his will, may be fined," the words "with menaces" and "threatening" are equivalent to the single word "threats", and the word "orally" applies not only to threats by one who demands of another a chattel, money or valuable security but also to threats by one "to do any injury to the person or property of another * * * with intent to compel him to do an act against his will." Gen.Code, § 13384.

1. In the fulfillment of Judge Allen's role in the conspiracy, Co-Conspirators on or about September 9, 2009 executed *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* for the purposes of obtaining fees from such criminal acts. The Writ of Execution executed by Judge Allen states in part, *"YOU ARE THEREFORE HEREBY COMMANDED to cause the defendant(s) to be removed from said premises and said plaintiff(s) to have restitution of the same; also, that you levy of the goods and chattels of said defendant(s), and make costs aforesaid, and all*

accruing costs." See **EXHIBIT "2"** attached hereto and incorporated by reference as if set forth in full herein. Writ of Execution is supported by *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. See **EXHIBIT "3"** attached hereto and incorporated by reference as if set forth in full herein.

2. Judge Allen knew and/or should have known that she was acting without jurisdiction over the subject matter and any ruling by her would be NULL/VOID. Moreover, Stor-All knew and/or should have known that *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* of Judge Allen was NULL/VOID. There is sufficient evidence in the Hamilton County Court of Common Pleas (Case No. A0901302) as well as Hamilton County Municipal Court (Case No. 09CV01690) to sustain said knowledge that that Judge Allen, Stor-All and Co-Conspirators were aware that *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* were UNENFORCIBLE.

3. Stor-All in furtherance of conspiracy leveled against Newsome engaged in acts and practices to obtain Newsome's storage unit and property through their malicious Forcible Entry and Detainer Complaint by illegal means and purposes of: force and coercion, extortion, and blackmail, etc.

4. Conspirators gained by wrongful methods and obtaining in an unlawful manner the storage unit and property of Newsome for purposes of threat and intimidation.

5. Judge Allen with purpose of aiding and abetting Stor-All and other Co-Conspirators in obtaining Newsome's storage unit and property: (a) Threatened to commit any felony; (b) Threatened to commit any offense of violence; (c) Violate sections applicable under the Revised Code; (d) Utterance or threaten any calumny against Newsome; (e) Exposed or threatened to expose any matter tending to subject Newsome to hatred, contempt, or ridicule, or to damage Newsome's personal reputation and business reputation, and to impair Newsome's credit. Judge Allen doing so for the purposes of aiding and abetting Stor-All and other Co-Conspirators in providing the ***components of the object*** [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] ***needed to bring about the completion of the object/goal*** [i.e. **COVER-UP** and ***destroying evidence*** through criminal acts of Stor-All in the unlawful/illegal seizure of Newsome's storage unit and property without legal/lawful authority. Said cover-up and destroying of evidence could not be accomplished without: (a) Stor-All obtaining an unlawful/illegal Entry by Judge West on or about April 29, 2009, Granting Bifurcation and Remand. ***Once Judge West completed his role in the conspiracy – with knowledge that Municipal Court lacked jurisdiction*** – *Stor-All* ***pounced on such criminal acts*** *of Judge West and filed in the Hamilton County Municipal Court* (Case No. 09CV01690) *its Motion for Partial Summary Judgment With Affidavit of Leslie Smart Attached*; and (b) Judge Allen on September 9, 2009, executed NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. Once Judge Allen completed her role in the conspiracy, Stor-All and other Co-Conspirators moved swiftly to act Allen's rulings. As a direct and proximate result of Judge West's and Judge Allen's role in the conspiracy, they aided and abetted the commission of a series of crimes to be carried out by other Conspirators. Judge West and Judge Allen aided and abetted with knowledge they were engaging in criminal activity – moreover, the record evidence will support that courts were timely, properly and adequately notified through filing of Newsome of criminal acts. To no avail. Judge Allen and Judge West willingly and knowingly authorized the carrying out of criminal acts against Newsome. Having the power to prevent, elected instead to engage in the crimes of their Co-Conspirators.] ***which was accomplished.*** - - - Now Stor-All is attempting to use the NULL/VOID *of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* as a defense to obtain a **lifting of a court-ordered stay** and **dismissal of**

Newsome's counterclaim. Such efforts are memorialized in Stor-All's pleadings in the Hamilton County Court of Common Pleas (Case No. A0901302) submitted for filing: September 10, 2009 ***Motion to Lift the Court Ordered Stay*** and September 18, 2009 ***12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached***] – ***to support charges in FBI Criminal Complaint***.

6. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

7. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

VII. BRIBERY

Bribery Defined:
The corrupt payment, receipt, or solicitation of a private favor for official action.
● Bribery is a felony in most jurisdictions.

Bribe Defined:
A price, reward, gift, or favor bestowed or promised with a view to pervert the judgment of or influence the action of a person in position of trust.

>>>"The core concept of a bribe is an inducement improperly influencing the performance of a public function meant to be gratuitously exercised." John T. Noonan Jr., Bribes xi (1984).

O.R.C. § 2921.02 Bribery.
(A) No person, with purpose to corrupt a public servant or party official, or improperly to influence him with respect to the discharge of his duty, whether before or after he is elected, appointed, qualified, employed, summoned, or sworn, shall promise, offer, or give any valuable thing or valuable benefit.

(B) No person, either before or after he is elected, appointed, qualified, employed, summoned, or sworn as a public servant or party official, shall knowingly solicit or accept for himself or another person any valuable thing or valuable benefit to corrupt or improperly influence him or another public servant or party official with respect to the discharge of his or the other public servant's or party official's duty.

(C) No person, with purpose to corrupt a witness or improperly to influence him with respect to his testimony in an official proceeding, either before or after he is subpoenaed or sworn, shall promise, offer, or give him or another person any valuable thing or valuable benefit.

> (D) No person, either before or after he is subpoenaed or sworn as a witness, shall knowingly solicit or accept for himself or another person any valuable thing or valuable benefit to corrupt or improperly influence him with respect to his testimony in an official proceeding.
>
> (E) Whoever violates this section is guilty of bribery, a felony of the third degree.
>
> (F) ***A public servant or party official who is convicted of bribery is forever disqualified from holding any public office, employment, or position of trust in this state***.

1. Judge Allen's execution of *Writ of Execution* demands corrupt payment and/or receipt of corrupt payment – payment of monies through unlawful/illegal practices – as a favor to Stor-All and other Co-Conspirators. Said bribery is a felony under Ohio law.

2. Judge Allen executed *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* (with knowledge jurisdiction was lacking) for the purposes of obtaining a price, reward and favor for Stor-All and other Co-Conspirators. Said acts by Judge Allen was done with the view to pervert the judgment and with knowledge that her rulings where NULL/VOID and UNENFORCIBLE. Said bribery was done to influence the outcome of lawsuit pending in the Hamilton County Court of Common Pleas (Case No. A0901302). Judge Allen being a person in the position of trust; however, has through said bribery breached the integrity of the Hamilton County Municipal Court and breached the Code of Judicial Conduct. The appearance of impropriety is evident. In receipt of the commission of said bribery, Judge Allen induced improperly the influenced and performance of a public function which was not legally authorized and prohibited by Ohio statutes/laws.

3. Conspirators with purpose to corrupt Judge Allen and Judge West respectively through the means of bribery and improperly to influence Judge Allen and Judge West with respect to the discharge of their judicial functions, paid monies for fees and services judges demanded that were not legally and/or lawfully authorized – i.e. obtained through criminal acts and/or in furtherance of the conspiracy leveled against Newsome.

4. Conspirators knowingly solicited, influenced and accepted for themselves or others Newsome's storage unit and personal property therein (i.e. valuable things) through corrupt practices and improper motives by influencing Judge Allen to unlawfully/illegally execute *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* - in the discharge of her judicial duties under which she was fully aware she was not lawfully authorized to perform. In exchange for such criminal acts, Judge Allen further sought to receive and/or benefit through financial gain and/or profit - *YOU ARE THEREFORE HEREBY COMMANDED to cause the defendant(s) to be removed from said premises and said plaintiff(s) to have restitution of the same; also, that you levy of the goods and chattels of said defendant(s), and make costs aforesaid, and all accruing costs."* See **EXHIBIT "2"** attached hereto and incorporated by reference as if set forth in full herein.

5. Conspirators with purpose to corrupt witnesses (i.e. Co-Conspirators) and improperly influence them with respect to their testimony in an official proceeding, after obtaining the NULL/VOID and/or illegal/unlawful *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* gave Co-Conspirators valuable personal property belonging to Newsome that was obtained in the commission of criminal activity through the ***components of the object*** [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion,*

Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights] ***needed to bring about the completion of the object/goal*** [i.e. **COVER-UP** and ***destroying evidence*** through criminal acts of Stor-All in the unlawful/illegal seizure of Newsome's storage unit and property without legal/lawful authority. Said cover-up and destroying of evidence could not be accomplished without: (a) Stor-All obtaining an unlawful/illegal Entry by Judge West on or about April 29, 2009, Granting Bifurcation and Remand. ***Once Judge West completed his role in the conspiracy – with knowledge that Municipal Court lacked jurisdiction*** – *Stor-All* ***pounced on such criminal acts*** *of Judge West and filed in the Hamilton County Municipal Court* (Case No. 09CV01690) *its Motion for Partial Summary Judgment With Affidavit of Leslie Smart Attached*; and (b) Judge Allen on September 9, 2009, executed NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. Once Judge Allen completed her role in the conspiracy, Stor-All and other Co-Conspirators moved swiftly to act Allen's rulings. As a direct and proximate result of Judge West's and Judge Allen's role in the conspiracy, they aided and abetted the commission of a series of crimes to be carried out by other Conspirators. Judge West and Judge Allen aided and abetted with knowledge they were engaging in criminal activity – moreover, the record evidence will support that courts were timely, properly and adequately notified through filing of Newsome of criminal acts. To no avail. Judge Allen and Judge West willingly and knowingly authorized the carrying out of criminal acts against Newsome. Having the power to prevent, elected instead to engage in the crimes of their Co-Conspirators.] ***which was accomplished.*** - - - Now Stor-All is attempting to use the NULL/VOID *of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* as a defense to obtain a **lifting of a court-ordered stay** and **dismissal of Newsome's counterclaim**. Such efforts are memorialized in Stor-All's pleadings in the Hamilton County Court of Common Pleas (Case No. A0901302) submitted for filing: September 10, 2009 ***Motion to Lift the Court Ordered Stay*** and September 18, 2009 ***12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached***] – ***to support charges in FBI Criminal Complaint***.

6. Conspirators (Lori A. Whiteside and Leslie Smart respectively) provided sworn and notarized Affidavits before and/or after the commission of criminal acts in furtherance of object [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] of conspiracy leveled against Newsome for the purposes of unlawfully/illegally obtaining Newsome's storage unit and personal property therein. Said Conspirators were promised Newsome's storage unit and personal property in exchange for their Affidavits provided before and/or after the commission of the criminal actions underlying the object of the conspiracy leveled against Newsome.

7. Based upon the criminal acts of BRIBERY committed by Conspirators, if they are found guilty of said criminal acts that each carried out in the furtherance of conspiracy to bring about the criminal actions leveled against Newsome and the completion of the conspiracy leveled against her, that Conspirators be CONVICTED of bribery and FOREVER DISQUALIFIED from holding public office, employment, or position of trust in the State of Ohio.

8. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

9. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

VIII. COERCION

O.R.C. § 2905.12 Coercion.

(A) No person, with purpose to coerce another into taking or refraining from action concerning which the other person has a legal freedom of choice, shall do any of the following:

(1) Threaten to commit any offense;

(2) Utter or threaten any calumny against any person;

(3) Expose or threaten to expose any matter tending to subject any person to hatred, contempt, or ridicule, to damage any person's personal or business repute, or to impair any person's credit;

(4) Institute or threaten criminal proceedings against any person;

(5) Take, withhold, or threaten to take or withhold official action, or cause or threaten to cause official action to be taken or withheld.

(B) Divisions (A)(4) and (5) of this section shall not be construed to prohibit a prosecutor or court from doing any of the following in good faith and in the interests of justice:

(1) Offering or agreeing to grant, or granting immunity from prosecution pursuant to section 2945.44 of the Revised Code;

(2) In return for a plea of guilty to one or more offenses charged or to one or more other or lesser offenses, or in return for the testimony of the accused in a case to which the accused is not a party, offering or agreeing to dismiss, or dismissing one or more charges pending against an accused, or offering or agreeing to impose, or imposing a certain sentence or modification of sentence;

(3) Imposing a community control sanction on certain conditions, including without limitation requiring the offender to make restitution or redress to the victim of the offense.

(C) It is an affirmative defense to a charge under division (A)(3), (4), or (5) of this section that the actor's conduct was a reasonable response to the circumstances that occasioned it, and that the actor's purpose was limited to any of the following:

(1) Compelling another to refrain from misconduct or to desist from further misconduct;

(2) Preventing or redressing a wrong or injustice;

(3) Preventing another from taking action for which the actor reasonably believed the other person to be disqualified;

(4) Compelling another to take action that the actor reasonably believed the other person to be under a duty to take.

(D) Whoever violates this section is guilty of coercion, a misdemeanor of the second degree.

(E) As used in this section:

(1) "Threat" includes a direct threat and a threat by innuendo.

(2) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

1. Conspirators engaged in criminal acts with purpose to coerce Newsome into payment of monies to which they were not entitled, initiated or encouraged the malicious lawsuit filed against Newsome.

2. Conspirators: (a) threatened to commit any offense against Newsome; (b) Uttered or threatened any calumny against Newsome; (c) Exposed or threatened to expose any matter tending to subject Newsome to hatred, contempt, or ridicule, to damage Newsome's personal and business reputation, or to impair Newsome's credit; and (d) took official action and/or caused malicious lawsuit to be brought against Newsome.

3. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

4. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

IX. RETALIATION

TITLE 18 § 1513(b), (e) – (g). RETALIATING AGAINST A WITNESS, VICTIM, OR AN INFORMANT: . . .

(b) *Whoever **knowingly** engages in any conduct and thereby causes bodily injury to another person or **damages the tangible property** of another person, or **threatens** to do so, with intent to retaliate against any person for—*

> **(1)** the attendance of a witness or ***party at an official proceeding***, or *any testimony given* or ***any record***, ***document***, or ***other object produced*** *by a witness* ***in an official proceeding***; or . . .

(e) *Whoever **knowingly**, with the **intent to retaliate**, takes **any** action **harmful** to any person, including **interference** with the **lawful** employment* or ***livelihood*** *of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, **shall** be **fined** under this title or **imprisoned** not more than **10** years, or **both**.*

(f) *Whoever **conspires** to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.*

(g) *A **prosecution** under this section **may be brought** in the district in which the official proceeding (whether pending, **about to be instituted**, or completed) was intended to be affected, or in which the conduct constituting the alleged offense occurred.*

O.R.C. § **2921.05 Retaliation.**

(A) No person, purposely and by force or by unlawful threat of harm to any person or property, shall retaliate against a public servant, a party official, or an attorney or witness who was involved in a civil or criminal action or proceeding because the public servant, party official, attorney, or witness discharged the duties of the public servant, party official, attorney, or witness.

(B) No person, purposely and by force or by unlawful threat of harm to any person or property, shall retaliate against the victim of a crime because the victim filed or prosecuted criminal charges.

(C) Whoever violates this section is guilty of retaliation, a felony of the third degree.

1. Conspirators knowingly engaged in conduct causing damages to tangible property of Newsome and threatened injury/harm with intent to retaliate against Newsome because of their knowledge her being party in an official proceeding or giving of testimony, records or documents or other objects produced in an official proceeding.

2. Conspirators knowingly, with the intent to retaliate, took action harmful to Newsome, including interference with her employment and livelihood because of their knowledge of Newsome providing to law enforcement officials and/or federal officials relating to the commission of their duties in

handling charges brought by her, are to be fined under this Title or imprisoned not more than **10** years. Because of the scope of the ***"PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT" underlying the conspiracy against Newsome****, she seeks the application of both (fine and imprisonment) – said acts of these conspirators have been in furtherance of an ongoing conspiracy which has now been going on for approximately **24** years.*

3. Conspirators retaliated against Newsome because of their knowledge that she has and/or is presently engaging in protected activities.

4. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

5. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

X. PATTERN OF CONDUCT

CUT & PASTED FROM:
http://www.fbi.gov/hq/cid/civilrights/statutes.htm

Title 42, U.S.C., Section 14141
Pattern and Practice

This civil statute was a provision within the Crime Control Act of 1994 and makes it unlawful for any governmental authority, or agent thereof, or any person acting on behalf of a governmental authority, to engage in a **pattern or practice of conduct** by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

Whenever the Attorney General has reasonable cause to believe that a violation has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.

Types of misconduct covered include, among other things:

1. Excessive Force
2. Discriminatory Harassment

3. False Arrest
4. Coercive Sexual Conduct
5. Unlawful Stops, Searches, or Arrests

O.R.C. §2323.52 CIVIL ACTION TO DECLARE PERSON VEXATIOUS LITIGATOR.

(2) "Vexatious conduct" means conduct of a party in a civil action that satisfies any of the following:

(a) The conduct obviously serves merely to harass or maliciously injure another party to the civil action.

(b) The conduct is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law.

(c) The conduct is imposed solely for delay.

(3) "Vexatious litigator" means any person who has habitually, persistently, and without reasonable grounds engaged in vexatious conduct in a civil action or actions, whether in the court of claims or in a court of appeals, court of common pleas, municipal court, or county court, whether the person or another person instituted the civil action or actions, and whether the vexatious conduct was against the same party or against different parties in the civil action or actions. "Vexatious litigator" does not include a person who is authorized to practice law in the courts of this state under the Ohio Supreme Court Rules for the Government of the Bar of Ohio unless that person is representing or has represented self pro se in the civil action or actions.

XI. INTIMIDATION

O.R.C. § 2921.03 Intimidation.

(A) No person, knowingly and by force, by unlawful threat of harm to any person or property, or by filing, recording, or otherwise using a materially false or fraudulent writing with malicious purpose, in bad faith, or in a wanton or reckless manner, shall attempt to influence, intimidate, or hinder a public servant , party official, or witness in the discharge of the person's duty.

(B) Whoever violates this section is guilty of intimidation, a felony of the third degree.

(C) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this division. A civil action under this division is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.

1. Conspirators knowingly and by force through written correspondence unlawfully threaten to bring harm Newsome and/or her property and carried out said threats which were initiated by malicious lawsuit (Forcible Entry and Detainer Complaint) filed against her on January 20, 2009. Forcible Entry and Detainer Complaint and its subsequent pleadings is materially false, fraudulent and was brought with malicious intent, in bad faith and in a wanton and reckless disregard to Newsome's rights and presented for purposes of hindering and obstructing the administration of justice.

2. Conspirators have violated this section and therefore guilty of intimidation which is a felony.

3. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

4. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

XII. DEPRIVATION OF RIGHTS

FEDERAL

CUT & PASTED:
http://www.law.cornell.edu/constitution/constitution.preamble.html
UNITED STATES CONSTITUTION

Preamble:
We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

CUT & PASTED FROM:
http://www.law.cornell.edu/constitution/constitution.amendmentxiv.html
UNITED STATES CONSTITUTION

Amendment XIV
Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the

United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. . . .

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

STATE OF OHIO

CUT & PASTED FROM:
http://www.legislature.state.oh.us/constitution.cfm?Part=0
OHIO CONSTITUTION

Preamble:
We, the people of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this Constitution.

CUT & PASTED FROM:
http://www.legislature.state.oh.us/constitution.cfm?Part=1&Section=10a
OHIO CONSTITUTION

§ 1.10a Rights of victims of crime

Victims of criminal offenses shall be accorded fairness, dignity, and respect in the criminal justice process, and, as the general assembly shall define and provide by law, shall be accorded rights to reasonable and appropriate notice, information, access, and protection and to a meaningful role in the criminal justice process. This section does not confer upon any person a right to appeal or modify any decision in a criminal proceeding, does not abridge any other right guaranteed by the Constitution of the United States or this constitution. . .

CUT & PASTED FROM:
http://www.legislature.state.oh.us/constitution.cfm?Part=1&Section=14
§ 1.14 Search warrants and general warrants (1851)

The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the person and things to be seized.

CUT & PASTED FROM:
http://www.legislature.state.oh.us/constitution.cfm?Part=1&Section=01
§ 1.01 Inalienable Rights (1851)

All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.

1. Judge Allen by executing *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* caused Newsome to be deprived of rights secured to her under the Constitution (Ohio and U.S), Civil Rights Act, Landlord & Tenant Act, and other statutes/laws governing said matters.

2. Newsome, as a victim of criminal offenses, was deprived fairness, dignity and respect in the handling of lawsuit filed in the Hamilton County Municipal Court (Case No. 09CV01690) and transferred to the Hamilton County Court of Common Pleas (Case No. A0901302) and has been deprived due process of laws – rights secured/guaranteed under the Constitution (Ohio and U.S.).

3. Conspirators carrying out criminal acts on or about September 9 and/or 10, 2009, Newsome was not notified of September 9, 2009 of *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* being executed – said information was deliberately withheld from Newsome for purposes of depriving her protected rights secured to her under the Constitution (Ohio and U.S.). Newsome had to obtain a copy of said ruling from the Clerk's Office of the Hamilton County Municipal Court.

4. Conspirators caused to be done on or about September 9 or 10, 2009, unreasonable seizure by the use of a NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* known to them to be UNENFORCIBLE.

5. Conspirators through their actions deprived Newsome inalienable rights, life, liberty, property, etc. without due process and deprived Newsome equal protection of the laws. Therefore, infringing upon Newsome's rights secured/guaranteed under the Constitution (Ohio and U.S.), Civil Rights Act and other statutes/laws governing said matters.

6. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

7. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

XIII. POWER/FAILURE TO PREVENT:

1. Newsome requests through the filing of this instant Complaint and investigations as to whether or not there has been negligence to prevent the crime and/or criminal actions taken against her pursuant to 42 USC § 1986:

> **Every** person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, *and having* ***power to prevent*** *or* ***aid in preventing*** *the commission of the same,* ***neglects*** *or* ***refuses*** *so to do*, if such wrongful

> act be committed, **shall be liable** *to the party injured*, or his legal representatives, *for **all** damages caused by such wrongful act*, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; . . .

Conspirators had knowledge of any of the criminal [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] actions committed and/or to be committed by each other, and having the power to prevent or aid in the prevention of the commission of such crimes, neglected or refused to do so. Therefore, Newsome is requesting that said Conspirators be prosecuted and indicted from any and/or all criminal wrongs rendered Newsome.

> O.R.C. § **2921.22 Failure to report a crime or knowledge of a death or burn injury.**
> (A) (1) Except as provided in division (A)(2) of this section, no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.

2. Conspirators had knowledge and/or should have had knowledge that there was a conspiracy to interfere with civil rights of Newsome and/or was about to be done and having the power to prevent and/or aid in preventing the commission of the criminal acts leveled against Newsome, neglected, refused and/or failed so to do. As a direct and proximate result of said negligence, refusal and failure, Conspirators obtained the ***components of the object*** [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] ***needed to bring about the completion of the object/goal*** [i.e. **COVER-UP** and ***destroying evidence*** through criminal acts of Stor-All in the unlawful/illegal seizure of Newsome's storage unit and property without legal/lawful authority. Said cover-up and destroying of evidence could not be accomplished without: (a) Stor-All obtaining an unlawful/illegal Entry by Judge West on or about April 29, 2009, Granting Bifurcation and Remand. ***Once Judge West completed his role in the conspiracy – with knowledge that Municipal Court lacked jurisdiction*** – *Stor-All **pounced on such criminal acts** of Judge West and filed in the Hamilton County Municipal Court* (Case No. 09CV01690) *its Motion for Partial Summary Judgment With Affidavit of Leslie Smart Attached*; and (b) Judge Allen on September 9, 2009, executed NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. Once Judge Allen completed her role in the conspiracy, Stor-All and other Co-Conspirators moved swiftly to act Allen's rulings. As a direct and proximate result of Judge West's and Judge Allen's role in the conspiracy, they aided and abetted the commission of a series of crimes to be carried out by other Conspirators. Judge West and Judge Allen aided and abetted with knowledge they were engaging in criminal activity – moreover, the record evidence will support that courts were timely, properly and adequately notified through filing of Newsome of criminal acts. To no avail. Judge Allen and Judge West willingly and knowingly authorized the carrying out of criminal acts against Newsome. Having the power to prevent, elected instead to engage in the crimes of their Co-Conspirators.] ***which was accomplished.*** - - - Now Stor-All is attempting to use the NULL/VOID *of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* as a defense to obtain a **lifting of a court-ordered stay** and **dismissal of Newsome's counterclaim**. Such efforts are memorialized in

Stor-All's pleadings in the Hamilton County Court of Common Pleas (Case No. A0901302) submitted for filing: September 10, 2009 ***Motion to Lift the Court Ordered Stay*** and September 18, 2009 ***12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached***] – ***to support charges in FBI Criminal Complaint***.

3. Conspirators by reasonable diligence could have prevented the criminal actions leveled against Newsome.

4. Conspirators had knowledge and/or knew that a felony in the commission of criminal actions leveled against Newsome was about to be and/or was being committed; however, failed to report such information to law enforcement authorities.

5. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

6. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

XIV. STALKING/MENACING BY STALKING:

O.R.C. §2903.211 Menacing by stalking.

(A)(1) No person by engaging in a **pattern of conduct** shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person. . . .

(B) Whoever violates this section is guilty of menacing by stalking.. . .

(2) Menacing by stalking is a felony of the fourth degree if any of the following applies:. . .

(e) The offender has a history of violence toward the victim or any other person or a history of other violent acts toward the victim or any other person.. . .
(h) In committing the offense under division (A)(1), (2), or (3) of this section, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that

premises, or, as a result of an offense committed under division (A)(2) of this section or an offense committed under division (A)(3) of this section based on a violation of division (A)(2) of this section, a third person induced by the offender's posted message caused serious physical harm to that premises, that real property, or any personal property on that premises.. . .

(i) Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness. . .

(D) As used in this section:

(1) **"Pattern of conduct"** means two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents. Actions or incidents that prevent, obstruct, or delay the performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's, or emergency facility person's official capacity, or the posting of messages or receipt of information or data through the use of an electronic method of remotely transferring information, including, but not limited to, a computer, computer network, computer program, computer system, or telecommunications device, may constitute a "pattern of conduct."

O.R.C. §2903.22 Menacing.

(A) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family.

(B) Whoever violates this section is guilty of menacing. Except as otherwise provided in this division, menacing is a misdemeanor of the fourth degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, menacing is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, a felony of the fourth degree.

O.R.C. § 2903.21 Aggravated menacing.

> (A) No person shall knowingly cause another to believe that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family.
>
> (B) Whoever violates this section is guilty of aggravated menacing. Except as otherwise provided in this division, aggravated menacing is a misdemeanor of the first degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, aggravated menacing is a felony of the fifth degree or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, a felony of the fourth degree.

1. Conspirators engaged in a pattern of conduct knowingly caused Newsome to believe that Conspirators would cause her physical harm, mental distress, etc. in the carrying out of both civil and criminal wrongs leveled against Newsome.

2. Conspirators violating this section are guilty of menacing by stalking.

3. Conspirators through their ***"PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT" underlying the conspiracy against Newsome*** committed the crime of menacing by stalking and therefore, to be charged with said felony.

4. There is record evidence to support ***pattern of conduct*** and history of Conspirators engaging in criminal/civil wrongs against Newsome. Conspirators in the carrying out of criminal actions on or about September 9 and 10, 2009, did so in furtherance of conspiracy to interfere with rights of Newsome, obstructing justice, deprivation of rights, etc.

5. In committing the offense under this section, Conspirators caused to be done serious physical harm to real property in the storage unit of Newsome.

6. Conspirators prior to the committing of criminal acts of September 9 and 10, 2009, were determined to represent and/or cause substantial risk/harm to Newsome and/or her real property.

7. There is record evidence to sustain that Conspirators committed actions or incidents closely related in time in furtherance of conspiracy initiated by Stor-All and in furtherance of conspiracies initiated by Co-Conspirators in other matters against Newsome made known to Stor-All underlying the conspiracy leveled against her. Conspirators doing so based upon their knowledge of Newsome's engagement in protected activity. See **EXHIBIT "1"** Meranus Letter 2/6/09.

8. On or about February 6, 2009, Meranus advised Newsome of his knowledge of her engagement in protected activities. On said date, Newsome advised Meranus:

This will confirm that during the signing of the attached *Magistrate's Decision*, you brought to my attention **your knowledge of legal actions** brought by me in New Orleans, Louisiana. Information I believe a reasonable mind will conclude has no bearing on the above referenced lawsuit. *I gather your bringing of this information was done to* ***blackmail*** *and/or* ***extort*** *monies from me* – thinking I was going to drop my Counter-Claim against your client. I gathered from the way you presented the information to me, you that I was going to back down. To your disappointment, I advised you that I had a feeling that there were illegal motives behind the filing of this lawsuit on behalf of your client (Stor-All Alfred, LLC). It also appears your *arrogance* got the best of you. At least I now have additional information as to the reason and ill motives behind you and/or your client contacting Wood & Lamping and the reasons underlying my termination (along with the Conflict of Interest – Thomas J. Breed's relationship with Schwartz Manes Ruby & Slovin – my working directly with Breed at Wood & Lamping and the conflict that would arise if Wood & Lamping were to represent me in this matter. So to appease you and your client, my employment with Wood & Lamping was terminated and I was denied rights under the Family & Medical Leave Act, etc.) SHAME, SHAME, SHAME!!!!!!

I advised you that I was just up in Washington, D.C. in December 2008 addressing concerns of such unlawful/criminal acts committed by you and/or your client. ***This stalking, harassing, etc. me from state-to-state, job-to-job (CONTACTING MY EMPLOYER)****, is clearly prohibited by laws/statutes and clearly in violation of my Constitutional Rights (Ohio and United States), Civil Rights, Landlord & Tenant Act, etc.* Thanks for confirming my beliefs as to Wood & Lamping's motives. This is well deserved information.

While you seemed to be comfortable in advising me that it is the insurance company that is going to pay the liability, what you failed to understand is that the divulgence of your knowledge of matters regarding me in New Orleans, Louisiana opens the doors for additional claims of and against you, your law firm (Schwartz Manes Ruby & Slovin), Stor-All Alfred, LLC, Wood & Lamping and who knows who else. I THANK YOU, THANK YOU, THANK YOU. . . . . for such good news. I shared during my trip to Washington, D.C. continued concerns of conspiracies to destroy my life, liberties and pursuit of happiness, etc. and such willful, malicious and wanton acts as that committed by you and others to continue to cause me irreparable harm/injury.

My termination from employment with Wood & Lamping, LLP, your acknowledgment in Court today in efforts of extorting and/or blackmailing me, (along with other reasons known to you) etc. is clearly UNACCEPTABLE!!!! Your acts which not only violate the Ohio Rules of Civil Procedure, but that of the Ohio Code of Professional Conduct and/or other statutes/laws governing such matters. You are aware that I have filed the appropriate Motion for Sanctions and through this motion am I not only seeking sanctions but, if possible, your disbarment. When you use your profession to interfere with the life of another for unlawful/illegal gain; moreover, for **racial** and/or **prejudicial** reasons, I

do not believe as an "*officer of the court*" that you uphold neither the integrity nor the respect of the Court and/or judicial process. The criminal/civil wrongs you, your client and others have committed against me have cause irreparable injury/harm and such acts which cannot go unaddressed.

Again, **THANK YOU, THANK YOU, THANK YOU, THANK YOU, THANK YOU.** . . . You know this is news/information that needs to be shared. This was the nail I needed to expose and shine the light on such criminal/civil wrong. Did you and others in cohort with you not understand the message sent on November 4, 2008 (Presidential Election) – **CHANGE**, **NOT MORE OF THE SAME!!!!**

See **EXHIBIT "2"** attached hereto and incorporated by reference as if set forth in full herein.

9. There is record evidence to support that Conspirators were timely, properly and adequately placed on notice that Newsome believed they intended to cause her physical harm, mental distress as well as physical harm to her property. In the interest of justice and for her well being Newsome made it known that she would not put herself in harms way; therefore, Newsome would not and did not attend any hearings set in the Hamilton County Municipal Court out of belief that Conspirators intended to subject her to further injury/harm.

10. Based upon Meranus' confirmation of him and his client's stalking of Newsome, a reasonable mind may conclude that she had just cause to believe that Conspirators would cause her serious physical harm as well as harm to her property. Moreover, at the hearing on March 11, 2009, in the Hamilton County Court of Common Pleas (Case No. A0901302), Meranus attempted to induce Newsome to come onto the property of Stor-All; however, Newsome out of belief of being set up for further injury/harm advised Meranus that she would be abiding by the statutes/laws governing said matters. Moreover, Meranus and Co-Conspirators knew and/or should have known for Newsome to retrieve her property would be a waiver of any defenses she had; moreover, may have been a set-up to get Newsome on the property for purposes of subjecting to further crimes – i.e. murder, etc. – wherein they would create and/or falsify reasons for taking her life. Especially with knowledge that Meranus and Co-Conspirators were aware of conspiracies leveled against Newsome in unrelated matters and in furtherance of said knowledge, conspired to further such ***PATTERN-OF-PRACTICE/PATTERN-OF-CONDUCT underlying conspiracy against Newsome***.

65 Ohio Jur.3d § 164 – *Notice to vacate; bringing possessory action*:

A notice by the landlord that the tenancy is being terminated, combined with a demand by him or her for possession of the premises, and voluntary compliance therewith by the tenant without protest, *is not an* eviction for which damages may be recovered. (*Greenberg v. Murphy,* 16 Ohio C.D. 359, 1904 WL 1147 (Ohio Cir. Ct. 1904)). [**Practice Guide:** If the tenant is *rightfully in possession and entitled to remain*, **the tenant SHOULD AWAIT legal proceedings that are threatened**, and make *defense* thereto, ***RATHER THAN COMPLY** with the demand*, **and then bring an action for alleged damages that perhaps never would have resulted**. (*Greenberg)*]

Where a tenant, upon request or notice to vacate, **VOLUNTARILY** abandons the premises without protest, **no action for damages against the landlord**, based on fraud or misrepresentations as to the reasons for such request **can be maintained under rights recognized by the common law, or any statute of Ohio.** (*Ferguson v. Buddenberg,* 87

> Ohio App. 326, 42 Ohio Op. 488, 57 Ohio L. Abs. 473, 94 N.E.2d 568 (1st Dist. **Hamilton** County 1950)).
>
> In an eviction action for nonpayment of rent brought by a landlord **pursuant to RC Ch 1923**, a *tenant MAY RESPOND by asserting any legal defense he has to that action*, pursuant to RC 1923.061(A), and/or **by filing a COUNTERCLAIM for damages** caused by the landlord's breach of the rental agreement and/or the landlord's breach of his duties under RC 5321.04. *Smith v. Wright* (Ohio App. 1979) 65 Ohio App.2d 101, 416 N.E.2d 655, 19 O.O.3d 59.

11. As a direct and proximate result of Conspirators knowledge of Newsome's engagement in protected activities, they have engaged in criminal actions of menacing by stalking. Moreover, have initiated and/or engaged in the stalking of Newsome from job-to-job, employer-to-employer, and state-to-state. Upon determining where she lives or work, Conspirators then put into action the carrying out of additional crimes against her with ill and ***malicious*** intent.

12. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

13. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

XV. BURGLARY AND BREAKING & ENTERING:

> Burglary - (2) The modern statutory offense of breaking and entering any building - not just a dwelling, and not only at night - with the intent to commit a felony.
>
> Burglar - One who commits burglary.
>
> Burglarized - To commit burglary.
>
> Breaking - (Criminal Law): In the law of burglary, the act of entering a building without permission.
>
> > "[T]o constitute a breaking at common law, there had to be the creation of a breach or opening; a mere trespass at law was insufficient. If the occupant of the dwelling had created the opening, it was felt that he had not entitled himself to the protection of the law, as he had not properly secured his dwelling . . . In the modern

> American criminal codes, only seldom is there a requirement of breaking. This is not to suggest, however, that elimination of this requirement has left the 'entry' element unadorned, so that any type of entry will suffice. Rather, at least some of what was encompassed within the common law 'breaking' element is reflected by other terms describing what kind of entry is necessary. The most common statutory term is 'unlawfully,' but some jurisdictions use other language, such as '**unauthorized**,' by '**trespass**,' '**without authority**,' '**without consent**,' or '**without privilege**.' Wayne R. LaFave & Austin W. Scott Jr., *Criminal Law* §8.13 at 793-94 (2d ed. 1986).

1. As a matter of law, Conspirators acted as burglars in the burglarizing of Newsome's storage unit located at 1109 Alfred Street – Unit 173, Cincinnati, Ohio 45214. Therefore, Newsome is requesting through this instant Complaint that an investigation into the claims and allegations set forth herein and that those found to have acted in such unlawful/illegal manner be prosecuted and indicted for said legal wrongs.

2. Newsome learned of the criminal actions of Conspirators upon contacting the Clerk of Court's Office in the Hamilton County Municipal Court on September 10, 2009.

3. Conspirators committed a criminal offense and/or modern statutory offense of burglary wherein they used, participated and/or unlawfully authorized excessive force and breaking force in entering Newsome's storage unit with deliberate, willful and malicious intent to commit a felony. Said Conspirators knowingly and deliberately with malicious intent entered the storage unit of Newsome without her permission. Prior to such unlawful/excessive use of force by Conspirators, they were timely, adequately and properly put on notice that they were engaging in criminal activity through written documentation – i.e. filings in the Hinds County Municipal Court (Case No. 09CV01690) and Hamilton County Court of Common Pleas (Case No. A0901302) and that their acts were criminal in nature; moreover, Forcible Entry and Detainer Complaint was frivolously and maliciously brought. Conspirators were already in unlawful/illegal possession of Newsome's storage unit and property because they took the laws into their own hands and her storage unit and property without legal authority. Newsome's storage unit was properly secured and locked upon her leasing of unit on July 27, 2007, to prevent the unlawful/illegal entry by Conspirators engaging in the unlawful/illegal eviction/removal. Newsome taking the necessary steps to secure her privacy, protect her property, life, liberties and pursuit of happiness. To no avail.

On or about September 9, 2009, despite Newsome's ***efforts to protect*** her storage unit and property/possession, she was subjected to burglary, theft, larceny, unauthorized entry, illegal/unlawful *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* authorized by Judge Allen who lacked jurisdiction to execute legal process, unlawful/illegal seizure of her property/possession and storage unit; and trespassing, etc., - all being done **without *prior* notice** *to Newsome* and **without** *Newsome's consent* and **without** *privilege* afforded under the statutes/laws governing said matters.

4. Newsome through the filing of this instant Complaint seeks the prosecution and indictment of Conspirators found through an investigation to be guilty of the crime of burglary, conspiracy to commit burglary, and/or their participation in such burglary set forth herein against Newsome's storage unit/property. Moreover, all Conspirators that knew and/or had knowledge that said burglary was about to be committed and/or being committed and did nothing to prevent - having

knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglects or refuses to do so.

5. On September 9, 2009, Judge Allen executed *Writ of Execution* and Judge Allen and Meranus executed *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. Said *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*, as a matter of law, is NULL/VOID. Judge Allen executed said *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* to aid and abet Conspirators in the crime of burglary of and against Newsome. By the execution of said documents, on or about said date Conspirators completed the object [burglary and other crimes] of conspiracy. Conspirators breaking and entering into the storage unit of Newsome and provided ***components of the object*** [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] ***needed to bring about the completion of the object/goal*** [i.e. **COVER-UP** and ***destroying evidence*** through criminal acts of Stor-All in the unlawful/illegal seizure of Newsome's storage unit and property without legal/lawful authority. Said cover-up and destroying of evidence could not be accomplished without: (a) Stor-All obtaining an unlawful/illegal Entry by Judge West on or about April 29, 2009, Granting Bifurcation and Remand. ***Once Judge West completed his role in the conspiracy – with knowledge that Municipal Court lacked jurisdiction*** – *Stor-All* ***pounced on such criminal acts*** *of Judge West and filed in the Hamilton County Municipal Court* (Case No. 09CV01690) *its Motion for Partial Summary Judgment With Affidavit of Leslie Smart Attached*; and (b) Judge Allen on September 9, 2009, executed NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. Once Judge Allen completed her role in the conspiracy, Stor-All and other Co-Conspirators moved swiftly to act Allen's rulings. As a direct and proximate result of Judge West's and Judge Allen's role in the conspiracy, they aided and abetted the commission of a series of crimes to be carried out by other Conspirators. Judge West and Judge Allen aided and abetted with knowledge they were engaging in criminal activity – moreover, the record evidence will support that courts were timely, properly and adequately notified through filing of Newsome of criminal acts. To no avail. Judge Allen and Judge West willingly and knowingly authorized the carrying out of criminal acts against Newsome. Having the power to prevent, elected instead to engage in the crimes of their Co-Conspirators.] ***which was accomplished.*** - - - Now Stor-All is attempting to use the NULL/VOID *of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* as a defense to obtain a **lifting of a court-ordered stay** and **dismissal of Newsome's counterclaim**. Such efforts are memorialized in Stor-All's pleadings in the Hamilton County Court of Common Pleas (Case No. A0901302) submitted for filing: September 10, 2009 ***Motion to Lift the Court Ordered Stay*** and September 18, 2009 ***12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached***] – ***to support charges in FBI Criminal Complaint***. Conspirators were not legally and/or lawfully authorized to enter Newsome's storage unit and neither did Newsome give said Conspirators permission to enter her storage unit.

6. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

7. Newsome demands that the applicable charges be filed of and against Conspirator(s)

found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

XVI. THEFT:

Theft - (1) The felonious taking and removing of another's personal property with the intent of depriving the true owner of it; larceny [Cases: Larceny §1. C.J.S. Larceny ~§1(1,2), 9.] (2) Broadly, any act or instance of stealing, including larceny, burglary, embezzlement, and false pretenses.

Under such a statute it is not necessary for the indictment charging theft to specify whether the offense is larceny, embezzlement or false pretenses." Rollin M. Perkins & Ronald N. Boyce, Criminal Law 389-90 (3d ed. 1982).

Theft by Deception - The use of trickery to obtain another's property, esp. by **(1)** creating or reinforcing a false impression . . . **(2)** preventing one from obtaining information that would affect one's judgment about a transaction, or **(3)** failing to disclose, in a property transfer, a known lien or other legal impediment.

Theft by Extortion - Larceny in which the perpetrator obtains property by threatening to **(1)** inflict bodily harm on anyone or commit any other criminal offense. . . **(4)** take or withhold action as an official, or cause an official to take or withhold action, **(5)** bring about . . .collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act, **(6)** testify or provide information or withhold testimony or information with respect to another's legal claim or defense, or **(7)** inflict any other harm that would not benefit the actor.

Theft of Services - The act of obtaining services from another by deception, threat, coercion, stealth, mechanical tampering, or using a false token or device.

O.R.C. §2913.01 Theft and fraud general definitions.. . .

(A) "Deception" means knowingly deceiving another or causing another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.

(B) "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.

(C) "Deprive" means to do any of the following:

(1) Withhold property of another permanently, or for a period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;

(2) Dispose of property so as to make it unlikely that the owner will recover it;

(3) Accept, use, or appropriate money, property, or services, with purpose not to give proper consideration in return for the money, property, or services, and without reasonable justification or excuse for not giving proper consideration.. . .

(K) "Theft offense" means any of the following:

(1) A violation of section 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 2913.45, 2913.47, former section 2913.47 or 2913.48, or section 2913.51, 2915.05, or 2921.41 of the Revised Code;

O.R.C. § 2913.02 Theft.

(A) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

(1) Without the consent of the owner or person authorized to give consent;

(2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;

(3) By deception;

(4) By threat;

(5) By intimidation.

(B)(1) Whoever violates this section is guilty of theft.

(2) Except as otherwise provided in this division or division (B)(3), (4), (5), (6), (7), or (8) of this section, a violation of this section is petty theft, a misdemeanor of the first degree. If the value of the property or services stolen is five hundred dollars or more and is less than five thousand dollars or if the property stolen is any of the property listed in section 2913.71 of the Revised Code, a violation of this section is theft, a felony of the fifth degree. If the value of the property or services stolen is five thousand dollars or more and is less than one hundred thousand dollars, a violation of this section is grand theft, a felony of the fourth degree. If the value of the property or services stolen is one hundred thousand dollars or more and is less than five hundred thousand dollars, a violation of this section is aggravated theft, a felony of the third degree. If the value of the property or services is five hundred thousand dollars or more and is less than one million dollars, a violation of this section is aggravated theft, a felony of the second degree. If the value of the property or services stolen is one million dollars or more, a violation of this section is aggravated theft of one million dollars or more, a felony of the first degree.

O.R.C. § 2921.41 Theft in office.

(A) No public official or party official shall commit any theft offense, as defined in division (K) of section 2913.01 of the Revised Code, when either of the following applies:

(1) The offender uses the offender's office in aid of committing the offense or permits or assents to its use in aid of committing the offense;. . .

(B) Whoever violates this section is guilty of theft in office. Except as otherwise provided in this division, theft in office is a felony of the fifth degree. If the value of property or services stolen is five hundred dollars or more and is less than five thousand dollars, theft in office is a felony of the fourth degree. If the value of property or services stolen is five thousand dollars or more, theft in office is a felony of the third degree.

(C)(1) A public official or party official who pleads guilty to theft in office and whose plea is accepted by the court or a public official or party official against whom a verdict or finding of guilt for committing theft in office is returned is forever disqualified from holding any public office, employment, or position of trust in this state.

(2)(a) A court that imposes sentence for a violation of this section based on conduct described in division (A)(2) of this section shall require the public official or party official who is convicted of or pleads guilty to the offense to make restitution for all of the property or the service that is the subject of the offense, in addition to the term of imprisonment and any fine imposed. A court that imposes sentence for a violation of this section based on conduct described in division (A)(1) of this section and that determines at trial that this state or a political subdivision of this state if the offender is a public official, or a political party in the United States or this state if the offender is a party official, suffered actual loss as a result of the offense shall require the offender to make restitution to the state, political subdivision, or political party for all of the actual loss experienced, in addition to the term of imprisonment and any fine imposed.

1. Conspirators acted as thieves in the theft of Newsome's property/possessions located at 1109 Alfred Street – Unit 173, Cincinnati, Ohio 45214. Therefore, Newsome is requesting through this instant Complaint that an investigation into the claims and allegations set forth herein and that those found to have acted in such unlawful/illegal manner be prosecuted and indicted for said legal wrongs.

2. Conspirators unlawfully/illegally feloniously stole Newsome's property/possessions and took her storage unit away from her. Upon committing such theft, may have dumped Newsome's property/possession on the street or given property to others to hide their efforts to rid themselves of the criminal activities committed against Newsome. ***The details of what occurred are to be obtained through he investigation of the crimes addressed in this Complain***. Deliberate actions were taken to done to destroy and get rid of the evidence. Conspirators having foresight and knowledge that they were committing a crime and that theft of Newsome's property/possession were prohibited by statutes/laws. In an effort to prevent from getting caught with Newsome's property/possession, they tossed it out on the street and/or provided to another to hide their crime – doing so without legal/lawful authority and without

Newsome's permission. Conspirators committed such criminal acts of theft with the purpose of depriving Newsome of her property/possession and storage unit. Conspirators breaking the lock on the storage unit in which Newsome stored her property. Conspirators committing such crime of theft to keep Newsome from returning her storage unit.

3. Newsome's storage unit and property/possessions were unlawfully/illegally seized through false pretenses.

4. While Conspirators relied upon ***"theft by deception"*** to burglarize Newsome's storage unit and steal her storage unit and property/possession from her, said acts were done for purposes of **(a)** creating or reinforcing a false impression; **(b)** obstruct, prevent and/or withhold information from one that would affect one's judgment about the action and services requested - however, it is important to note that such a one may or may not have had knowledge that Newsome had filed a Counterclaim requesting injunctive relief, etc.; **(c)** failed to reveal or disclose that Conspirators were acting in violation prohibiting the removal/eviction of Newsome from her storage unit.

5. Conspirators committed "theft by extortion" by larceny to obtain Newsome's storage unit/property: **(a)** to subject her to further injury/harm, harassment, humiliation, duress, oppression, discrimination, prejudices, threats, coercion - all which were foreseeable; **(b)** coerced other officials/persons to engage and/or participate in the theft of Newsome's property/possessions and to help themselves to same; **(c)** brought about unwarranted/unauthorized action by distorting and/or ignoring the laws/statutes prohibiting such criminal actions; (d) deliberately withholding information to obtain unlawful/illegal entry of Newsome's storage unit and to steal and/or commit burglary and theft of her storage unit and property/possession.

6. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of the crime of theft, conspiracy to commit theft, and/or their participation in such theft set forth herein against Newsome's property/possessions. Moreover, all Conspirators that knew and/or had knowledge that said theft was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

7. Conspirators knowingly deceived another or caused another to be deceived by the use of *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* that they knew to be false, NULL/VOID and unenforceable. By using *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* mislead through representation and presentation of said documents, withholding information that *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* was NULL/VOID and had been obtained through unlawful/illegal actions (i.e. bribery, blackmail, extortion, etc.), or by any other conduct, act or omission that creates, confirms and perpetuates a false impression to another, including a false impression as to law, value, state of mind, or other objective or subjective fact.

8. Conspirators knowingly obtained by deception Newsome's storage unit and personal property contained therein which has caused not only detriment to her; but now has opened Hamilton County up for a civil lawsuit because those in a position, authority and power to prevent failed to deter such crimes but provided ***components of the object*** [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] ***needed to bring about the completion of the object/goal*** [i.e. **COVER-UP** and ***destroying***

evidence through criminal acts of Stor-All in the unlawful/illegal seizure of Newsome's storage unit and property without legal/lawful authority. Said cover-up and destroying of evidence could not be accomplished without: (a) Stor-All obtaining an unlawful/illegal Entry by Judge West on or about April 29, 2009, Granting Bifurcation and Remand. ***Once Judge West completed his role in the conspiracy – with knowledge that Municipal Court lacked jurisdiction*** – *Stor-All* ***pounced on such criminal acts*** *of Judge West and filed in the Hamilton County Municipal Court* (Case No. 09CV01690) *its Motion for Partial Summary Judgment With Affidavit of Leslie Smart Attached*; and (b) Judge Allen on September 9, 2009, executed NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. Once Judge Allen completed her role in the conspiracy, Stor-All and other Co-Conspirators moved swiftly to act Allen's rulings. As a direct and proximate result of Judge West's and Judge Allen's role in the conspiracy, they aided and abetted the commission of a series of crimes to be carried out by other Conspirators. Judge West and Judge Allen aided and abetted with knowledge they were engaging in criminal activity – moreover, the record evidence will support that courts were timely, properly and adequately notified through filing of Newsome of criminal acts. To no avail. Judge Allen and Judge West willingly and knowingly authorized the carrying out of criminal acts against Newsome. Having the power to prevent, elected instead to engage in the crimes of their Co-Conspirators.] ***which was accomplished.*** - - - Now Stor-All is attempting to use the NULL/VOID *of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* as a defense to obtain a **lifting of a court-ordered stay** and **dismissal of Newsome's counterclaim**. Such efforts are memorialized in Stor-All's pleadings in the Hamilton County Court of Common Pleas (Case No. A0901302) submitted for filing: September 10, 2009 ***Motion to Lift the Court Ordered Stay*** and September 18, 2009 ***12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached***] – ***to support charges in FBI Criminal Complaint***. Conspirators with power to prevent crimes committed against Newsome, failed to deter said wrongs for the purposes of achieving the object of the conspiracy leveled against her.

9. Conspirators are withholding property of Newsome permanently as a direct and proximate result of Newsome's refusal to be blackmailed, give in to extortion demands and/or practices, threats, etc. for monies Conspirators where claiming was due them.

10. Conspirators disposed of Newsome's property so as it is unlikely that she will be able to recover it.

11. Conspirators caused to be accepted, taken and used Newsome's personal property for the purposes of not allowing her equal protection of the laws, due process of laws, deprivation of rights, etc. secured under the Constitution (Ohio and U.S.) and other applicable statutes/laws governing said matters.

12. Conspirators with purpose to deprive Newsome of her property knowingly obtained and exerted control over Newsome's storage unit and property.

13. Conspirators with purpose to deprive Newsome of her property knowingly obtained and exerted control over Newsome's storage unit and property ***without her consent*** or person authorized to give consent on behalf of Newsome.

14. Conspirators with purpose to deprive Newsome of her property knowingly obtained and exerted control over Newsome's storage unit and property ***which was beyond the scope of the express or implied consent*** of Newsome or person authorized to give consent on behalf of Newsome.

15. Conspirators with purpose to deprive Newsome of her property knowingly obtained and exerted control over Newsome's storage unit and property ***through the acts of deception***.

16. Conspirators with purpose to deprive Newsome of her property knowingly obtained and

exerted control over Newsome's storage unit and property ***through the acts of threats***.

17. Conspirators with purpose to deprive Newsome of her property knowingly obtained and exerted control over Newsome's storage unit and property ***through the acts of intimidation***.

18. Judge Allen and Judge West either used or usurped/violated judicial powers to aid Conspirators in the committing of criminal offenses which were the object [i.e. theft in office, etc.] of conspiracy leveled against Newsome.

19. Judge Allen and Judge West either used or usurped/violated judicial powers to aid Conspirators in the theft of Newsome's property.

20. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

21. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

XVII. TRESPASS:

87 CJS Trespass § 2

> ***Trespass*** – In a general sense any invasion of another's rights is a trespass. In law, "trespass" has a well ascertained and fixed meaning, embracing every infraction of a legal right, that is a wrong against the right of possession. Thus, the term "trespass" in its broadest sense means any act which exceeds or passes beyond the bounds of any rights which have been legally granted, any invasion of the interest in exclusive possession of property, or any misfeasance, transgression, or offense which damages another's person, health, reputation, or property. As a tort, "trespass" may be included in alienation of affections, libel, or negligence.
>
> ***Forcible Trespass*** - A forcible trespass is the highhanded invasion of the actual possession of another who is present and forbidding.
>
> ***Trespasser*** – One who does an unlawful act, or a lawful act in an unlawful manner, to the injury of the person or property of another. Thus, a trespasser is one who makes an unauthorized entry on another's property, without the privilege to do so created by the possessor's consent or otherwise. . . . Alternatively, a trespasser is one who unlawfully enters or intrudes upon another's land, or unlawfully and forcibly takes another's personal property

1. As a matter of law, Conspirators acted as trespassers in the unauthorized entrty of Newsome's storage unit located at 1109 Alfred Street – Unit 173, Cincinnati, Ohio 45214. Therefore, Newsome is requesting through this instant Complaint that an investigation into the claims and allegations set forth herein and that those found to have acted in such unlawful/illegal manner be prosecuted and indicted for said legal wrongs.

2. Newsome learned of the criminal actions of Conspirators upon contacting the Clerk of Court's Office in the Hamilton County Municipal Court on September 10, 2009.

3. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

4. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

XVIII. LARCENY:

> **Larceny** - The unlawful taking and carrying away of someone else's personal property with the intent to deprive the possessor of it permanently. *Common-law larceny has been broadened by some statutes to include embezzlement and false pretense, all three of which are often subsumed under the statutory crime of "theft."
>
> > "The criminal offence of larceny or theft in the Common Law was intimately connected with the civil wrong of trespass. 'Where there has been no trespass,' said Lord Coleridge, 'there can at law be no larceny.' Larceny, in other words, is merely a particular kind of trespass to goods which, by virtue of the trespasser's intent, is converted into a crime. Trespass is a wrong, not to ownership but to *possession*, and theft, therefore, is not the violation of a person's right to ownership, but the infringement of his possession, accompanied with a particular criminal intent."
>
> **Aggravated Larceny** - Larceny accompanied by some aggravating factor (as when the theft is from a person).
>
> **Grand Larceny** - Larceny of property worth more than a statutory cutoff amount, usu. $100.

Mixed Larceny - (1) Larceny accompanied by aggravation or violence to the person. (2) Larceny involving a taking from a house.

1. Conspirators committed larceny by unlawfully/illegally carrying away Newsome's property/possessions located at 1109 Alfred Street – Unit 173, Cincinnati, Ohio 45214 and the taking away of her storage unit and property/possession with full intent to deprive her permanently of said storage unit and property. Conspirators knew and/or should have known that they were trespassing. By committing such legal wrongs Conspirators infringed upon the Constitutional and Civil Rights of Newsome. Therefore, Newsome is requesting through this instant Complaint that an investigation into the claims and allegations set forth herein and that those found to have acted in such unlawful/illegal manner be prosecuted and indicted for said legal wrongs.

2. Newsome files the instant Complaint and request investigation of and against Conspirators for aggravated larceny. Said criminal actions being committed for purposes of **(a)** unlawfully/illegally depriving Newsome of her storage unit and property/possession; **(b)** for the theft and/or unlawful/illegal action to take monies to which they are not entitled to in excess of $3,000.00; **(c)** the value of property stolen from Newsome exceeds $100.00; **(d)** for the unlawful/illegal taking of Newsome's storage unit; **(e)** to commit aggravated larceny, grand larceny and/or mixed larceny against Newsome.

3. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

4. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found culpable through said investigation to be guilty of the crime of larceny, conspiracy to commit larceny, and/or their participation in such larceny set forth herein against Newsome. Moreover, Conspirators that knew and/or had knowledge that said larceny was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so. Conspirators allowed said crimes to be committed for their own personal and financial gain.

XIX. INVASION:

Invasion - (1) A hostile or forcible encroachment on the rights of another.

> Intentional Invasion - A hostile or forcible encroachment on another's interest in the use or enjoyment of property, esp. real property, though not necessarily inspired by malice or ill will.

Invasion of Privacy - An unjustified exploitation of one's personality or intrusion into one's personal activities, actionable under tort law and sometimes under constitutional law.

Invasion of Privacy by Intrusion - An offensive, intentional interference with a person's seclusion or private affairs.

Intrusion - (1) A person entering without permission. (2) In an action for invasion of privacy, a highly offensive invasion of another person's seclusion or private life.

Intruder - A person who enters, remains on, uses, or touches land or chattels in another's possession without the possessor's consent.

1. Conspirators for **(a)** Invasion; **(b)** Invasion of Privacy; **(c)** Invasion of Privacy by Intrusion in that:

> **(i)** Conspirators acted with hostile intent as well as forcible en**c**roachment and/or allowed others to forcibly encroach upon the protected rights of Newsome. Rights secured under the Constitution (Ohio and United States), Civil Rights Act, Landlord & Tenant Act and other statutes/laws governing said matters; **(ii)** said invasion was "intentionally" done with hostility, anger, envy, jealousy, prejudice, discrimination, ill intent, malice, corruption, etc. and/or forcible encroachment on Newsome's interest in the use of enjoyment of her property/storage unit; **(iii)** said crime was an invasion of Newsome's privacy and was an unlawful/illegal and unjustified exploitation of Newsome's life, intrusion into Newsome's personal life, liberties and pursuit of happiness, as well as other rights secured/guaranteed under the Constitution, Civil Rights Act and other statutes/laws governing said matters; **(iv)** said criminal acts being an invasion of privacy by intrusion which being offensive and an intentional interference with Newsome's seclusion and/or private life/affairs; **(v)** Conspirators intruding and/or unlawfully taking and/or participated in the unlawful taking of Newsome's storage unit and property/possessions and continue to use her storage unit to destroy evidence, and cover up their crime.

Said invasion/intrusion took place at Newsome's storage unit located at 1109 Alfred Street – Unit 173, Cincinnati, Ohio 45214. Therefore, Newsome is requesting through this instant Complaint that an investigation into the claims and allegations set forth herein and that those found to have acted in such unlawful/illegal manner be prosecuted and indicted for said legal wrongs.

2. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of the intrusion/invasion, conspiracy to commit intrusion/invasion, and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said invasion/intrusion was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

3. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

XX. UNLAWFUL ENTRY/FORCIBLE ACTIONS:

> ***Unlawful Entry*** - (1) The crime of entering another's real property, by fraud or other illegal means, without the owner's consent.
>
> ***Forcible*** - Effected by force or threat of force against opposition or resistance.
>
> ***Forcible Detainer*** - (1) The wrongful retention of possession of property by one originally in lawful possession, often with threats or actual use of violence.
>
> ***Forcible Entry and Detainer*** - (1) The act of violently taking and keeping possession of lands and tenements without legal authority. (2) A quick and simple legal proceeding for regaining possession of real property from someone who has wrongfully taken, or refused to surrender, possession.
>
> ***Forcible Entry*** - (1) The act or an instance of violently and unlawfully taking possession of lands and tenements against the will of those in lawful possession. (2) The act of entering land in another's possession by the use of force against another or by breaking into the premises.

1. Conspirators unlawfully entered Newsome's storage unit located at 1109 Alfred Street – Unit 173, Cincinnati, Ohio 45214. Therefore, Newsome is requesting through this instant Complaint that an investigation into the claims and allegations set forth herein and that those found to have acted in such unlawful/illegal manner be prosecuted and indicted for said legal wrongs.

2. Conspirators committed crime of entering Newsome's storage unit by fraud, other illegal means and without Newsome's consent. Prior to entering, Conspirators knew and/or should have known that they were committing a crime/felony; however, elected to participate in the actual crime itself and/or the allowance of the crime in which they could have prevented.

3. The taking of Newsome's storage unit being by force and excelled to the vandalizing of Newsome's storage unit to obtain access and destroy her property/possession and evidence.

4. Newsome was subjected to the violent taking and keeping of certain property/possessions without legal authority.

5. Newsome was subjected to the unlawful entry of her storage unit by the use of excessive force and the breaking into her storage unit.

6. Stor-All, their attorneys, Judges and Co-Conspirators knew that such acts were criminal, nevertheless, they made a conscious, deliberate and willful decision to allow said crimes to be committed of and against Newsome.

7. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal

acts; however, neglected or refused to do so.

8. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of the crime of theft, conspiracy to commit theft, and/or their participation in such theft set forth herein against Newsome's property/possessions. Moreover, Conspirators knew and/or had knowledge that said theft was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

XXI. OBSTRUCTION OF JUSTICE/PROCESS:

Obstruction of Justice - Interference with the orderly administration of law and justice, as by giving false information to or withholding evidence from a police officer or prosecutor, or by harming or intimidating a witness or juror. *Obstruction of justice is a crime in most jurisdictions.

Obstruction of Process - Interference of any kind the lawful service or execution of a writ, warrant, or other process. *Most jurisdictions make this offense a crime.

O.R.C. § 2921.52 USING SHAM LEGAL PROCESS.

(A) As used in this section:

(1) "Lawfully issued" means adopted, issued, or rendered in accordance with the United States constitution, the constitution of a state, and the applicable statutes, rules, regulations, and ordinances of the United States, a state, and the political subdivisions of a state.

(2) "State" means a state of the United States, including without limitation, the state legislature, the highest court of the state that has statewide jurisdiction, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state. "State" does not include the political subdivisions of the state.. . .

(4) "Sham legal process" means an instrument that meets all of the following conditions:

(a) It is not lawfully issued.

(b) It purports to do any of the following:

(i) To be a summons, subpoena, judgment, or order of a court, a law enforcement officer, or a legislative, executive, or administrative body.

(ii) To assert jurisdiction over or determine the legal or equitable status, rights, duties, powers, or privileges of any person or property.

(iii) To require or authorize the search, seizure, indictment, arrest, trial, or sentencing of any person or property.

(c) It is designed to make another person believe that it is lawfully issued.

(B) No person shall, knowing the sham legal process to be sham legal process, do any of the following:

(1) Knowingly issue, display, deliver, distribute, or otherwise use sham legal process;

(2) Knowingly use sham legal process to arrest, detain, search, or seize any person or the property of another person;

(3) Knowingly commit or facilitate the commission of an offense, using sham legal process;

(4) Knowingly commit a felony by using sham legal process.

(C) It is an affirmative defense to a charge under division (B)(1) or (2) of this section that the use of sham legal process was for a lawful purpose.

(D) Whoever violates this section is guilty of using sham legal process. A violation of division (B)(1) of this section is a misdemeanor of the fourth degree. A violation of division (B)(2) or (3) of this section is a misdemeanor of the first degree, except that, if the purpose of a violation of division (B)(3) of this section is to commit or facilitate the commission of a felony, a violation of division (B)(3) of this section is a felony of the fourth degree. A violation of division (B)(4) of this section is a felony of the third degree.

(E) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this division. A civil action under this division is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.

1. Newsome files this instant Complaint and request an investigation to determine whether there has been an obstruction of justice in the carrying out and/or commission of the criminal actions of Conspirators of and against Newsome. Furthermore, whether Conspirators interfered with the orderly administration of law and justice, as by giving false information, acting without legal authority, bribery, blackmail, withholding evidence, **tampering** and/or **obstructing** service of process, withholding evidence from those they engaged to carry out criminal acts on their behalf, furthering the subjection of Newsome to harm/injury, harassment, threats, intimidation, humiliation, discrimination, prejudices, deprivation of protected rights, etc. for her election to exercise her rights under the Constitution, Civil Rights Act and other governing statutes/laws.

2. ***Obstruction of Process*** - Investigation into the handling of the *of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* and/or document Conspirators relied upon on or about September 9, 2009, to commit the crimes rendered against Newsome. Moreover, to determine whether there was an obstruction of process wherein Conspirators interfered with service and/or obtained an unlawful/illegal Warrant of Possession and/or the document they relied upon to Newsome unlawfully/illegally removed from her storage unit. Furthermore, whether said handling of process was in compliance with the statutes/laws governing said matters. Whether said process was handled in a manner to deliberately, willfully and maliciously deprive Newsome equal protection of the laws and due process of laws. Whether said process was handled in a manner to infringe upon the protected rights of Newsome.

3. ***False Pretense*** - Investigation into whether a crime was committed through false pretenses - for the purpose of fraud and knowingly obtaining Newsome's storage unit/property by misrepresenting the facts, clearly violating statutes/laws made known to Conspirators, that give them sufficient notice that they were acting in violation of statutes/laws and that said actions were criminal in nature. Therefore, Newsome is requesting through this instant Complaint that an investigation into the claims and allegations set forth herein and that those found to have acted in such unlawful/illegal manner be prosecuted and indicted for said legal wrongs.

4. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of obstructing justice and/or their participation in such obstruction of justice set forth in this instant Complaint against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said justice was being obstructed through criminal acts and/or behavior and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

5. On September 9, 2009, Judge Allen and David Meranus engaged in the creation and/or initiation of *Writ of Execution* and/or *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* wherein they knew was neither legal nor lawful and could not lawfully be enforced.

6. Judge Allen and David Meranus caused to be created and/or initiated *Writ of Execution* and/or *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* - sham legal process – which was not legally nor lawfully issued.

7. Judge Allen and David Meranus caused to be created and initiated instruments - *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* - that failed to be lawfully issued for purposes of obstruction of justice for purposes of commanding the "Bailiff of the Hamilton County Municipal Court to engage in criminal activity to acquire through an unauthorized search and unauthorized seizure to give *"plaintiff(s) restitution of the same; also, that you levy of the goods and chattels of said defendant(s), and make the costs aforesaid, and all accruing costs."* Actions taken by Judge Allen and Meranus were done to make another person believe that *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* were lawfully issued.

8. Conspirators knew and or should have known that *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* were sham legal process. Moreover, Bailiff and/or Co-Conspirators had a duty and obligation to determine whether or not the statutes/laws were followed in the issuance of *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. Because Bailiff and/or Co-Conspirators failed to determine whether or not *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* were legal and/or lawfully authorized he/she engaged and/or aided and abetted such criminal acts; therefore, providing the ***components of the object*** [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] ***needed to bring about the completion of the object/goal*** [i.e. **COVER-UP** and ***destroying evidence*** through criminal acts of Stor-All in the unlawful/illegal seizure of Newsome's storage unit and property without legal/lawful authority. Said cover-up and destroying of evidence could not be accomplished without: (a) Stor-All obtaining an unlawful/illegal Entry by Judge West on or about April 29, 2009, Granting Bifurcation and Remand. ***Once Judge West completed his role in the conspiracy – with knowledge that Municipal Court lacked jurisdiction*** *– Stor-All* ***pounced on such criminal acts*** *of*

Judge West and filed in the Hamilton County Municipal Court (Case No. 09CV01690) *its Motion for Partial Summary Judgment With Affidavit of Leslie Smart Attached*; and (b) Judge Allen on September 9, 2009, executed NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. Once Judge Allen completed her role in the conspiracy, Stor-All and other Co-Conspirators moved swiftly to act Allen's rulings. As a direct and proximate result of Judge West's and Judge Allen's role in the conspiracy, they aided and abetted the commission of a series of crimes to be carried out by other Conspirators. Judge West and Judge Allen aided and abetted with knowledge they were engaging in criminal activity – moreover, the record evidence will support that courts were timely, properly and adequately notified through filing of Newsome of criminal acts. To no avail. Judge Allen and Judge West willingly and knowingly authorized the carrying out of criminal acts against Newsome. Having the power to prevent, elected instead to engage in the crimes of their Co-Conspirators.] ***which was accomplished.*** - - - Now Stor-All is attempting to use the NULL/VOID *of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* as a defense to obtain a **lifting of a court-ordered stay** and **dismissal of Newsome's counterclaim**. Such efforts are memorialized in Stor-All's pleadings in the Hamilton County Court of Common Pleas (Case No. A0901302) submitted for filing: September 10, 2009 ***Motion to Lift the Court Ordered Stay*** and September 18, 2009 ***12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached***] – ***to support charges in FBI Criminal Complaint***.

9. The use of the *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* was for no lawful or legal intent; moreover, was done in furtherance of conspiracy to obstruct the administration of justice, deprive Newsome rights, infringe upon Newsome's protected rights, etc.

10. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

11. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

XXII. COLOR OF LAW:

> The appearance of semblance, without the substance, of a legal right. *The term u.s.u. implies a misuse of power made possible because the wrongdoer is clothed with the authority of the state.

CUT & PASTED FROM: http://www.fbi.gov/hq/cid/civilrights/color.htm

Color of Law



U.S. law enforcement officers and other officials like judges, prosecutors, and security guards have been given tremendous power by local, state, and federal government agencies—authority they must have to enforce the law and ensure justice in our country. These powers include the authority to detain and arrest suspects, to search and seize property, to bring criminal charges, to make rulings in court, and to use deadly force in certain situations. . . .

Preventing abuse of this authority, however, is equally necessary to the health of our nation's democracy. That's why it's a federal crime for anyone acting under "color of law" willfully to deprive or conspire to deprive a person of a right protected by the Constitution or U.S. law. "Color of law" simply means that the person is using authority given to him or her by a local, state, or federal government agency.

The FBI is the lead federal agency for investigating color of law abuses, which include acts carried out by government officials operating both within and beyond the limits of their lawful authority. . .

During Fiscal Year 2005, the FBI investigated more than 1,100 color of law cases. Most of these crimes fall into five broad areas:

- excessive force; . . .
- false arrest and fabrication of evidence;
- deprivation of property; and
- failure to keep from harm.

False arrest and fabrication of evidence: The Fourth Amendment of the U.S. Constitution guarantees the right against unreasonable searches or seizures. A law enforcement official using authority provided under the color of law is allowed to stop individuals and, under certain circumstances, to search them and retain their property. It is in the abuse of that discretionary power—such as an unlawful detention or illegal confiscation of property—that a violation of a person's civil rights may occur.

Fabricating evidence against or falsely arresting an individual also violates the color of law statute, taking away the person's rights of due process and unreasonable seizure. In the case of deprivation of property, the color of law statute would be violated by unlawfully obtaining or maintaining a person's property, which oversteps or misapplies the official's authority.

The Fourteenth Amendment secures the right to due process; the Eighth Amendment prohibits the use of cruel and unusual punishment. During an arrest or detention, these rights can be violated by the use of force amounting to punishment (summary judgment). The person accused of a crime must be allowed the opportunity to have a trial and should not be subjected to punishment without having been afforded the opportunity of the legal process.

Failure to keep from harm: The public counts on its law enforcement officials to protect local communities. If it's shown that an official willfully failed to keep an individual from harm, that official could be in violation of the color of law statute.

Filing a Complaint
To file a color of law complaint, contact your local FBI office by telephone, in writing, or in person. The following information should be provided:

- all identifying information for the victim(s);
- as much identifying information as possible for the subject(s), including position, rank, and agency employed;
- date and time of incident;
- location of incident;
- names, addresses, and telephone numbers of any witness(es);
- a complete chronology of events; and
- any report numbers and charges with respect to the incident.

You may also contact the United States Attorney's Office in your district or send a written complaint to:

Assistant Attorney General
Civil Rights Division
Criminal Section
950 Pennsylvania Avenue, Northwest
Washington, DC 20530

FBI investigations vary in length. Once our investigation is complete, we forward the findings to the U.S. Attorney's Office within the local jurisdiction and to the U.S. Department of Justice in Washington, D.C., which decide whether or not to proceed toward prosecution and handle any prosecutions that follow.

Civil Applications
Title 42, U.S.C., Section 14141 makes it unlawful for state or local law enforcement agencies to allow officers to engage in a **pattern or practice of conduct** that deprives persons of rights protected by the Constitution or U.S. laws. This law, commonly referred to as the Police Misconduct Statute, gives the Department of Justice authority to seek civil remedies in cases where law enforcement agencies have policies or practices that foster a pattern of misconduct by employees. This action is directed against an agency, not against individual officers. The types of issues which may initiate a pattern and practice investigation include:

- Lack of supervision/monitoring of officers' actions;
- Lack of justification or reporting by officers on incidents involving the use of force;
- Lack of, or improper training of, officers; and
- Citizen complaint processes that treat complainants as adversaries.

CUT & PASTED FROM: http://www.fbi.gov/hq/cid/civilrights/statutes.htm
Title 18, U.S.C., Section 242
Deprivation of Rights Under Color of Law

This statute makes it a crime for any person acting under color of law, statute, ordinance, regulation, or custom to willfully deprive or cause to be deprived from any person those rights, privileges, or immunities secured or protected by the Constitution and laws of the U.S.

This law further prohibits a person acting under color of law, statute, ordinance, regulation or custom to willfully subject or cause to be subjected any person to different punishments, pains, or penalties, than those prescribed for punishment of citizens on account of such person being an alien or by reason of his/her color or race.

Acts under "color of any law" include acts not only done by federal, state, or local officials within the bounds or limits of their lawful authority, but also acts done without and beyond the bounds of their lawful authority; provided that, in order for unlawful acts of any official to be done under "color of any law," the unlawful acts must be done while such official is purporting or pretending to act in the performance of his/her official duties. This definition includes, in addition to law enforcement officials, individuals such as Mayors, Council persons, Judges, Nursing Home Proprietors, Security Guards, etc., persons who are bound by laws, statutes ordinances, or customs.

Punishment varies from a fine or imprisonment of up to one year, or both, and if bodily injury results or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire shall be fined or imprisoned up to ten years or both, and if death results, or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

1. Through this instant Complaint, Newsome request that an investigation be had to determine whether Conspirators acting under color of law, misused, abused, usurped, etc. their authority/power for purposes of subjecting Newsome to criminal actions. Moreover, whether those acting under color of law knew and/or should have known they were committing criminal acts and lacked jurisdiction and/or authority to proceed in the manner in which they did. Newsome further seeks through this Complaint that an investigation be had to determine whether Conspirators acting under color of law acted with malice, corrupt motive, ill intent, discrimination, prejudices, etc. towards Newsome for her exercising rights secured/guaranteed under the Constitution and/or statutes/laws governing the matters before them. If any such criminal violations and/or acts are found by those acting under color of law, that said Conspirators be prosecuted and indicted in accordance with the statutes/laws governing such criminal wrongs and injustices.

2. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal

acts; however, neglected or refused to do so.

3. sNewsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

XXIII. CONSPIRACY AGAINST RIGHTS:

1. Newsome requests through the filing of this instant Complaint and investigations as to whether or not there has been a conspiracy against her rights pursuant to 18 U.S.C. § 241. Conspiracy Against Rights:

> If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or
>
> If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—
>
> They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

If so, Newsome through the filing of this instant Complaint and investigation seeks the prosecution and indictment of Conspirators found through said investigation to be guilty of conspiracy against rights. Moreover, all Conspirators that knew and/or had knowledge that said conspiracy was being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

2. Conspirators, under color of their office or authority, knowingly deprived or conspired to deprive Newsome of constitutional and statutory rights.

3. Conspirators, under color of their office or authority, knowingly interfered with Newsome's civil rights.

4. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of Conspirators found through said investigation to be guilty of violations under this section and/or their participation in such acts set forth herein against Newsome. Moreover, all

Conspirators that knew and/or had knowledge that said crime was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

5. Newsome demands that the applicable charges be filed of and against Conspirator(s) found through the investigation of this Complaint to have committed said crime(s); moreover, that said Conspirators be indicted and if applicable that the maximum penalty [i.e. fine **and** imprisonment] be sought if the evidence supports a PATTERN-OF-PRACTICE and/or PATTERN-OF-CONDUCT by Conspirator(s) who committed said crime(s). Newsome further seeks any and all applicable relief known to the FBI, its Agents/Investigators, etc. to deter such criminal acts and to protect the public and/or citizens.

XXIV. CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS:

1. Newsome requests through the filing of this instant Complaint and investigations as to whether or not there has been a conspiracy against her rights pursuant to 42 U.S.C. § 1985. Conspiracy to Interfere With Civil Rights:

> **(2)** Obstructing justice; intimidating party, witness, or juror:
>
> > If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;
>
> **(3)** Depriving persons of rights or privileges:
>
> > If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of

> any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

O.R.C. § 2921.45 Interfering with civil rights.

> (A) No public servant, under color of his office, employment, or authority, shall knowingly deprive, or conspire or attempt to deprive any person of a constitutional or statutory right.
>
> (B) Whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree.

Moreover, to determine whether there was a conspiracy to **(1)** deprive Newsome of protected rights; **(2)** injure, oppress, threaten, or intimidate Newsome whose storage unit is located in the State of Ohio, City of Cincinnati, County of Hamilton in the free exercise or enjoyment of protected rights or privileges secured by her under the Constitution and laws of the United States, or because of her so exercising her right to seek justice for the wrongs complained of in lawsuit and/or actions brought by her. **(3)** whether Conspirators went into the storage unit of Newsome with intent to prevent or hinder her from the free exercise or enjoyment of her storage unit and exercise of right or privilege to live in a place of her choice. Moreover, whether Stor-All, their counsel, Judges and others engaged in criminal activities to force Newsome to abandon her storage unit and deprive her rights secured under the Landlord & Tenant Act and other applicable statutes/laws governing said matters.

If so, Newsome through the filing of this instant Complaint and investigation seeks the prosecution and indictment of Conspirators found through said investigation to be guilty of conspiracy against rights. Moreover, all Conspirators that knew and/or had knowledge that said conspiracy was being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

XXV. FACTS PERTINENT TO UNDERSTANDING CLAIMS/ALLEGATIONS:

INTRODUCTION

1. Vogel Denise Newsome is Newsome's full name. Born in Heidelberg, Germany. Newsome's greatest accomplishment is accepting Jesus Christ as her Lord and Savior approximately 20 years ago. Newsome is a Christian (taking living such a life very seriously and is not a hypocrite). Graduate of Florida A&M University with a B.S. Degree. Making Who's Who Among American High School Students. State Champion in Track & Field. Ranked amongst this country's best and competed with this country's best in Track & Field – i.e. Long Jump, 600 Meters, 4x400 Relay. Qualifying for Olympic Trials and competing in the 1988 Olympic Trials – with this country's best/elite.

2. The top three people that have inspired Newsome are: (a) Jesus Christ – the son of a carpenter and a person who is said to have been a carpenter by trade himself; however, he was perceived to be a counselor, lawyer, prophet, etc.; (b) her great grandfather (Milligan Newsome) whose life was wrongfully taken at an early age by a white man who was a racist and like Stor-All and those whom they have conspired with took was not legally and/or lawfully theirs to take. (See **EXHIBIT "5"** attached hereto and incorporated herein by reference as if set forth in full herein); and her Aunt Naomi Newsome Brookins - who is the Author of ***Naomi's Story: You Don't Have To Be Broken***. (See **EXHIBIT "6"** attached hereto and incorporated herein by reference as if set forth in full herein). Therefore, Newsome will rely upon the Word of God (Bible – King James Version) and the statutes/laws of this country and State of Ohio to address issues set forth herein. If doing so is taken as labeling Newsome as a Christian fanatic – so be it because Newsome will not be ashamed of the Gospel nor the testimonies obtained from the trials and tribulations she has had to endure awaiting justice – ***2 Timothy 1: 7-9***.[25] However, it will support why those who have come against Newsome have failed and have resorted to evil and wicked tactics to destroy her life and obtain undue advantage in matters brought against her and/or by her. Moreover, will support that Newsome is abiding by the laws of the land which are not for her but those who are opposing her and have subjected her to such discriminatory and unlawful/illegal practices – ***1 Timothy 1:5-13***.[26] It is good to be able to believe and serve a God that has delivered Newsome from such destructive ways. For how can one profess to be a Christian (to be Christ-like) and not go through a transformation but continue to do the same evil and wick deeds to others. For one will know a person by the fruit that he/she bears. There is no way one that is professing to be a Christian (or whatever their faith or religion is - unless it is a racist group such as the Klu Klux Klan) would be engaged in the criminal and unlawful/illegal practices leveled against Newsome. Just no way.[27]

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[25] [7]For God hath not given us the spirit of fear; but of power, and of love, and of a sound mind.
[8]**Be not thou therefore ashamed of the testimony of our Lord, nor of me his prisoner: but be thou partaker of the afflictions of the gospel according to the power of God;**
[9]Who hath saved us, and called us with an holy calling, not according to our works, but according to his own purpose and grace, which was given us in Christ Jesus before the world began,

[26] [5]Now the end of the commandment is charity out of a pure heart, and of a good conscience, and of faith unfeigned:
[6]From which some having swerved have turned aside unto vain jangling;
[7]Desiring to be teachers of the law; understanding neither what they say, nor whereof they affirm.
[8]**But we know that the law is good, if a man use it lawfully;**
[9]Knowing this, that the law **is <u>not</u>** made for a righteous man, ***but for the lawless and disobedient***, ***for the ungodly and for sinners***, ***for unholy and profane***, ***for murderers of fathers*** and ***murderers of mothers***, ***for manslayers***,
[10]***For whoremongers***, for ***them that defile themselves with mankind***, for ***menstealers***, ***for liars***, ***for perjured persons***, and if there be any other thing that is contrary to sound doctrine;
[11]According to the glorious gospel of the blessed God, which was committed to my trust.
[12]And I thank Christ Jesus our Lord, who hath enabled me, for that he counted me faithful, putting me into the ministry;
[13]*<u>Who was before a blasphemer, and a persecutor, and injurious: but I obtained mercy, because I did it ignorantly in unbelief</u>*.

[27] [8]But the tongue can no man tame; it is an unruly evil, full of deadly poison.
[9]Therewith bless we God, even the Father; and therewith curse we men, which are made after the similitude of God.
[10]Out of the same mouth proceedeth blessing and cursing. My brethren, these things ought not so to be.
[11]Doth a fountain send forth at the same place sweet water and bitter?
[12]Can the fig tree, my brethren, bear olive berries? either a vine, figs? so can no fountain both yield salt water and fresh.
[13]Who is a wise man and endued with knowledge among you? let him shew out of a good conversation his works with meekness of wisdom.
[14]**But if ye have bitter envying and strife in your hearts, glory not, and lie not against the truth.**
[15]**This wisdom descendeth not from above, but is earthly, sensual, devilish.**
[16]**For where envying and strife is, there is confusion and every evil work.**
[17]*But the wisdom that is from above is first pure, then peaceable, gentle, and easy to be intreated, full of mercy and good fruits,* ***without <u>partiality</u>****, and* ***without <u>hypocrisy</u>****.*
[18]And the fruit of righteousness is sown in peace of them that make peace.

3. If Newsome's setting forth and exposing the truth regarding corrupt practices, discrimination, prejudices, etc. cause resentment and hatred, so be it – ***Galatians 4: 16***.[28] The truth is what it is. While this county (the United States) has the inscription "In God We Trust" on its currency, it is a nation plagued with hypocrisy, discrimination and do not treat all citizens/people equally nor does it equally apply the law when it involves African-Americans and/or people of color. Whites are given preferential treatment over African-Americans and/or people of color and many standby supporting and partaking in such injustices – ***1 Timothy 5:20-21***.[29] Accepting bribes from those who are much wealthier, their insurance providers, lobbyist, etc. to cover up such discrimination, prejudices and unlawful/illegal actions – ***James 2:1-10***.[30] Either financing such bribes or ***strengthening the hands of such evildoers*** by paying for the services to oppress the lives of African-Americans, people of color and/or the poor – ***Jeremiah 23:14***;[31] therefore, said evildoers continue to engage in such criminal practices because they have repeatedly gotten away with it. Nevertheless, like so many habitual criminals, their crimes eventually catch up with them – ***Ecclesiastes 8:11***.[32]

PATTERN OF CORRUPT ACTIVITY

CHARACTER/ETHICAL PRACTICES

4. In that it is obvious the evil and wicked has sought to destroy Newsome's life, slander her name and project her as a serial litigator and/or vexatious litigator, it is important to address such attacks against her. For it is apparent that the good that Newsome is working towards is being evil spoken of by those whom thrive and do the biding of their father (the Word of God calls their father the Devil)– ***John 8: 39-45.***[33] Nevertheless, if because of the justice and good that Newsome seeks for all men/women is to

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[28] **16Am I therefore become your enemy, because I tell you the truth?**

[29] **20**Them that sin rebuke before all, that others also may fear.
21I charge thee before God, and the Lord Jesus Christ, and the elect angels, that thou ***observe these things without preferring one before another, doing nothing by partiality***.
22Lay hands suddenly on no man, ***neither be partaker of other men's sins: keep thyself pure***.

[30] **1**My brethren, have not the faith of our Lord Jesus Christ, the Lord of glory, with respect of persons.
2For if there come unto your assembly a man with a gold ring, in goodly apparel, and there come in also a poor man in vile raiment;
3And *ye have respect to him that weareth the gay clothing, and say unto him, Sit thou here in a good place; and say to the poor, Stand thou there, or sit here under my footstool*:
4Are ye not then partial in yourselves, and are become judges of evil thoughts?
5Hearken, my beloved brethren, Hath not God chosen the poor of this world rich in faith, and heirs of the kingdom which he hath promised to them that love him?
6But ye have despised the poor. Do not rich men oppress you, and draw you before the judgment seats?
7Do not they blaspheme that worthy name by the which ye are called?
8If ye fulfil the royal law according to the scripture, Thou shalt love thy neighbour as thyself, ye do well:
9*But if ye have respect to persons, ye commit sin, and are convinced of the law as transgressors.*
10*For whosoever shall keep the whole law, and yet offend in one point,* **he is *guilty* of *all***.

[31] **14***I have seen also in the prophets of Jerusalem an horrible thing: they commit adultery, and walk in lies: they* ***strengthen also the hands of evildoers****, that none doth return from his wickedness; they are all of them unto me as Sodom, and the inhabitants thereof as Gomorrah*.

[32] **11*Because sentence against an evil work is not executed speedily****, therefore the heart of the sons of men is fully set in them to do evil.*
12Though a sinner do evil an hundred times, and his days be prolonged, yet surely I know that it shall be well with them that fear God, which fear before him:
13But it shall not be well with the wicked, neither shall he prolong his days, which are as a shadow; because he feareth not before God.

[33] 39 They answered and said unto him, Abraham is our father. *Jesus saith unto them,* ***If ye were Abraham's children****, ye* ***would do the works*** *of Abraham.*
40 *But now ye seek to* ***kill*** *me,* ***a man that hath told you the truth****, which I have heard of God: this did* ***not*** *Abraham.*
41 *Ye do the deeds of your father.* Then said they to him, We be not born of fornication; we have one Father, even God.
42 Jesus said unto them, **If** God were your Father, *ye would love me: for I proceeded forth and came from God; neither came I of myself, but he sent me.*

be evil spoken of – so be it (look at the lives of those who persecute her for such) – ***I Peter 4:12-19***.[34] Look at what great lengths the evil and wicked will go to destroy Newsome's life. The racial injustices and prejudices leveled against African-Americans and/or people of color is no secret – neither is it of those who commit to do such wrongs. In fact, Stor-All and its Co-Conspirators may to go to church (or some religious service) just about every Saturday, Sunday, etc (whenever their service is) to project a ***form*** of godliness, to appear holy, ***sanctimonious***, ***pious***, ***religious***, etc. for purposes of deceit and to further his/her evil intentions in the persecution of Christians/Saints. *Moreover, some only for the sole purposes of getting votes on Election Day if they are running for public office – some for the purpose of getting clients. For many you do not see until it's time to get your vote. Then they leave and continue in their same old mess- evil and wickedness.*

5. Yes, Newsome professes to be a Christian. So how is she living her life before others and how are her work ethics with employers. See for yourself through references given by those who have had an opportunity to be blessed to work with Newsome over the years:

> This letter is to confirm and recommend Ms. Vogel Newsome to a position of Executive Assistant, Administrative Assistant or greater. While working with Lash Marine, she performed the duties of Executive Assistant with skill and energy. Her spirit and motivation acted as a beacon of light to others. Her leadership and training of others was a great service. Always willing to share; she possess a unique ability to teach complex skills to the beginner and bring them quickly up to speed. In addition, being a caring and concerned citizen she put aside her time to train and work with Training, Inc. employees to develop their office skills for a better future.
>
> She is an asset and will be sorely missed at Lash Marine. - - ROBERT K. LANSDEN (**VICE PRESIDENT**)

> I have been very, very pleased with Vogel, not only in terms of her work product, but also in terms of her attitude and personality. I would rate her as one of the best legal secretaries with whom I have ever worked. I would highly recommend her to any one who is looking for a full-time legal secretary. If my previous secretary were not rejoining me, I would want Vogel to be my new permanent secretary.
>
> If any one would care to discuss Vogel with me, please do not hesitate to give them my name and number. I will be more than happy to

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43 *Why do ye not understand my speech? even because ye cannot hear my word.*

44 ***Ye are of your father the devil**, and the lusts of your father ye will do. **He was a murderer** from the beginning, **and abode not in the truth**, **because there is no truth in him**. When he speaketh a lie, he speaketh of his own: **for he is a liar, and the father of it**.*

45 And *because **I tell you the truth**, ye believe me not.*

[34] **12**Beloved, think it not strange concerning the fiery trial which is to try you, as though some strange thing happened unto you:

13But rejoice, inasmuch as ye are partakers of Christ's sufferings; that, when his glory shall be revealed, ye may be glad also with exceeding joy.

14**If ye be reproached for the name of Christ, happy are ye*; for the spirit of glory and of God resteth upon you: ***on their part he is evil spoken of, but on your part he is glorified.

15*But let none of you suffer as* a **murderer**, or as **a thief**, or as **an evildoer**, or as ***a busybody** in other men's matters*.

16Yet if any man suffer as a Christian, let him not be ashamed; but let him glorify God on this behalf.

17For the time is come that judgment must begin at the house of God: and if it first begin at us, what shall the end be of them that obey not the gospel of God?

18And if the righteous scarcely be saved, where shall the ungodly and the sinner appear?

19Wherefore let them that suffer according to the will of God commit the keeping of their souls to him in well doing, as unto a faithful Creator.

talk with them.

I am not certain of the exact day when my previous secretary will rejoin me. It could be immediately, or, it could be a couple of weeks. In light of that, we would like to request that we be allowed to continue to work with Vogel until further notice. However, the last thing I want to do is have Vogel miss another good opportunity that might lead to permanent employment. Therefore, if she must be reassigned, I will understand, but grudgingly so.. . . . - - RALPH B. GERMANY, JR. (**ATTORNEY**)

I was first introduced to Ms. Newsome over five (5) years ago. Since that time, she has been a Woman of integrity and intelligence. Ms. Newsome always has presented herself in a professional manner and has always addressed me and others with the uttermost of respect. Ms. Newsome outgoing personality and personal strengths would make her an excellent additional to anyone's staff. I have had the opportunity to work with Ms. Newsome and she has demonstrated flexibility in working outside of her field of endeavor and doing an excellent job is a strong indicator of how well she will do in her chosen field of endeavor. Ms. Newsome demonstrated a willingness to perform any task assigned to her promptly and correctly with little supervision. Ms. Newsome is a very pleasant person to associate with, works as a team player, and would truly be an ASSET to your organization because she is the best one for the job. - - LISA J. WASHINGTON (**COORDINATOR**)

TOMMY PAGE EMAIL – 06/16/05:
TP: "***You looked very smart & professional as you walked toward the building***!"
VN: "Why thank you. I strive to dress and carry myself in the manner in which PKH requires. ☺"
TP: "You do it well." – TOMMY PAGE

Vogel, First and foremost, you are doing an **excellent** job. These are just a few things that I thought of that might save us both some time and help things flow smoother. . . - - SUSAN O. CARR

See **EXHIBIT "7"** attached hereto and incorporated by reference. Neither can it be said that Newsome was not qualified and could not perform the job duties assigned her because her computer skills are excellent - revealing:

Alphanumeric – 8844 kph / 2% error rate
Typing – 60 wpm / 1% error rate
Word 97 – 100 overall (100 on basic, intermediate & advanced)
Excel 97 – 100 overall (100 on basic, intermediate & advanced)

See **EXHIBIT "8"** attached hereto and incorporated by reference.

6. Through an investigation in the handling of this matter, you will find how those who have opposed Newsome in court on behalf of employers, and others have attempted to paint her as a ***"serial litigator," "vexatious litigator,"*** etc. because they are unable to successfully defend against her lawsuits and/or claims submitted countering their clients. Such defense tactics are used by those opposing Newsome to also attempt to paint her as: a) *a serial litigator*, b) *paranoid*, b) *boy-who-cried-wolf*, c) *crazy and/or mentally unstable*, d) *potential murderer*, e) *hostile*, etc. – evidenced in the Hamilton County

Court of Common Pleas (Case No. A0901302) in Stor-All's pleading entitled, *Motion for Protective/Restraining Order Against Defendant Denise V. Newsome*. Nevertheless, through this instant filing, the evidence will support to the contrary and how those persecuting/opposing Newsome have gone to great lengths to cover-up criminal and civil wrongs – relying on corrupt attorneys, corrupt insurance companies and their representatives, lobbyists, etc. to get them off and keep such crimes/civil wrongs hidden from the public. Therefore, supporting, it is Newsome's opponents that are "vexatious litigators," obsessed with committing criminal acts against her and HABITUAL LAWBREAKERS! Using bribery tactics to obtain rulings from corrupt judges and/or corrupt public officials whose duties it is to enforce and uphold the laws. Instead, they turn aside for filthy gain, bribes, perverted rulings, their own lusts/desires, etc. for special favors (*willing to sell their souls – like Judas - if necessary*) - ***I Samuel 8:1-5***.[35] Would one who claims to be a Christian and/or serve a higher spiritual being – striving to live right and treat all men equally/fair – engage in such crimes, evil and wicked acts, and unlawful/illegal behavior? NO!! *Therefore, those supporting judges and/or public officials, etc. engaging in such unlawful/illegal practices do not follow the ways of God and neither can they claim to be Christians or whatever they claim to be under their faith/religion*. As the citizens in the times of old did not support such practices, so it is today. However, such corruption in our courts, on Capitol Hill, Legislature/Congress exist and then when exposed, actions are taken to destroy the life, liberties and pursuit of happiness of individuals exposing such corruption – i.e. such as Newsome's life.

7. It is important to note that the Fifth Circuit Court of Appeals and others have attempted to cover-up the corrupt practices of government officials and the exposure of such corruption. Also important to note how said court instructs Newsome not to bring legal action against government agencies for such corrupt practices and instructed Newsome instead to bring legal action against her employer(s). Government agencies such as the Equal Employment Opportunity Commission, Wage & Hour Division, etc. are required to enforce the statutes/laws under which they are created. However, because said government agencies MANDATORILY (not a matter of discretion) are not required to do so, so many citizens' civil and constitutional rights are violated. All a part of a system to evade the laws and deprive citizens equal protection of the laws and due process of the laws – those being targeted the most for such injustices are African-Americans and/or people of color. Newsome directs the factfinder's attention to *Newsome v. Equal Employment Opportunity Commission*, 301 F.3d 227, wherein she brought a Mandamus action against the EEOC. The Fifth Circuit Court of Appeals instructed:

> *Newsome also is not entitled to the writ because she has another adequate remedy available, i.e.* ***she could file suit in court against her employer****. . . .*

[**EMPHASIS ADDED**] See **EXHIBIT "9"**attached hereto and incorporated by reference. This information is important in that those who have opposed Newsome, brought legal action against Newsome and employers who have subjected Newsome to employment violations as a defense will attempt to use the Fifth Circuit's decision against her. Attempting to use said decision as the Fifth Circuit to mean that said court asserts through *Newsome v. Equal Employment Opportunity Commission,* that all court filings brought by Newsome are ALL frivolous actions – to which the Fifth Circuit Court of Appeals **was <u>not</u>** saying. Preying on the weaknesses, envy, hatred, bias, jealousy, etc. that factfinders may harbor against Newsome for no justifiable reasons and because of her ability to draft and defend against legal actions filed by her, on her behalf or against her. Newsome's ability to do so with or without

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[35] [1]And it came to pass, when Samuel was old, that he made his sons judges over Israel.
[2]Now the name of his firstborn was Joel; and the name of his second, Abiah: ***they were judges*** in Beersheba.
[3]*And his sons walked not in his ways,* ***but turned aside after lucre****, and* ***took bribes****, and* ***perverted judgment****.*
[4]Then all the elders of Israel gathered themselves together, and came to Samuel unto Ramah,
[5]And said unto him, Behold, thou art old, and ***thy sons walk not in thy ways***: now make us a king to judge us like all the nations.

legal counsel. Indeed, the Fifth Circuit advises Newsome she may bring legal lawsuits directly against her employers – covering up the corrupt practices of the government agencies.

8. Because those opposing Newsome have taken it upon themselves to slander her name and to project her as a ***serial*** *litigator*, ***vexatious*** *litigator*, etc. it is important to determine upon what evidence this is based. Newsome is very confident that there is no documentation and/or evidence to sustain the application of such titles to her. All actions brought by Newsome having merits; however, have been subject to conspiracies and corrupt practices. Moreover, it is equally important to note that the United States Supreme Court clearly states that such "serial/vexatious" litigator arguments if true (***when they are not***) would not support denying Newsome the right to bring lawsuits against her employers or others in the future – **because such ruling would be a violation of Newsome's Constitutional Rights**. Neither would the United States Supreme Court support closing the doors of courts to Newsome for the purposes of precluding her from exposing such criminal/civil wrongs leveled against her. Taking *In re McDonald,* 489 U.S. 180, 109 S.Ct. 993 (1989) the United States Supreme Court found:

> Petitioner is no stranger to us. Since 1971, he has made **73** separate filings with the Court, not including this petition, *181 which is his eighth so far this Term. These include 4 appeals,. . . **33** petitions for certiorari, . . . **99** petitions for extraordinary writs,. . . 7 applications for stays and other **995 injunctive relief,*182 044FN;B0055FN;B0066
>
> (n.2) Extraordinary writs are drastic and extraordinary remedies, to be reserved for really extraordinary causes, in which appeal is clearly inadequate remedy.
>
> In the first such act in its almost 200-year history, the Court today bars its door to a litigant prospectively. Jessie McDonald may well have abused his right to file petitions in this Court ***without*** *payment* of the docketing fee; the Court's order documents that fact. I do not agree, however, that he poses such a threat to the orderly administration of justice that we should embark on the *unprecedented* and *dangerous* course the Court charts today. . . .
>
> . . . I am most concerned, however, that if, as I fear, we continue on the course we chart today, we *will end by closing our doors to a litigant with a* ***meritorious*** *claim*. **It is rare, but it does happen** on occasion that *we grant review* **and** *even decide* ***in favor*** *of a litigant who previously had presented* ***multiple unsuccessful****188 *petitions on the* ***same*** *issue*. See, e.g., *Chessman v. Teets*, 354U.S. 156, 77 S.Ct. 1127, 1 L.Ed.2d 1253 (1957); see id., at 173-177, 77 S.Ct. at 1136-1138 (Douglas, J., dissenting).
>
> *Chessman v. Teets*, 354 U.S. 156, 77 S.Ct. 1127, 1 L.Ed.2d 1253 (1957) - [n.5] Prolonged delay in administration of criminal justice will not deter Supreme Court from granting relief that is clearly called for.
>
> [n.6] Requirements of due process must be respected no matter how heinous the crime in question may be and no matter how guilty an accused may ultimately be found to be after guilt has been established in accordance with procedure demanded by the Constitution. U.S.C.A.Const. Amend. 14.

Why, because justice **DEMANDS** that **each** *matter be determined individually and on the merits of each lawsuit and not clumped together or predetermination made without hearing the facts, evidence and legal conclusions sustaining the lawsuit* and/or legal action brought because a litigant is involved or has been involved in other lawsuits – look at Stor-All and the malicious/vexatious lawsuit it has brought against Newsome. Then Stor-All failed to defend its lawsuit in the time permissible by statutes/laws because it

had placed all of its eggs in the "serial/vexatious" litigator basket – to its demise. Then when Newsome brings the applicable PRIVATE legal actions against her employers and/or others, ***those opposing her claims resort to relying upon special favors, ties and relationships with those on the bench and/or working in the judicial system to obtain an undue/unlawful/illegal advantage***. While it is supposed to be a court of law, opposing parties **REPEATEDLY *are not*** required to argue the laws, present evidence for facts to support any defenses raised against Newsome's claims. LAWSUITS INVOLVING NEWSOME ARE PUBLIC RECORD SO SEE FOR YOURSELF! ***Not only that, the record evidence will support how the courts are attempting to close its doors to Newsome so that she will not bring legal actions against her employers for employment violations as the Fifth Circuit has instructed her to do or bring lawsuits against those who have violated the rights of Newsome although timely, proper and sufficient NOTICE OF INTENT TO SUE has been provided by Newsome; however, ignored . Prior to Newsome bringing legal actions, she notifies the proper persons placing them on notice that a lawsuit will be forthcoming. Therefore, such labeling of Newsome is unacceptable! Moreover, attempts by courts to close their doors in efforts to aid criminals and/or those committing criminal/civil wrongs against Newsome is prohibited as a matter of law.*** SUCH ACTS WHICH ARE **CLEARLY UNCONSTITUTIONAL**. *What is this country coming to if the courts are allowed to close its doors to prevent citizens from recovering damages from injury/harm sustained*? Ohio Courts finding:

> *McClure v. Fischer Attached Homes*, 882 N.E.2d 61 (Ohio.Com.Pl.,2007) - *It is the nature of the conduct, **not** the number of actions*, that determines whether a person is a vexatious litigator. R.C. § 2323.52. -- The vexatious litigant statute **is not** *designed to prevent vexatious litigators from proceeding on **legitimate** claims*, but instead establishes a screening mechanism under which the vexatious litigator can petition the court for a determination of whether the proposed claim is legitimate. R.C. § 2323.52.
>
> *Roo v. Sain*, 2005 -Ohio- 2436 (Ohio.App.10.Dist.,2005) - ***Landlord*** engaged in **habitually** persistent, *vexatious conduct*, as required ***to support*** *order declaring **landlord** vexatious litigator* and limiting future litigation against tenant; ***after tenant was granted summary judgment*** on grounds of res judicata in *landlord's action to recover **unpaid** rent that arose from same transaction that was basis for prior **unlawful** detainer action and judgment* was affirmed on appeal, *landlord appealed to Supreme Court, which **denied** jurisdiction* and *then **denied** reconsideration of jurisdiction issue*, ***granted*** **motions for sanctions**, ***denied*** **landlord's motion for relief from sanctions**, and *then **ordered further** sanctions when landlord renewed motion*. R.C. § 2323.52.

Well look at Stor-All responded to Newsome when it lost on her Motion to Transfer. Desperate to get its way it acted with Co-Conspirators (i.e. Judge West and Judge Allen and others) to get a ruling to which it knew and/or should have known. The record evidence will sustain that there is sufficient facts, evidence and legal conclusion in the record of the Court to sustain that all willing participants in the conspiracy leveled against Newsome, was fully aware of the role he/she was to play and were willing participants in the conspiracy leveled against Newsome to fulfill the OBJECT of the conspiracy. Moreover, a reasonable mind may conclude that Judge Allen's ruling on or about July 10, 2009, Judge Allen executed ***Order Granting Motion to Transfer For Jurisdiction***. See **EXHIBIT "10"** attached hereto and incorporated by reference as if set forth in full herein. The Clerk's entry on the Docket states, "*This cause is hereby transferred to the Court of Common Pleas. Judge: Nadine Allen Counter-Claim exceeds jurisdictional limits. To be transferred on consideration and guidance. See Entry for all details."* See **EXHIBIT "11"** – **Case Summary Docket** (Municipal Court) attached hereto and incorporated by

reference as if set forth in full herein. A decision that was in compliance with the statutes/laws governing said matters; however, Judge Allen lacked jurisdiction to even make such a ruling and the matter is already properly before the Hamilton County Court of Common Pleas and the Appeal process in that matter has already begun.[36]

> *Ohio Farmers Ins. Co. v. McNeil,* 143 N.E.2d 727 (Ohio.App.1.Dist. **Hamilton**.Co.,1956) - In action by liability insurer of insured under right . . . where defendant filed a cross-petition in the Municipal Court claiming damages . . . arising out of the collision involved, the *Municipal Court thereupon lost* **ALL** *jurisdiction and was* ***REQUIRED*** *to certify the case to the Court of Common Pleas*. R.C. § 1901.22.

One may conclude that later on and upon agreement with Stor-All and/or other Conspirators, Judge Allen on or about August 6, 2009, Vacated the July 10, 2009 Order Granting Motion to Transfer for Jurisdiction. See **EXHIBIT "12"** – Case Summary Docket (Common Pleas) Moreover, ***doing so later upon determining what her role was to be in the conspiracy, vacated said ruling for the purposes of aiding and abetting in the crimes committed on or about September 9, 2009 and to aid in providing Stor-All and Co-Conspirators with a defense to Newsome's Counterclaim filed in the Hamilton County Municipal Court***.

> *Mayer v. Bristow*, 740 N.E.2d 656 (Ohio,2000) - Vexatious litigator statute seeks to prevent abuse of the system *by those persons who* ***persistently*** *and* ***habitually*** *file lawsuits without reasonable grounds*, and/or *otherwise engage in* ***frivolous*** *conduct in trial courts*. R.C. § 2323.52. Also see, *Cent. Ohio Transit Auth. v. Timson*, 724 N.E.2d 458 (Ohio.App.10.Dist.,1998)

There is no evidence in the record of Hamilton County Court of Common Pleas, Hamilton County Municipal Court or any other courts to sustain the labeling of Newsome as a "serial/vexatious" litigator. Stor-All relies on such labeling for slanderous, defamatory and libel purposes. ***In the lawsuit in which the recent criminal acts arose, Stor-All was the one that brought the lawsuit. Therefore, as a matter of right, Newsome filed her Counterclaim to recover from the injury/harm/damages sustained. Stor-All did so because it thought such labeling of Newsome would provide them a victory. However, such criminal acts and civil wrongs have opened the door for additional legal action to be brought against Stor-All and its Co-Conspirators as well as IMPRISONMENT, SANCTIONS, DISBARMENT, ETC. for those who engaged in such conspiracy with it leveled against Newsome.***

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[36] *Ohio Farmers Ins. Co. v. McNeil,* 135 N.E.2d 797 (Ohio.Com.Pl., 1956) - Where defendant in action commenced in a municipal court files a claim for an amount in excess of the jurisdictional limit of such court, it becomes the **MANDATORY** duty of such court under statute to certify entire case to court of common pleas for determination. R.C. § 1901.22(E).

[n. 5] The law *frowns upon* ***multiplicity*** of actions.

Swiers v. Smith, 150 N.E.2d 517 (Ohio.Mun.,1958) - Action in forcible entry and detention did not exceed the monetary limitation of Municipal Court's jurisdiction where *there was* ***no*** *prayer in petition for any money* other than court costs, though each party had an equity in the property involved which exceeded the monetary limitation. R.C. § 1901.17.

Grossman v. Mathless & Mathless, 620 N.E.2d 160 (Ohio.App.10. Dist. 1993) - When municipal court is presented with claim ***in EXCESS*** of monetary jurisdictional limits of court, ***claim should be dismissed***, or, where appropriate, certified to common pleas court. R.C. § 1901.13.

State, ex rel. Penn v. Swain, 486 N.E.2d 1187 (Ohio.App.11.Dist. 1984) - Where *counterclaims* **EXCEEDED** *jurisdictional amount of municipal court*, entire case **HAD** *to be* ***certified*** *to the court of common pleas under R.C. § 1901.22(E) and Rules Civ.Proc., Rule 13(J).*

Stor-All and Co-Conspirators knew or should have known that Newsome's testimony would be inevitable and necessary to expose the ***PATTERN-OF PRACTICE/PATTERN-OF-CONDUCT underlying the conspiracy leveled against her.*** *To Stor-All and its Co-Conspirators disappointment, Newsome had filed a Complaint with the United States Legislature/Congress in July 2008, and in December 2008, went to Washington, D.C. to determine the status of the Complaint and is doing so through the appropriate avenues. Now that there is a new Administration (Barack Obama) – who has promised CHANGE - in office, Newsome has approached the Administration to assist her in finding out the status of her July 2008 Complaint – Newsome would not be surprised if Stor-All's insured's attorneys and others are pressuring their lobbyist hard to keep their criminal acts from being exposed. On or about June 19, 2009, Newsome obtained correspondence from one of President Barack Obama's Assistant and responded accordingly.* See. **EXHIBIT "13" –** June 19, 2009 Letter attached hereto. *The Stor-All matter has also been brought to the attention of President Barack Obama and the appropriate Cabinet to address the conspiracy and Stor-All's engagement in the one it has initiated as well as its role (if any) in furtherance of conspiracies initiated by others against Newsome. Now that crimes* [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] *have been carried out and the OBJECT [unlawfully/illegally seizing and obtaining Newsome's storage unit and property and using the NULL/VOID/UNENFORCIBLE Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* – See Stor-All's July 28, 2009 ***Motion for Partial Summary Judgment With Affidavit of Leslie Smart Attached*** filed in the Hamilton County Municipal Court (Case No. 09CV01690); Stor-All's September 10, 2009 ***Motion to Lift the Court Ordered Stay*** filed in the Hamilton County Court of Common Pleas (Case No. A0901302); and Stor-All's September 18, 2009 ***12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached*** filed in the Hamilton County Court of Common Pleas (Case No. A0901302) - purpose for Stor-All's obtaining such a ruling was to provide Stor-All and Co-Conspirators with a defense to Newsome's Counterclaim presently pending in the Hamilton County Court of Common Pleas (Case No. A0901302) as evidenced by these filings. **Document containing Affidavits of Stor-All's representatives to support their belief and thrill of obtaining the object** [i.e. *COVER-UP and destroying evidence through criminal acts of Stor-All in the unlawful/illegal seizure of Newsome's storage unit and property without legal/lawful authority. Said cover-up and destroying of evidence could not be accomplished without: (a) Stor-All obtaining an unlawful/illegal Entry by Judge West on or about April 29, 2009, Granting Bifurcation and Remand. Once Judge West completed his role in the conspiracy – with knowledge that Municipal Court lacked jurisdiction – Stor-All pounced on such criminal acts of Judge West and filed in the Hamilton County Municipal Court (Case No. 09CV01690) its Motion for Partial Summary Judgment With Affidavit of Leslie Smart Attached; and (b) Judge Allen on September 9, 2009, executed NULL/VOID Writ of Execution and Entry Granting Writ of Immediate Possession and Partial Summary Judgment. Once Judge Allen completed her role in the conspiracy, Stor-All and other Co-Conspirators moved swiftly to act Allen's rulings. As a direct and proximate result of Judge West's and Judge Allen's role in the conspiracy, they aided and abetted the commission of a series of crimes to be carried out by other Conspirators. Judge West and Judge Allen aided and abetted with knowledge they were engaging in criminal activity – moreover, the record evidence will support that courts were timely, properly and adequately notified through filing of Newsome of criminal acts. To no avail. Judge Allen and Judge West willingly and knowingly authorized the carrying out of criminal acts against Newsome. Having the power to prevent, elected instead to engage in the crimes of their Co-Conspirators.*] **of the conspiracy needed by Newsome to support the motive behind the criminal actions and the OBJECT of the conspiracy and crimes leveled against Newsome**.

Newsome believes through the investigation of the FBI it may be found that Stor-All and Co-

Conspirators relied upon ***NOTICE OF INTENT TO ENFORCE LIEN ON STORED PROPERTY PURSUANT TO RC §5322.01, ET SEQ.*** through the use of sham legal process to unlawfully/illegally seize and take the property from tenants. Moreover, Stor-All *may have carried out numerous crimes under* ***USING SHAM LEGAL PROCESS*** through issuances of said *Notice of Intent to Enforce. . .* to tenants who were not aware that their rights were being violated and from contents of such *Notices of Intent to Enforce. . .* which stated in part:

> 5. **UNLESS PAYMENT IS MADE WITHIN TEN DAYS FROM THE DATE THIS NOTICE IS DELIVERED, THE PERSONAL PROPERTY WILL BE ADVERTISED FOR SALE AND WILL BE SOLD BY AUCTION AT OWNER'S FACILITY WHERE THE PROPERTY IS STORED ON January 7, 2009 at 12:00 NOON. IF NO PERSON PURCHASES THE PERSONAL PROPERTY IT MAY BE SOLD AT A PRIVATE SALE OR DESTROYED.**

If Newsome received said Notices, most likely other tenants did also. Moreover, that Stor-All committed such crimes without following the statutes/laws governing Landlord and Tenant matters (i.e. first bringing forcible entry and detainer action), but putting the cart-before-the-horse and fulfilling the threats set forth in its *Notice of Intent to Enforce. . .* Stor-All did so with knowledge that tenant(s) may believe such actions were lawful – when they were not. Newsome through corresponding with Stor-All's representatives (Lori Whiteside and Leslie Calhoun) advised that such practices were prohibited by law. Newsome is confident that an investigation into her FBI Criminal Complaint filed will support that Stor-All and its Co-Conspirators are **HABITUAL** offenders of the law and obtain tenants' property (as it did on or about September 9, 2009 with Newsome's) through criminal activity through sham legal process.

O.R.C. § 2921.52 USING SHAM LEGAL PROCESS.

(A) As used in this section:

(1) "Lawfully issued" means adopted, issued, or rendered in accordance with the United States constitution, the constitution of a state, and the applicable statutes, rules, regulations, and ordinances of the United States, a state, and the political subdivisions of a state.

(2) "State" means a state of the United States, including without limitation, the state legislature, the highest court of the state that has statewide jurisdiction, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state. "State" does not include the political subdivisions of the state.. . .

(4) "Sham legal process" means an instrument that meets all of the following conditions:

(a) It is **not lawfully** issued.

(b) It purports to do any of the following:

(i) To be a summons, subpoena, judgment, or order of a court, a law enforcement officer, or a legislative, executive, or administrative body.

(ii) To assert jurisdiction over or determine the legal or equitable status, rights, duties, powers, or privileges of any person or property.

(iii) To require or authorize the search, seizure, indictment, arrest, trial, or sentencing of any person or property.

(c) It is ***designed to make another person believe that it is lawfully issued***.

(B) No person shall, knowing the sham legal process to be sham legal process, do any of the following:

(1) ***Knowingly issue, display, deliver, distribute, or otherwise use sham legal process***;

(2) ***Knowingly use sham legal process to arrest, detain, search, or seize any person or the property of another person***;

(3) ***Knowingly commit or facilitate the commission of an offense, using sham legal process***;

(4) ***Knowingly commit a felony by using sham legal process***.

(C) It is an affirmative defense to a charge under division (B)(1) or (2) of this section that the use of sham legal process was for a lawful purpose.

(D) Whoever violates this section is guilty of using sham legal process. A violation of division (B)(1) of this section is a misdemeanor of the fourth degree. A violation of division (B)(2) or (3) of this section is a misdemeanor of the first degree, except that, ***if the purpose of a violation of division (B)(3) of this section is to commit or facilitate the commission of a felony, a violation of division (B)(3) of this section is a felony of the fourth degree. A violation of division (B)(4) of this section is a felony of the third degree***.

(E) ***A person who violates this section is liable in a civil action to any person harmed by the violation for injury***, death, or ***loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this division***. A civil action under this division is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.

Once Newsome exposed Stor-All of its criminal activities, in an effort to cover-up such crimes, Stor-All held what it called an "Amnesty Weekend" wherein it advised in part:

I appreciate your providing the applicable Landlord Tenant portions of the law. I have actually contacted Dave Meranus in Cincinnati, Ohio and forwarded our file on your unit for his review and instruction to see if we would be better off to move forward with a Forcible Entry and Detainer action. Dave is to get back with me next week.

However, in lieu of taking these steps and trying to bring this matter to a close, Stor All Alfred is in the process of scheduling an

> amnesty weekend of January 9, 10, and 11, 2009, at which time we are going to have a moving truck and driver available for any of the tenants that wish to vacate the premises at absolutely no cost to the tenant. . . .

See **EXHIBIT "14"** attached hereto and incorporated by reference. Stor-All was timely notified that it was acting in the violation of the law in the taking of Newsome's storage unit and property. To no avail. See **EXHIBIT "15"** attached hereto and incorporated by reference. Nevertheless, Stor-All wanted Newsome to believe that it was a good deal – Newsome smelled a rat and was not going to bite and waive any such rights to which she may be entitled to. Had Newsome participated in the Amnesty Weekend, she would have waived said rights to bring her counterclaim. *Neither was Newsome required to give into Stor-All's extortion/blackmail demands*. Stor-All was already in illegal/unlawful possession of Newsome' storage unit and property.[37] However, the question would go to how many other tenants were victimized by Stor-All's criminal activities and its ***using sham legal process*** through *Notice of Intent to Enforce. . .* that were not properly and/or lawfully executed and were carried out by Stor-All without bringing the required Forcible Entry and Detainer action as required under the laws first to have tenant removed. Moreover, as with Newsome, Stor-All and Co-Conspirators may have unlawfully/illegally seized other tenants' property without legal and lawful process. Newsome believes *all of this will come out in the wash* and those committing such crimes will be **INDICTED** as required in that they are **"SERIAL/HABITUAL"** violators of the laws.

Stor-All and its Co-Conspirators relying on the ignorance in the law of their victims and destroying the life of their victims based on their victims lack of knowledge in the statutes/laws of Ohio. Stor-All's Lori Whiteside making it known to Newsome her experience in the legal field – well the FBI Complaint will determine the depths of such experience and how she and others used it to knowingly commit criminal acts against citizens and/or the public for the purposes of benefiting her employer (Stor-All) and Co-Conspirators having an interest in the crimes being committed.

STOR-ALL MATTER:

9. In the lawsuit giving rise to the criminal wrongs rendered on or about September 9, 2009, it was the Landlord (Stor-All Alfred, LLC) that brought a frivolous lawsuit against Newsome on or about January 20, 2009, which was met with Newsome's ***Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim and Demand for Jury Trial***. It is Stor-All and its counsel/representatives that are vexatious litigators. While Newsome has advised the courts through filings of Stor-All's vexatious behavior and requested sanctions against Stor-All and its counsel, to date nothing has been done. Instead, Stor-All has relied upon its knowledge of Newsome's engagement in protected activities to carry out such criminal/civil wrongs against Newsome. *Such*

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[37] **65 Ohio Jur.3d § 164 – *Notice to vacate; bringing possessory action*:**

A notice by the landlord that the tenancy is being terminated, combined with a demand by him or her for possession of the premises, and voluntary compliance therewith by the tenant without protest, *is not an* eviction for which damages may be recovered. (*Greenberg v. Murphy,* 16 Ohio C.D. 359, 1904 WL 1147 (Ohio Cir. Ct. 1904)). [**Practice Guide:** If the tenant is *rightfully in possession and entitled to remain*, **the tenant SHOULD AWAIT legal proceedings that are threatened**, and make *defense* thereto, ***RATHER THAN COMPLY** with the demand*, **and then bring an action for alleged damages that perhaps never would have resulted**. (*Greenberg)*]

Where a tenant, upon request or notice to vacate, **VOLUNTARILY** abandons the premises without protest, **no action for damages against the landlord**, based on fraud or misrepresentations as to the reasons for such request **can be maintained under rights recognized by the common law, or any statute of Ohio.** (*Ferguson v. Buddenberg,* 87 Ohio App. 326, 42 Ohio Op. 488, 57 Ohio L. Abs. 473, 94 N.E.2d 568 (1st Dist. **Hamilton** County 1950)).

In an eviction action for nonpayment of rent brought by a landlord **pursuant to RC Ch 1923**, a *tenant MAY RESPOND by asserting any legal defense he has to that action*, pursuant to RC 1923.061(A), and/or **by filing a COUNTERCLAIM for damages** caused by the landlord's breach of the rental agreement and/or the landlord's breach of his duties under RC 5321.04. *Smith v. Wright* (Ohio App. 1979) 65 Ohio App.2d 101, 416 N.E.2d 655, 19 O.O.3d 59.

*criminal/civil wrongs are **racially** **motivated** and fueled by Stor-All's and/or its representatives' knowledge of Newsome's engagement in protected activities **involving** Civil Rights violations (i.e. Title VII, Fair Housing Act, etc.).* In fact, the record evidence of the courts will support Stor-All's and/or its counsel/representative's knowledge of Newsome's engagement in protected activities. *See February 6, 2009, letter to Stor-All's counsel (David Meranus) memorializing Stor-All's and/or its counsel's knowledge of Newsome's engagement in protected activity. Moreover, such acknowledgement addresses matters Newsome is engaged in New Orleans, Louisiana* – **EXHIBIT "1"** attached hereto and incorporated by reference as if set forth in full herein. Now a reasonable mind may conclude from said evidence that Stor-All and its counsel's filing of lawsuit against Newsome was for ill and unlawful/illegal purposes. *Roo v. Sain*, 2005 -Ohio- 2436 (Ohio.App.10.Dist.,2005). Said lawsuit brought by Stor-All against Newsome was met with a timely Counterclaim.

10. Stor-All's filing of Forcible Entry and Detainer action was filed for purposes of extorting and blackmailing monies from Newsome to which it knew and/or should have known it was not entitled to. The good thing about it, is that the record evidence supports that Stor-All and its Co-Conspirators were timely, properly and adequately placed on notice of criminal activities it was engaging in. Nevertheless, made a conscious, willful and deliberate decision to proceed on such a destructive course.

11. Stor-All's nosiness and prying into affairs which was none of its concerns has cost it deeply. Oh, let Newsome not forget to quote where this law is found – I Peter 14:15 (*But let none of you suffer as a **murderer**, or as a **thief**, or as an **evildoer**, or as a **busybody** in other men's matters*.) So one can see where Stor-All is.

12. While Stor-All was aware that Newsome had filed a lawsuit and the damages claimed, it failed to file an Answer to Newsome's Counterclaim in the time allowed under the statutes/laws governing said matters. Instead, Stor-All relied upon its insurance provider (Liberty Mutual Insurance) to attempt to file a pleading in the lawsuit through Liberty Mutual's counsel (Molly G. Vance) without her making an appearance in the lawsuit on behalf of Stor-All and/or Liberty Mutual. Vance relying on such frivolous defense tactics which have proven to be fatal to Stor-All's defense to Newsome's Counterclaim because of their defense to bank on the "serial/vexatious" litigator defense. Vance knew and/or should have known that Ohio law **MANDATORILY** requires an *Entry of Appearance* be filed; however, with said knowledge she made a conscience decision not to enter one perhaps because Newsome is *pro se* and thought that Newsome would not challenge such *dilatory* tactics used to obstruct justice as well as bringing Stor-All's insurance carrier (Liberty Mutual Insurance) into the jurisdiction of the court. A defense strategy which has **backfired** against Stor-All and has been very beneficial to Newsome's Counterclaim:

> *Partin v. Pletcher,* Case No. 08CA5, COURT OF APPEALS OF OHIO, FOURTH APPELLATE DISTRICT, JACKSON COUNTY, 2008 Ohio 6749; 2008 Ohio App. LEXIS 5637, December 12, 2008, Date Journalized
> **For a court to acquire jurisdiction there must . . . an entry of appearance**, *and **a judgment rendered without proper** service or **entry of appearance** is a **nullity and void**.* A decision entered without jurisdiction is unauthorized by law and **amounts to usurpation** of judicial power.
>
> [HN1] . . . HN1"[F]or a court to acquire jurisdiction there must be . . . an entry of appearance, and a judgment rendered **without** . . . entry of appearance is a nullity and void." *Lincoln Tavern, Inc. v. Snader* (1956), 165 Ohio St. 61, 64, 133 N.E.2d 606; see, also, *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (2000), 87 Ohio St.3d 363, 366-367, 2000 Ohio 452, 721 N.E.2d 40; *Knickerbocker Properties, Inc. XLII v. Delaware Cty. Bod. of Revision*, 119 Ohio St.3d 233, 2008 Ohio 3192, 893 N.E.2d 457, at P20. **A decision entered without jurisdiction "is unauthorized by law and amounts to usurpation of**

> **judicial power**." *State ex rel. Ballard v. O'Donnell* (1990), 50 Ohio St.3d 182, 184, 553 N.E.2d 650, [**5] citing *State ex rel. Osborn v. Jackson* (1976), 46 Ohio St.2d 41, 52, 346 N.E.2d 141.

Vance having approximately **six (6)** years of experience as an attorney; therefore, a reasonable mind may conclude that she knew and/or should have known that she was not allowed to file any pleadings/documents in the lawsuit Stor-All brought against Newsome without filing the proper Appearance Form/Entry of Appearance.

> *Farmers Mkt. Drive-In Shopping Ctrs., Inc. v. Magana, No. 06AP-532* , COURT OF APPEALS OF OHIO, TENTH APPELLATE DISTRICT, FRANKLIN COUNTY, 2007 Ohio 2653; 2007 Ohio App. LEXIS 2450, May 31, 2007, Rendered - *Lincoln Tavern, Inc. v. Snader (*1956), 165 Ohio St. 61, 64, 133 N.E.2d 606 (stating that *"[i]t is* ***axiomatic*** that for a court to acquire jurisdiction there **must** be . . . an entry of appearance, and **a judgment** *rendered* ***without*** . . .entry of appearance **is a nullity and void**").

> *Knickerbocker Props. v. Del. County Bd. of Revision,* No. 2007-0896, SUPREME COURT OF OHIO, 119 Ohio St. 3d 233; 2008 Ohio 3192; 893 N.E.2d 457; 2008 Ohio LEXIS 1750, April 22, 2008, Submitted, July 3, 2008, Decided - [HN7]*It is* ***axiomatic*** that for a court to acquire jurisdiction there must be . . . an entry of appearance, and a judgment rendered without proper service or entry of appearance is a nullity and void.

A Court of Appeals also finding:

> *FIA Card Services, N.A. v. Salmon*, --- N.E.2d ----, 2009 WL 57592 (Ohio App. 3 Dist.,2009)
> [n. 4] An "abuse of discretion" constitutes more than an error of law or judgment and implies that the trial court acted unreasonably, arbitrarily, or unconscionably.
>
> Mr. Warner: Well, your Honor, for the record I would like to at least argue our motion.
>
> **The Court:** Well, no. I'm not going to let you argue your motion. ***You haven't entered an appearance.*** *I'm not going to let you do that.* ***That's not right***.
>
> Mr. Warner: Your Honor, I could-
>
> **The Court:** Mr. McCann is the one who should be here. ***Either that or has to be some sort of a substitution or some sort of an entry of appearance***.
>
> Mr. Warner: *Well, I am from the same law firm as him, your Honor*.
>
> **The Court:** ***I don't know that. Don't see it on the record. Not here***.
>
> Mr. Warner: *I can give you one of my business cards.*
>
> **The Court:** I don't want your business card. So we're done, aren't we?

> Mr. Warner: Well, your Honor, I'd ask for a reasonable continuance then of the matter.
>
> **The Court:** *Well, **you haven't even entered an appearance.** How can you ask for a continuance*?
>
> {¶ 14} Our review of the record reveals that at the hearing on May 22, 2008, attorney Warner advised the trial court that he was admitted to the Ohio bar and licensed to practice before the courts in the state of Ohio. Additionally, attorney Warner is employed by Javitch, Block & Rathbone, L.L.P., which **is the same firm that employs** attorney McCann, whose name appears on the pleadings in this case on behalf of FIA. Furthermore, we note that the appearance of attorney Warner as substitute counsel for attorney McCann was in no way ***prejudicial*** *to the appellee in this case*.
>
> {¶ 15} Based on the foregoing, as the appearance of attorney Warner as substitute counsel was in no way ***prejudicial*** to the appellee, we find that the trial court abused its discretion by dismissing FIA's case for failure to prosecute pursuant to Civ.R. 41(B)(1). Accordingly, FIA's sole assignment of error is sustained.

In Stor-All's lawsuit, Meranus filed the Forcible Entry and Detainer action on behalf of his client. Meranus is with the law firm of Schwartz Manes Ruby & Slovin. Molly G. Vance at the time of filing of pleading in the Hamilton County Court of Common Pleas, was not an attorney with the law firm of that Meranus is employed by. In fact, Vance is simply an attorney for the insurance company (Liberty Mutual). Therefore, as a matter of law, Vance was to file an Entry of Appearance. Any ruling on pleadings filed by Vance are deemed NULL/VOID and are unenforceable. While Newsome had no duty to notify opposing counsel of such error – if that, in that Stor-All's failure to correct may leave a reasonable mind to conclude that such actions was a dilatory and defense tactic used by Stor-All which has led to its demise in the Forcible Entry and Detainer action because of its failure to timely respond to Newsome's Counterclaim and cannot provide good cause for said failure. Moreover, *a reasonable mind may conclude that Stor-All relied upon the "serial/vexatious" litigator defense and **placed all of its eggs in that basket which has also come up against a brick wall** and is a matter which now goes to support Newsome's Complaint that she has taken to Washington, D.C. and awaiting status thereof – supporting Stor-All's **role in furtherance of conspiracies** known to it that has been leveled by others against Newsome*.

In fact the Hamilton County Court of Common Pleas handling of this matter entering a ruling without requiring Entry of Appearance be filed by Vance goes against its own rulings and that of other courts shown above and as follows:

> *Collins v. Collins,* 844 N.E.2d 910 (Ohio.App.1.Dist.**Hamilton**. Co.,2006) - For a court to acquire personal jurisdiction, *there **must** be . . . an entry of appearance*, and a judgment entered without . . . an entry of appearance is **null and void**.
>
> *Miami Exporting Co. v. Brown,* 6 Ohio 535 (Ohio,1834) - *A judgment **without** notice, and **without** the appearance of the party against whom it was rendered, **is a nullity***.
>
> *State ex rel. Estate of Miles v. Village of Piketon,* 2009 -Ohio- 786 (Ohio,2009) - *For a court to acquire jurisdiction* there **must** be. . . *an entry*

> *of appearance*, and a *judgment rendered* **without** proper . . . *entry of appearance* is a **nullity and void**.

Nevertheless, when dealing with this matter, the courts have allowed Stor-All, its counsel and others to violate the laws and by doing so, have infringed upon the rights of Newsome. Clearly supporting partiality on behalf of the Hamilton County Court of Common Pleas through Judge West and the Hamilton County Municipal Court through Judge Allen to infringe upon the Constitutional rights of Newsome and its deliberate efforts to evade the statutes/laws governing said matters to provide Stor-All and its representatives with an unlawful/illegal and undue advantage in the lawsuit over Newsome.

> *Burnett v. Motorists Mut. Ins. Co.,* 2008 -Ohio- 2751 (Ohio,2008) - The ***Equal*** *Protection* Clauses of the Federal and State Constitutions require that individuals be treated in a manner similar to others in like circumstances. Const.Amend. 14; Const. Art. 1, § 2.
>
> *E. Liverpool Edn. Assn. v. E. Liverpool City School Dist. Bd. of Edn.,* 2008 -Ohio- 3327 (Ohio.App.7.Dist.,2008) - ***Equal*** *Protection* Clause does not prevent all classification; it simply forbids laws that treat persons differently when they are otherwise alike in all relevant respects. Const.Amend. 14; Const. Art. 1, § 2.
>
> *Columbia Gas Transm. Corp. v. Levin,* 882 N.E.2d 400 (Ohio,2008) - ***Equal*** *Protection* Clauses of state and federal constitutions require that all similarly situated individuals be treated in a similar manner. Const.Amend. 14; Const. Art. 1, § 2.
>
> Discount Cellular, Inc. v. Pub. Util. Comm., 859 N.E.2d 957 (Ohio,2007) - State and federal ***equal*** *protection* clauses require that all similarly situated individuals be treated in a similar manner. Const.Amend. 14; Const. Art. 1, § 2.

13. The record evidence will support that on or about **February 25, 2009**, Stor-All was timely, properly and adequately placed on notice through Newsome's filings entitled - **(a)** Defendant's Objection to Plaintiff's Motion for Enlargement of Time; and **(b)** *Defendant's Motion to Strike Plaintiff's Motion for Leave to File Memorandum in Opposition to Motion for Rule 11 Sanctions – Submitted by Attorneys David Meranus and Molly G. Vance on Behalf of Plaintiff; and Requests for Rule 11 Sanctions* - with this Court of its errors/mistakes (if any – could have been defense strategy that backfired) that an appearance for Vance was lacking in the record. Supporting Stor-All being timely notified with **approximately 12 days still remaining** before its March 9, 2009 deadline to answer or otherwise plead expired. Although Stor-All was notified, it *failed to take immediate action* to preserve any such defense and/or rights that it may have to file its answer or otherwise plead.

> A defendant "appears" in an action when he or she asserts a motion against the merits of the plaintiff's pleading (*Handy v. Insurance Co.,* 37 Ohio St 366; *Smith v. Hoover,* 39 Ohio St 249; *Klein v. Lust,* 110 Ohio St 197); however, **a motion for leave to move or otherwise plead does not submit the defendant to the jurisdiction of the court**. *Maryhew v. Yova,* 11 Ohio St 3d 154, 11 Ohio BR 471, 464 NE2d 538 (1984) – *request by defendant to trial court for leave to move or otherwise plead is not motion or responsive pleading contemplated by Civ R 7, and obtaining of such order does not constitute waiver under Civ R 12(H) of any affirmative defenses,* ***nor does it submit defendant to jurisdiction of court***).

> **{¶18}** "[F]or a court to acquire jurisdiction there must be . . . an entry of appearance, and a judgment rendered without proper . . .or entry of appearance is a nullity and void." *Lincoln Tavern, Inc. v. Snader* (1956), 165 Ohio St. 61, 64, 133 N.E.2d 606; see, also, *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (2000), 87 Ohio St.3d 363, 366-367, 721 N.E.2d 40; *Knickerbocker Properties, Inc. XLII v. Delaware Cty. Bod. of Revision,* 119 Ohio St.3d 233, 2008-Ohio-3192, 893 N.E.2d 457, at ¶ 20.

14. ***The decision of the higher courts are clear that a motion for leave (as that filed by Vance) to answer or otherwise plead did not submit Stor-All to the jurisdiction of this Court and neither could Judge West grant relief sought through filings submitted by Vance. Nevertheless, Judge West, determined to fulfill is role in the conspiracy and engagement in criminal activity, granted the relief Stor-All was not entitled to for purposes of depriving Newsome equal protection of the laws, due process of laws, interfering with civil right, and infringing upon the rights of Newsome.*** Without the Vance's entry of appearance ***because she wanted to prevent/avoid bringing Liberty Mutual into the jurisdiction of the court***, knowing that Liberty Mutual is Stor-All's insurance carrier, *a reasonable mind may conclude that Vance* ***deliberately and knowingly failed to file the required appearance document*** *to preserve any rights that Stor-All may assert*. **The record evidence is clear that Meranus abandoned Stor-All in defense to Newsome's Counterclaim** – moreover, because of a possible conflict of interest. Therefore, a reasonable mind may conclude Vance's failure to do so may also be contributed to her knowledge of a conflict of interest[38] in this lawsuit as well. As found by the **Ohio Supreme Court**:

> A defendant "appears" in an action when he or she asserts a motion against the merits of the plaintiff's pleading (*Handy v. Insurance Co.,* 37 Ohio St 366; *Smith v. Hoover,* 39 Ohio St 249; *Klein v. Lust,* 110 Ohio St 197); however, **a motion for leave to move or otherwise plead does not submit the defendant to the jurisdiction of the court**. *Maryhew v. Yova,* 11 Ohio St 3d 154, 11 Ohio BR 471, 464 NE2d 538 (1984) – *request by defendant to trial court for leave to move or otherwise plead is not motion or responsive pleading contemplated by Civ R 7, and obtaining of such order does not constitute waiver under Civ R 12(H) of any affirmative defenses,* ***nor does it submit defendant to jurisdiction of court***).
>
> *Maryhew v. Yova,* 464 NE2d 538 (1984) – [HN 11] *Obtaining a stipulation to extend time in which to answer is not a waiver of the defense of lack of jurisdiction of the person.*[39] . . .
>
> An exception to the general rule that an appearance does not waive objections to jurisdiction is when the defendant's appearance gives rise to some prejudice or detriment to the plaintiff, such as the expiration of the statute of

[38] A reasonable mind may conclude that Vance's failure to enter an appearance was a direct and proximate result of her knowledge that any said entry may present a **CONFLICT OF INTEREST** in that she appears to be counsel for Stor-All's insurance carrier, Liberty Mutual, as well as not wanting to subject Liberty Mutual to the jurisdiction of the court. Liberty Mutual, which *recently* settled a claim with Newsome regarding one of its other insured – See **EXHIBIT "__"** attached hereto. Liberty Mutual which may have an interest in other matters relating to Newsome which is outside this lawsuit and may therefore, present a conflict of interest and further support the "Pattern-of-Practice"/"Pattern-of-Conduct" asserted in this instant filing. Thus, most likely the insurance carrier Stor-All's counsel (David Meranus) on February 6, 2009, advised Newsome would be the one that would be making payment for any damages/injury she has sustained in its lawsuit brought against her. – See **EXHIBIT "__"** attached hereto and incorporated by reference as if set forth in full herein. Thus, a reasonable mind may conclude that Vance's actions in this matter was simply to make Newsome aware of who the insurance carrier was because of Liberty Mutual's recent settlement with her in another matter. Therefore, Vance may have hoped that such knowledge and that provided by Meranus of her engagement in protected activities in matters outside this litigation, would cause Newsome to abandon her Counterclaim (in which she did not).

[39] [***543] Finally, in *Spearman v. Sterling Steamship Co. (E.D. Pa 1959), 171 F.Supp. 287, 289*, [*159] the court stated the general rule that [HN11] "obtaining a stipulation to extend time in which to answer is not a waiver of the defense of lack of jurisdiction of the person. . .

> limitations. *Blank v. Bitker,* (7th Cir. 1943), 135 F.2d 962; *Spearman v. Sterling Steamship Co., supra,* at 289.
>
> To conclude otherwise is to give *carte blanche* to keen defense lawyers to *play a jurisdictional game of cat and mouse, promoting judicial chicanery, frustrating justice and the application of substantive law.* It **does violence to a basic tenet** from the Apostle Paul: "**The letter of the law killeth; the spirit giveth life**."

Vance may have thought she was being keen in not entering her appearance in hopes that Newsome would not know that it is a mandatory requirement under the laws of the State of Ohio; however, to Stor-All's demise, Newsome researched the issue and indeed found that such an appearance is required before a court can obtain jurisdiction over a party to the action. Moreover, enter a judgment on a motion filed by Vance. The record evidence is further silent by any such defense being asserted in a motion for leave submitted by either Meranus or Vance. *Apparently as with the Ohio Supreme Court's decision in Maryhew, it relies on the Good book and quotes from the Apostle Paul* – ***addressing the importance of the law***. It's just good to live right. It was Stor-All who filed the lawsuit against Newsome which was met by her Counterclaim. Stor-All should *have never jumped into the ocean* (brought the lawsuit against Newsome) *if it wasn't going to swim* – especially without a life jacket.

15. Meranus elected to abandon Stor-All on Newsome's Counterclaim. Therefore, when Meranus decided to abandon his client, it was up to Stor-All's insurance company, Liberty Mutual, to insure counsel and pay for counsel for Stor-All and for itself. Moreover, to retain an attorney and have said attorney enter an appearance. Doing so within the time allowed under the rules and procedures governing said matters. The record evidence will support that Liberty Mutual was aware of Newsome's Counterclaim and that it was timely, properly and adequately placed on notice that no appearance on behalf of Stor-All had been entered by an attorney (Vance) who it allowed to walk in off the street and file a pleading on its behalf. Even with such courtesy notices advising of said failure through filings by Newsome, Stor-All elected to ignore her warnings and file the required documents to preserve any such rights it may have had in the lawsuit it brought against Newsome. *Stor-All doing so based on its knowledge of Newsome's engagement in protected activities; moreover, its intent to use as a defense its knowledge of Newsome's engagement in protected activities to prejudice the court(s) against Newsome*. In so doing, the actions of Stor-All's counsel has proven to **fatal** and **detrimental** to any such defenses it may have wanted to assert.

> *Red Head Brass, Inc. v. Buckeye Union Ins. Co.,* 735 N.E.2d 48(Ohio.App.9.Dist.Wayne.Co.,1999) - When an insurer's interests and those of its insured are mutually exclusive, the insurer must pay for counsel for the insured as well as for its own counsel.

16. Stor-All failed to answer within the time allowed. Furthermore, it failed to move by an appropriate motion for an enlargement of time showing "excusable neglect" to support said failure. The record evidence will support that through filings submitted by Newsome in Stor-All lawsuit, Stor-All was timely, properly and adequately placed on notice that the time for it to file its answer was still running. Newsome in good faith took the time to advise Stor-All of its errors/mistakes (if that). To no avail. Stor-All failed to correct any such errors/mistakes (if any) timely brought to its attention. Said failure clearly supporting Stor-All's deliberate and intentional acts to waive any such rights that it may assert – moreover, any defense as to excusable neglect. Therefore, ***Stor-All is barred from filing its Answer to Counterclaim***. Thus, warranting said Answer to Counterclaim to be stricken from the record – which Newsome has requested to be done through the proper motion timely, properly and adequately filed with court.

> Notably then, a defendant seeking to file an answer after time has already expired must show "excusable neglect" by an appropriate motion; if the defendant fails to demonstrate "excusable neglect," that defendant **is barred** *from filing an answer*. *Farmers & Merchants State & Savings Bank v. Raymond G. Barr Enterprises, Inc.,* 6 Ohio App 3d 43, 6 Ohio BR 153, 452 NE2d 521 (1982).

17. **Stor-All's remedy for its counsel's neglect is through a malpractice action of and against its counsel, rather than continuing to burden, harass, vex, etc. Newsome through such malicious and frivolous practices which requires Newsome to file the appropriate actions in preservation of her rights.**

> *Arnold & Caruso, Ltd. v. Nyktas,* 2005 -Ohio- 5566 (Ohio.App.6.Dist. Lucas.Co.,2005) - Client who sought to set aside default judgment that was entered after he failed to respond to law firm's complaint to recover unpaid legal fees did not allege facts establishing that his failure to respond to complaint was due to excusable neglect, and thus trial court did not abuse its discretion by denying motion for relief from judgment without a hearing; client alleged that he was out of the country, did not speak English, and relied on newly-hired attorney to respond to complaint, none of which constituted excusable neglect, and **client's remedy for new attorney's failure to respond to complaint was a malpractice action, rather than the revival of law firm's action**.
>
> *Huffer v. Cicero,* 667 N.E.2d 1031(Ohio.App.4.Dist.Highland. Co.,1995) - Default judgment was properly entered against attorney in legal malpractice action; attorney repeatedly refused service of process and ignored mandates of Ohio Rules of Civil Procedure, attorney's answer was untimely, and trial court found that attorney offered no grounds for excusable neglect.

18. Stor-All and/or its counsel/representatives failed to file timely pleadings in the lawsuit brought against Newsome because it was confident that addressing and exposing Newsome's engagement in protected activities would seal their fate in obtaining an undue and unlawful/illegal advantage over Newsome. Therefore, Stor-All and/or its counsel/representative(s) felt they had no need to defend against Newsome's Counterclaim. Stor-All and its counsel/representatives doing so because it was aware of the conspiracy leveled against Newsome and knew of its role in a conspiracy entered into with others was in furtherance of conspiracy. A conspiracy that is racially motivated and conspiracy initiated against Newsome for exercising protected rights and seeking damages/liability from the injury/harm sustained from the unlawful/illegal acts rendered.

19. The January 20, 2009 lawsuit filed by Meranus on behalf of Stor-All was done with malicious intent and motive. Meranus and Stor-All knew and/or should have known that the malicious prosecution sought against Newsome had no merits and was precluded by statutes/laws governing said matters. Stor-All brought its frivolous Forcible Entry/Detainer matter with knowledge that it had no legal basis or evidence to sustain it. Nevertheless, Stor-All brought legal action against Newsome in furtherance of conspiracy to deprive Newsome rights secured to her under the Constitution (Ohio and U.S.), Civil Rights Act, Landlord & Tenant Act and other statutes/laws governing said matters.

20. Based upon the vexatious litigation practices of Stor-All, the facts, evidence and legal conclusions contained herein, the law warrants the bringing of the appropriate legal actions against Stor-All's counsel (Meranus, Lively, Healy, Vance and Decker) as well as practicing attorney(s) within Stor-All having knowledge of the criminal acts and conflict of interest that arose. Moreover, the conspiracy in which Stor-All and Co-Conspirators engaged in and induced others to participate in. The appropriate disciplinary proceedings are warranted against Stor-All's counsel for having knowledge of furtherance of

conspiracy leveled against Newsome because of her engagement in protected activity; however, doing nothing to deter such criminal actions of other Stor-All representatives (which include Whiteside and Smart). Stor-All's counsel encouraging and/or instructing Stor-All to engage in criminal acts and/or Stor-All employing counsel to carry out criminal activities on its is in violation of the Code of Professional Conduct. It is apparent from Stor-All and its counsel, all were WILLING participants in the criminal activities and conspiracy leveled against Newsome.

> *Ohio State Bar Ass'n v. Weaver*, 322 N.E.2d 665 (Ohio,1975) - Disciplinary proceedings are neither civil nor criminal; they are instituted to safeguard the courts and to protect the public from the misconduct of those who are licensed to practice law.

21. The appropriate disciplinary actions are warranted against Stor-All's counsel within the time required under statutes/laws governing said matters. Newsome intends to bring the appropriate complaint for disciplinary action. With foresight (based on February 6, 2009 actions of Meranus and Co-Conspirators) that Stor-All's counsel and its client would continue on such a destructive course, Newsome in March 2009, requested that she be sent the proper paperwork – See **EXHIBIT "16"** – Office of Disciplinary Counsel – The Supreme Court of Ohio attached hereto and incorporated by reference. Now that on or about September 9, 2009, Stor-All has engaged in completion of OBJECT [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] of conspiracy and has unlawful/illegally taken Newsome's storage unit and property and obtained a NULL/VOID/UNENFORCEABLE *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* for purposes of providing it with a defense to her Counterclaim, the FBI Complaint has been filed and she will be filing the appropriate complaint/charge with the Office of Disciplinary Counsel of and against Stor-All's counsel (Meranus, Lively, Healy, Vance, and other attorneys having knowledge of the criminal activity and conspiracy being engaged in against Newsome; however, failed to deter/prevent or report such crimes).

22. The unlawful/illegal and unethical practices of Stor-All's counsel was timely, properly and adequately brought to the attention of the courts' representatives (Judge West and Judge Allen) to no avail. Courts had a duty to deter such unlawful/illegal and unethical practices of Stor-All and/or its counsel. As a matter of law, Newsome believes the Court upon learning of such violations by Stor-All's counsel, had a duty/obligation to initiate the appropriate disciplinary proceedings to deter such acts of Stor-All's attorneys and to further protect the public (which includes Newsome) from egregious acts of Stor-All's attorneys who hold a license; however, has used such privileges under said license for purposes not intended.

> The practice of law is a privilege, rather than a right, which the state confers on an attorney during good behavior. *Columbus Bar Ass'n v. Edwards,* 11 Ohio St 2d 171, 40 Ohio Op 2d 160, 228 NE2d 626 (1967). In addition, an attorney, ***as an officer of the court***, is subject to disciplinary action by the court. *Theiss v. Scherer,* 396 F2d 646, 46 Ohio Op 2d 55 (6th Cir. 1968); see also *State ex rel. Jones v. Stokes,* 49 Ohio St 3d 136, 551 NE2d.
>
> Disciplinary proceeding provide a safeguard for the courts and ***protect*** *the public* from those who hold a license to practice law. *The purpose of disciplinary proceedings is to* ***remove*** ***from the legal profession*** *a person whose misconduct*

> ***has proved*** *him or her* ***unfit to be entrusted*** *with the duties and responsibilities belonging to the office of an attorney*. *In re Palmer,* 15 Oho CC 94 affd 62 Ohio St 643, 58 NE 1100 (1900).

23. Stor-All knew and/or should have known Meranus was bringing a lawsuit on its behalf with knowledge it was being filed with purposes of ill intent. Doing so with knowledge that neither he nor his client had any hopes of succeeding in the lawsuit brought against Newsome. Said lawsuit was merely in furtherance of a conspiracy to deprive Newsome equal protection of the laws, due process of laws, etc. and in furtherance of its unlawful/illegal acts – i.e. seizure of Newsome's storage unit and property, contacting her employer to get her terminated and relying upon Newsome's former employer's relationship with Stor-All's counsel's law firm through Thomas J. Breed (an attorney at Wood & Lamping ("W&L") to which Newsome worked) who was employed with Schwartz Manes & Ruby – Stor-All's counsel's law firm – prior to employment with Wood & Lamping. Stor-All's counsel bringing the instant forcible entry and detainer action with knowledge it was not warranted under existing law and could not be supported by good faith argument. Stor-All's counsel merely bringing the instant lawsuit in furtherance of unlawfully/illegally attempting to extort/blackmail monies/property from Newsome. Upon learning of Newsome's engagement in protected activity, Stor-All's counsel then attempted to use such information as further means to extort/blackmail monies/property from Newsome and efforts to force her to abandon her Counterclaim. Stor-All's counsel doing so with knowledge that it was acting in violation of the Code of Professional Responsibility and/or applicable codes governing attorney conduct and ethics as *an officer of the court.*

> The attorney should not accept employment on behalf of a person if the attorney knows or it is obvious this person wishes to: (a) Bring a legal action, conduct a defense, or assert a position in litigation merely for the purpose of harassing or maliciously injuring any person; or (b) Present a claim or defense in litigation that is not warranted under existing law, unless it can be supported by a good faith argument for an extension, modification or reversal of existing law. (Code of Prof. Respons, Canon 2, DR. 2-109)

24. Stor-All's counsel knew and or should have known that prior to representing Stor-All there may be a conflict of interest. However, Stor-All's counsel relied upon acts of others (which also include other attorneys) to cover-up or masks such violations under the Code of Professional Responsibility. Once Stor-All's counsel was aware of potential conflict, it merely ignored same and pursued unlawful/illegal acts for the injury/harm to Newsome for purposes of obtaining an undue advantage in this lawsuit.

> A lawyer should not accept employment if the exercise of his or her professional judgment on behalf of the client will be, or reasonably may be, affected by his or her own financial, business, property or personal interests. (Code of Prof. Respons, Canon 5, DR 5-101(A)).

25. Newsome believes record evidence will support Stor-All's counsel has violated the Code of Professional Responsibility that binds its counsel who is admitted to practice in Ohio. Said violations which warrants *suspension* **or** *disbarment* for: **(a)** obtaining information regarding Newsome's engagement in protected activity and using said information to obtain an *undue* advantage in this lawsuit – by conspiring with W&L for the purposes of getting her terminated from her place of employment, financially devastating her to preclude her from defending against lawsuit it knew and/or should have known Stor-All would be bringing against her, engaging in acts with others that counsel knew and/or should have known was legally and ethically wrong - said protected activities in which Newsome is engaged is protected and cannot be used against her for *ill and malicious purposes* as that done by Stor-All and its counsel; **(b)** Stor-All's counsel has engaged in conduct prohibited by law for attorneys

practicing in the state of Ohio; **(c)** Stor-All's counsel has violated disciplinary rule with regard to ***moral turpitude*** in regards to the handling of its lawsuit; **(d)** Stor-All's counsel has attempted to circumvent a disciplinary rule through the actions of its client as well as its relationship with Newsome's former employer, W&L and others; **(e)** Stor-All's counsel has engaged in illegal conduct involving ***moral turpitude***; **(f)** Stor-All's counsel has engaged in conduct known to he or she to be dishonest, fraud, deceitful and/or a misrepresentation – moreover, brought a forcible entry and detainer lawsuit with knowledge that it is frivolous and that its client is already in possession of Newsome's storage unit and property; **(g)** Stor-All's counsel brought the January 20, 2009 lawsuit against Newsome for the purposes of improper motive – *prejudicial* and *discriminatory* reasons – which are underlined by **racial bias** towards Newsome; moreover, with intent to use its knowledge of Newsome's engagement in protected activity to paint her as ***paranoid***, a ***serial/vexatious litigator***, a ***hostile person capable of murder***, etc. – for scandalous and slanderous purposes – thus, supporting Stor-All's counsel's engagement in conduct that is prejudicial to the administration of justice and the obstruction of justice; furthermore, counsel engaging in conspiracy with others and continuing a pattern of illegal practices brought to its attention with the *willful and malicious* intent to engage court officials (i.e. Judge West and Judge Allen) into such conspiracy and the criminal/civil wrongs leveled against Newsome; and **(h)** Stor-All's counsel has engaged in conduct that adversely reflects on his or her fitness to practice law – moreover, willful, malicious and wanton acts for the sole purposes of destroying Newsome's life and engaging in unlawful/illegal activities with others to fulfill such ill intent which was not contemplated under the Code of Professional Responsibility and the oath taken by Stor-All's counsel to practice law in the state of Ohio.

> The Code of Professional Responsibility binds all persons admitted to practice law in Ohio, and a willful breach of its Disciplinary Rules shall be punished by reprimand, suspension or disbarment. (Sup Ct Bar R IV(1)). The Disciplinary Rule **prohibiting misconduct** (Code of Prof. Respons, Canon 1, DR 1-102) *provides that a lawyer must not: violate a Disciplinary Rule* (Code of Prof. Respons, Canon 1, DR 1-102(A)(1)) – **with regard to moral turpitude**, see *Office of Disciplinary Counsel v. Zaller,* 52 Ohio St 3d 227, 556 NE2d 8523 (1990); *Disciplinary Counsel v. King*, 37 Ohio St 3d 77, 523 NE2d 857 (1990); *Toledo Bar Ass'n v. Potts,* 9 Ohio St 3d 89, 459 NE2d 499 (1984) - or **circumvent a Disciplinary Rule through actions of another** (Code of Prof. Respons, Canon 1, DR 1-102(A)(2)); **engage in illegal conduct involving moral turpitude** (Code of Prof. Respons, Canon 1, DR 1-102(A)(3)); **engage in conduct involving dishonesty, fraud, deceit or misrepresentation** (Code of Prof. Respons, Canon 1, DR1-102(A)(4)); **engage in conduct that is prejudicial to the administration of justice** (Code of Prof. Respons, Canon 1, DR 1-102(A)(5)); **engage in any other conduct that adversely reflects on his or her fitness to practice law** (Code of Prof. Respons, Canon 1, DR 1-102(A)(6)).

In so doing, Stor-All and its counsel obtained the ***components of the object*** [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] ***needed to bring about the completion of the object/goal*** [i.e. **COVER-UP** and ***destroying evidence*** through criminal acts of Stor-All in the unlawful/illegal seizure of Newsome's storage unit and property without legal/lawful authority. Said cover-up and destroying of evidence could not be accomplished without: (a) Stor-All obtaining an unlawful/illegal Entry by Judge West on or about April 29, 2009, Granting Bifurcation and Remand. ***Once Judge West completed his role in the conspiracy – with knowledge that Municipal Court lacked jurisdiction*** – *Stor-All* ***pounced on such criminal acts*** *of Judge West and filed in the Hamilton County Municipal Court* (Case No.

09CV01690) *its Motion for Partial Summary Judgment With Affidavit of Leslie Smart Attached*; and (b) Judge Allen on September 9, 2009, executed NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. Once Judge Allen completed her role in the conspiracy, Stor-All and other Co-Conspirators moved swiftly to act Allen's rulings. As a direct and proximate result of Judge West's and Judge Allen's role in the conspiracy, they aided and abetted the commission of a series of crimes to be carried out by other Conspirators. Judge West and Judge Allen aided and abetted with knowledge they were engaging in criminal activity – moreover, the record evidence will support that courts were timely, properly and adequately notified through filing of Newsome of criminal acts. To no avail. Judge Allen and Judge West willingly and knowingly authorized the carrying out of criminal acts against Newsome. Having the power to prevent, elected instead to engage in the crimes of their Co-Conspirators.] ***which was accomplished.*** - - - Now Stor-All is attempting to use the NULL/VOID *of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* as a defense to obtain a **lifting of a court-ordered stay** and **dismissal of Newsome's counterclaim**. Such efforts are memorialized in Stor-All's pleadings in the Hamilton County Court of Common Pleas (Case No. A0901302) submitted for filing: September 10, 2009 ***Motion to Lift the Court Ordered Stay*** and September 18, 2009 ***12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached***] – ***to support charges in FBI Criminal Complaint***. Therefore, requiring the filing of criminal complaint with the FBI.

STOR-ALL AND JUDGE WEST/JUDGE ALLEN:

26. Because Judge West's and Judge Allen's role in aiding and abetting of the crimes committed on or about September 9, 2009, Newsome has filed criminal charges with the FBI for the role said Judges played in the conspiracy. While Judge West is immune from civil liability, there is no immunity for him from criminal actions. As for Judge Allen, she is neither immune from civil or criminal actions in that it is clear and she knew jurisdiction was lacking.

Dennis v. Sparks, 101 S.Ct. 183 (U.S.Tex.,1980) - **State judge** *may be found* ***criminally*** *liable* for violation of civil rights *even though the judge may be immune from damages under the civil statute*. 18 U.S.C.A. § 242; 42 U.S.C.A. § 1983.

27. In that Stor-All succeeded in obtaining a NULL/VOID/UNENFORCIBLE *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment,* it obtained the OBJECT [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] of conspiracy and has unlawful/illegally taken Newsome's storage unit and property and obtained a NULL/VOID/UNENFORCEABLE *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* for purposes of providing it with defense to Newsome's Counterclaim. Stor-All's action upon sham legal process sealed the fate of Judge West and Judge Allen. Moreover, sustained Judge West's and Judge Allen's aiding and abetting such criminal activities in furtherance of conspiracy leveled against Newsome. Judge West and Judge Allen being WILLING participants in the conspiracy leveled against Newsome.

> Once the conspiracy had been established, the government need show only slight evidence that a particular person was a member of the conspiracy to support a conviction under ***Ohio's Corrupt Activity Act*** for engaging in a pattern of corrupt activity; a party to the conspiracy need

not know the identity, or even the number, of his confederates. R.C. § 2923.32(A)(1). *State v. Silferd,* 783 N.E.2d 591, 151 Ohio App.3d 103, 2002-Ohio-6801, appeal allowed 786 N.E.2d 900, 98 Ohio St.3d 1537, 2003-Ohio-1946, affirmed 789 N.E.2d 237, 99 Ohio St.3d 145, 2003-Ohio-2765. – (Ohio App.3 Dist. 2002).

Government need not show that a defendant participated in all aspects of the conspiracy; it need only prove that the defendant was a party to the general conspiratorial agreement. *U.S. v. Ross,* 190 F.3d 446, 1999 Fed. App. 273P. . . – (C.A. 6 Ohio 1999) – For defendant to be convicted of conspiracy, it is not necessary to show that a defendant knew the full extent of the enterprise. *Id*.

28. Based upon the facts, evidence and legal conclusion and in the interest of justice and benefit of protecting the public and/or citizens of the State of Ohio, both Judge West and Judge Allen should be **REMOVED *immediately*** from the bench. The record evidence sustains that they are not honest and, therefore, there is no need to keep them on the bench; moreover, in public life. The statutes/laws governing said matters warrant that they belong behind prison bars. Therefore, in pursuit of such justice in and protection of other citizens against such criminal activities of Judge West and Judge Allen, Newsome has filed FBI Complaint against them.

CUT & PASTED FROM:
http://www.fbi.gov/page2/march04/greylord031504.htm
That's really the whole point. *Abuse of the public trust **cannot** and **must not** be tolerated*. Corrupt practices in government strike at the heart of social order and justice. And that's why the *FBI has the ticket on investigations of **public corruption as a top priority***. . . .

What kind of crimes? Bribery, kickbacks, and fraud. Vote buying, voter intimidation, impersonation. Political coercion. Racketeering and obstruction of justice. Trafficking of illegal drugs.

How serious of a problem is it? Last year the FBI investigated 850 cases; brought in 655 indictments/informations; and got 525 who were either convicted or chose to plead.

Last words: Straight from Teddy Roosevelt: "***Unless a man is honest we have no right to keep him in public life, it matters not how brilliant his capacity***, it hardly matters how great his power of doing good service on certain lines may be... No man who is corrupt, no man who condones corruption in others, can possibly do his duty by the community."

29. Through the role Judge West and Judge Allen played in the conspiracy leveled against Newsome and the bringing about of criminal actions on or about September 9, 2009, in the bringing about the execution of *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*, the statutes/laws of the State of Ohio warrants said Judges have succumbed to bribery in the carrying out of their judicial duties to which Newsome has been injured/harmed an protected rights infringed upon. Therefore, said Judges are to be ***removed*** **from the bench** and **disqualified from holding any public office, employment, or position of trust in the State of Ohio**.

O.R.C. § 2921.02 Bribery.

(F) ***A public servant or party official who is convicted of bribery is forever disqualified from holding any public office, employment, or position of trust in this state***.

30. The record evidence sustains that there was a malicious combination of two or more persons (Judge West, Judge Allen, Stor-All and other Co-Conspirators) causing injury to Newsome and her property and existence of criminal activity being the object of conspiracy leveled against Newsome and to provide Stor-All with a defense to her Counterclaim for unlawful/illegal purposes. Judge West and Judge Allen in furtherance of Stor-All's conspiracy entered said conspiracy with malicious intent to willfully, maliciously and knowingly causing injury/harm to Newsome and her property. Such criminal acts taken by Judge Allen and Stor-All on or about September 9, 2009, could not have been accomplished without the participation of Judge West and Judge Allen fulfilling their roles.

> To establish a claim of civil conspiracy under Ohio law, the following elements must be proven: (1) a malicious combination, (2) of two or more persons, (3) injury to person or property, and (4) existence of an unlawful act independent from the actual conspiracy. *Aetna Cas. And Sur. Co. v. Leahey Const. Co.,* 219 F.3d 519, 2000 Fed.App. 227P. – (C.A. 6 Ohio 2000).
>
> Under Ohio law, "malice" involved in tort of civil conspiracy requires showing of malicious combination of two or more persons to injure another in person or property, in a way not competent for one alone, resulting in actual damages. *Walsh v. Erie County Dept. of Job and Family Services,* 240 F.Supp.2d 721. – (N.D. Ohio 2003) – Under Ohio law, "malice" involved in tort or civil conspiracy is that state of mind under which a person does a wrongful act purposely, without reasonable or lawful excuse, to the injury of another. *Id.*

31. There was a common understanding between Judge West, Judge Allen and Stor-All of the role each must play in the conspiracy in providing ***components of the object*** [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] ***needed to bring about the completion of the object/goal*** [i.e. **COVER-UP** and ***destroying evidence*** through criminal acts of Stor-All in the unlawful/illegal seizure of Newsome's storage unit and property without legal/lawful authority. Said cover-up and destroying of evidence could not be accomplished without: (a) Stor-All obtaining an unlawful/illegal Entry by Judge West on or about April 29, 2009, Granting Bifurcation and Remand. ***Once Judge West completed his role in the conspiracy – with knowledge that Municipal Court lacked jurisdiction*** – *Stor-All* ***pounced on such criminal acts*** *of Judge West and filed in the Hamilton County Municipal Court* (Case No. 09CV01690) *its Motion for Partial Summary Judgment With Affidavit of Leslie Smart Attached*; and (b) Judge Allen on September 9, 2009, executed NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. Once Judge Allen completed her role in the conspiracy, Stor-All and other Co-Conspirators moved swiftly to act Allen's rulings. As a direct and proximate result of Judge West's and Judge Allen's role in the conspiracy, they aided and abetted the commission of a series of crimes to be carried out by other Conspirators. Judge West and Judge Allen

aided and abetted with knowledge they were engaging in criminal activity – moreover, the record evidence will support that courts were timely, properly and adequately notified through filing of Newsome of criminal acts. To no avail. Judge Allen and Judge West willingly and knowingly authorized the carrying out of criminal acts against Newsome. Having the power to prevent, elected instead to engage in the crimes of their Co-Conspirators.] ***which was accomplished.*** - - - Now Stor-All is attempting to use the NULL/VOID *of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* as a defense to obtain a **lifting of a court-ordered stay** and **dismissal of Newsome's counterclaim**. Such efforts are memorialized in Stor-All's pleadings in the Hamilton County Court of Common Pleas (Case No. A0901302) submitted for filing: September 10, 2009 ***Motion to Lift the Court Ordered Stay*** and September 18, 2009 ***12(B)(6) Motion to Dismiss and/or Motion for Summary Judgment on Defendant Newsome's Counterclaim With Affidavits of Leslie Smart and Lori Whiteside Attached***] – ***to support charges in FBI Criminal Complaint.*** Judge West's and Judge Allen's aiding and abetting is a criminal offense along with the other criminal acts (i.e. color of law, etc.) that were committed against Newsome.

> In Ohio, civil conspiracy is malicious combination of two or more persons to injure another in person or property, in way not competent for one alone, resulting in actual damages. *DeBoer Structures (U.S.A.) Inc. v. Shaffer Tent And Awning Co.,* 233 F.Supp.2d 934. – (S.D. Ohio 2002) – "*Malice*" as required for civil conspiracy claim under Ohio law, is that state of mind under which person does wrongful act purposely, without reasonable or lawful excuse, to injury of another. *Id.* – Civil conspiracy claim under Ohio law does not require existence of duty on part of alleged co-conspirators towards allegedly injured party, rather, there must simply be evidence of common understanding or design to commit unlawful act. *Id.*
>
> Conspiracy in and of itself is not a crime in Ohio, and conspiracy can only be shown in connection with acts which are defined as crimes. *State v. Richardson,* 2 Ohio Supp. 1, 15 O.O. 461, 30 Ohio Law Abs. 179. – (Ohio Comm.Pl. 1939)

32. Judge Allen through the issuance of unlawful *Writ of Execution* ordered, *"YOU ARE THEREFORE HEREBY COMMANDED to cause the defendant(s) to be removed from said premises and said plaintiff(s) to have restitution of the same; also, that you levy of the goods and chattels of said defendant(s), and make costs aforesaid, and all accruing costs"* with knowledge that she and/or the Hamilton County Municipal Court lacked jurisdiction. Newsome neither authorized the entering of her storage unit or the taking of her property. Moreover, the record evidence sustains that Judge Allen was timely, properly and adequately placed on notice that the Hamilton County Court lacked jurisdiction.

> *U.S. v. Blandford*, 33 F.3d 685 (C.A.6.,1994) - Proof that public official obtained payment to which he or she was not entitled with knowledge that payment was made in return for official act or exercise of official authority is sufficient to sustain conviction for extortion under Hobbs Act concerning receipt of . . . contributions or other payments, regardless of whether terms of quid pro quo were expressly articulated. 18 U.S.C.A. § 1951.

> *U.S. v. Burkhart*, 682 F.2d 589 (C.A.6.,1982) - Evidence was sufficient to support conviction for several violations of Hobbs Act, for obtaining property by consent "induced by wrongful use of fear under the color of official right." 18 U.S.C.A. § 1951.
> **Extortion**

33. A reasonable mind may conclude that both Judge West's and Judge Allen's defense to committing such egregious criminal acts under color of law was because of its knowledge that Newsome is to be seen as a "serial/vexatious" litigator – when Newsome is not. Therefore, Judge Allen has used a lawful means of process in a criminal and illegal manner to extort/blackmail monies/property from Newsome and Judge West's is equally guilty for the role he played in the aiding and abetting of conspiracy leveled against Newsome.

34. On or about September 9, 2009, Judge Allen executed *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* which states in part, "*YOU ARE THEREFORE HEREBY COMMANDED to cause the defendant(s) to be removed from said premises and said plaintiff(s) to have restitution of the same; also, that you levy of the goods and chattels of said defendant(s), and make costs aforesaid, and all accruing costs"* for purposes of threats with intent to extort money or other property from Newsome in her aiding and abetting Stor-All in criminal activity.

35. The record evidence will support that prior to the September 9, 2009, criminal acts of Judge Allen and Co-Conspirators, through written instrument dated July 16, 2009, she threatened Newsome through **ENTRY SETTING CASE MANAGEMENT CONFERENCE**, that, "***Failure to appear will be grounds for dismissal and/or default; failure to appear may also be contempt of court***. . .." See **EXHIBIT "17"** attached hereto and incorporated by reference as if set forth in full herein. Judge Allen doing so with knowledge that Newsome would not be waiving jurisdiction and neither providing the Hamilton County Municipal Court with Jurisdiction. The record evidence will support that said Court's record contain the timely filings of Newsome entitled, "DEFENDANT'S RESPONSE TO JULY 10, 2009 ORDER GRANTING MOTION TO TRANSFER FOR JURISDICTION and JULY 16, 2009 ENTRY SETTING CASE MANAGEMENT CONFERENCE – AS MATTER OF LAW, DEFENDANT IS NOT REQUIRED TO WAIF RIGHTS." Therefore***, in retaliation of the defenses set forth by Newsome*** and Judge Allen's knowledge of Newsome's engagement in protected activities, on or about August 6, 2009, she vacated the July 10, 2009 *Order Granting Motion to Transfer for Jurisdiction* and on ***September 9, 2009, fulfilled her role in the conspiracy and issued what she knew was a NULL/VOID/UNENFORCIBLE Writ of Execution and Entry Granting Writ of Immediate Possession and Partial Summary Judgment for the purposes of extorting/blackmailing monies and property of Newsome***.

> *Ditzler v. State,* 2 Ohio C.D. 702 (Ohio.Cir.,1890) - Under . . . which provides that whoever sends a written or printed communication accusing or threatening to accuse any person of any immoral conduct "which, if true, would tend to degrade and disgrace such person," with intent to extort money or other property from such person, shall be guilty, etc., an indictment for such offense must allege that the immoral conduct charged was such as "tends to degrade and disgrace" the person accused thereof, or it must allege the equivalent of such words, as they are part of the description of the offense.

36. In fact the record evidence in the Hamilton County Municipal matter (Case No. 09CV01690) will support Judge Allen on or about July 10, 2009, executed the proposed Order provided by Newsome in submittal of her Motion to Transfer; however, for some ill purposes vacated the Order without just cause and with knowledge that the Hamilton County Municipal Court lacked jurisdiction.

Therefore, a reasonable mind may conclude that the vacating of said Order and Judge Allen's execution of *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* with the participation of Stor-All's counsel was ill motivated and done in furtherance of conspiracy she willingly and knowingly engaged. In so doing, depriving Newsome equal protection of the laws, due process of laws and rights secured under the applicable statutes/laws governing said matters.

37. To support and constitute the offense of willfully and corruptly oppressing in office, there was an improper, wicked, corrupt and malicious motive for the offense committed by Judge Allen – i.e. **vacating** July 10, 2009 Order Granting Motion to Transfer for Jurisdiction and **executing** 09/10/09 *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment* – with knowledge that she lacked jurisdiction to execute rulings, made a conscience, willful and malicious decision which she knew was done with deliberate intent to injure/harm Newsome.

> *State v. Thomas,* Dayton 389 (Ohio.Com.Pl.,1867) - To constitute the offense of ***wilfull****y* and ***corruptly*** oppressing in office, something more is required than merely acting without authority, but an improper, wicked and corrupt motive is one of the elements of the offense, which motive may be inferred from the circumstances and the acts and conduct of defendant.

38. The record evidence of the Hamilton County Municipal Court (Case No. 09CV01690) and the Hamilton County Court of Common Pleas (Case No. A0901302) will support the underlying unlawful acts [i.e. *Conspiracy, Public Corruption, Complicity, Corruption, Aiding and Abetting, Extortion, Blackmail, Bribery, Coercion, Retaliation, Pattern of Conduct, Intimidation, Deprivation of Rights, Power/Failure to Prevent, Stalking/Menacing by Stalking, Burglary, Trespass, Breaking and Entering, Theft, Larceny, Invasion, Unlawful Entry/Forcible Action, Obstruction of Justice, Color of Law, Conspiracy Against Rights, Conspiracy to Interfere With Civil Rights*] of Stor-All and through the committal of said crimes its efforts to obtain NULL/VOID/UNENFORCIBLE rulings [i.e. *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary*] in an attempt to provide Stor-All with a defense to Newsome's Counterclaim. Judge Allen having knowledge of the conspiracy Stor-All was engaged in and committed to fulfilling her role to bring about object [i.e. **COVER-UP** and ***destroying evidence*** through criminal acts of Stor-All in the unlawful/illegal seizure of Newsome's storage unit and property without legal/lawful authority. Said cover-up and destroying of evidence could not be accomplished without: (a) Stor-All obtaining an unlawful/illegal Entry by Judge West on or about April 29, 2009, Granting Bifurcation and Remand. ***Once Judge West completed his role in the conspiracy – with knowledge that Municipal Court lacked jurisdiction*** – *Stor-All* ***pounced on such criminal acts*** *of Judge West and filed in the Hamilton County Municipal Court* (Case No. 09CV01690) *its Motion for Partial Summary Judgment With Affidavit of Leslie Smart Attached*; and (b) Judge Allen on September 9, 2009, executed NULL/VOID *Writ of Execution* and *Entry Granting Writ of Immediate Possession and Partial Summary Judgment*. Once Judge Allen completed her role in the conspiracy, Stor-All and other Co-Conspirators moved swiftly to act Allen's rulings. As a direct and proximate result of Judge West's and Judge Allen's role in the conspiracy, they aided and abetted the commission of a series of crimes to be carried out by other Conspirators. Judge West and Judge Allen aided and abetted with knowledge they were engaging in criminal activity – moreover, the record evidence will support that courts were timely, properly and adequately notified through filing of Newsome of criminal acts. To no avail. Judge Allen and Judge West willingly and knowingly authorized the carrying out of criminal acts against Newsome. Having the power to prevent, elected instead to engage in the crimes of their Co-Conspirators.] of said conspiracy.

> *Gosden v. Louis,* 116 Ohio App.3d 195, 687 N.E.2d 481 (9th Dist. 1996) - For a civil conspiracy claim to succeed, the underlying act must be unlawful.

> It is immaterial that persons are induced to become members of the conspiracy under coercion, or to avoid pecuniary loss or other trouble. *Central Metal Products Corp. v. O'Brien,* 278 F.827 (N.D. Ohio 1922). Participation in the conspiracy requires knowledge of the conspiracy and an act that will knowingly promote the conspiracy. *Crobaugh v. State,* 45 Ohio App. 410, 12 Ohio L. Abs. 404, 187 N.E. 243 (8th Dist. Cuyahoga County 1932). It does not require, however, the showing of an express agreement between the defendants to have a malicious combination to injure but only a common understanding or design, even if ***tacit,*** *to commit an* ***unlawful act.*** *Gosden v. Louis,* 116 Ohio App.3d 195, 687 N.E.2d 481 (9th Dist. Summit County 1996). In fact, ***not even a meeting is necessary***. *Pumphrey v. Quillen,* 102 Ohio App. 173, 2 Ohio Op.2d 152, 141 N.E. 2d 675 (9th Dist. Summit County 1955), judgment aff'd, 165 Ohio St. 343, 59 Ohio Op. 460, 135 N.E.2d 328 (1956).

39. Stor-All's nor its insurance company's (Liberty Mutual Insurance) attorneys are not to be held to a different standard than that of nonlawyers when evaluating their participation and role in the conspiracy leveled against Newsome. Newsome's filing of FBI Complaint is because she is confident of the criminal acts of Stor-All and its Co-Conspirators and the investigation will yield evidence to sustain an ongoing conspiracy and that Stor-All through its conspiracy leveled against Newsome has knowingly, willingly and malicious attached their crimes with those of its insurance provider for the furtherance of other conspiracies made known to it.

> ***Lawyers*** *are* ***not*** *held to a different standard* from nonlawyers when their participation in a conspiracy is evaluated. 18 U.S.C.A. § 371. *U.S. v. Kraig,* 99 F.3d 1361, 1996 Fed.App. 355P. – (C.A. 6 Ohio 1996).

40. Newsome believes that Meranus' acknowledgement on February 6, 2009, as to her engagement in protected activities, will sustain that Stor-All upon finding out who Newsome was, was made aware of what role it was to play and its need to recruit Co-Conspirators to assist in the achieving the object of the conspiracy leveled against Newsome. Meranus thinking that advising Newsome on said date of his knowledge of her participation in protected activity would cause her to withdraw her Counterclaim. To the contrary, the information Meranus provided Newsome with the information she needed to sustain her Complaint submitted to the United States Legislature/Congress as well as Complaint filed with the proper government entities under the new Administration (Barack Obama). Furthermore, Meranus provided Newsome with damaging information to support the FBI Criminal Complaint filed resulting out of the criminal acts executed on or about September 9, 2009.

> To prove that defendant is guilty of conspiracy, the government must prove that defendant was aware of the object of the conspiracy and that he voluntarily associated himself with it to further its objectives. *U.S. v. Gibbs,* 182 F.3d 408, 1999 Fed.App. 140P. . . – (C.A. 6 Ohio 1999) – To be found guilty of conspiracy, defendant need not be an active participant in every phase of the conspiracy, so long as he is a party to the general conspiratorial agreement. *Id.*

STOR-ALL AND CO-CONSPIRATOR WOOD & LAMPING:

For purposes of conspiracy acts and establishment of "PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT" underlying the conspiracy leveled against Newsome, it is pertinent for Newsome to set forth the following facts to sustain conspiracy leveled against her and how it is Stor-All's prying into matters outside the legal matters it brought against Newsome, has led to its demise and that of its Co-Conspirators. Moreover, Stor-All's engagement in conspiracy in furtherance of those made known to it that has been initiated by other sources.

41. Information pertinent to this issue is to establish the relationship between Stor-All and Wood & Lamping – the common denominator. It appears the common denominator may be Thomas J. Breed – an attorney employed at Wood & Lamping, LLP ("W&L").

42. Prior to Breed's employment with W&L he was an attorney at Schwartz Manes & Ruby – now known as Schwarz Manes Ruby & Slovin ("SMR&S").

43. During Newsome's employment with W&L and at the time of her termination of employment with W&L, Newsome provided legal support/assistance to Thomas J. Breed. Stor-All and its counsel/representatives were aware of the working relationship of Newsome and Breed. Furthermore, the conflict of interest which arose from the Newsome and Breed working relationship and that of the Breed and SMR&L relationship. Moreover, the conflict of interest which would arise if W&L were to represent Newsome in any lawsuit brought by SMR&S on behalf of Stor-All. Nevertheless, with said knowledge of the conflict of interest which arose, W&L, SMR&S and Stor-All elected to proceed with knowledge that they were acting in violation of statutes/laws governing said matters; moreover, in violation of the Code of Professional Conduct.

44. When Stor-All retained Meranus to represent it in a lawsuit against Newsome it knew and/or should have known of the Conflict of Interest which arose due to Breed's relationship with SMR&S and Newsome. Nevertheless, Meranus proceeded on behalf of Stor-All and obtained assurance that Newsome's employment with W&L would be terminated to cover-up and mask such criminal acts in violation of the Code of Professional Conduct – for purposes of removing the cloak of CONFLICT OF INTEREST that existed as long as long as Newsome was employed with W&L. Therefore, Meranus/SMR&S engaged in criminal/civil wrongs for purposes of obtaining Stor-All's business and proceeded filing Stor-All's Forcible Entry and Detainer action.

STALKING:

45. In December 2008, Newsome went to Washington, D.C. to inquire into the status of her July 2008 Complaint filed with the United States Legislature/Congress submitted for filing and share her concerns of how former white employers, their attorneys, insurance companies are stalking her from job-to-job/employer-to-employer and state-to-state for purposes of getting her fired and regarding on their racial prejudices and bias in achieving said goals. While Stor-All was not aware of Newsome's trip, on February6, 2009, its counsel (Meranus) sustained the need and purpose for Newsome's trip to check on the Complaint Newsome submitted. Filing which Newsome, as a matter of law, was allowed to file:

> *DeCarlo v. Schilla*, 2002 -Ohio- 4186 (Ohio.App.8.Dist. Co.,2002) - Evidence was sufficient to show that defendant's **pattern of conduct** caused plaintiffs to believe he would cause physical harm to one or all of them, and thus, was sufficient to support finding that defendant violated menacing by stalking statute. . .

46. It is no known secret that there are racial injustices and the laws are not equally applied; however, the ongoing conspiracies leveled against Newsome as well as other African-Americans are ridiculous and clearly prohibited by law. Stor-All relies on such criminal practices for purposes of driving and attempting to get Newsome to stoop to their level and resort to crimes. However, to Stor-All's disappointment, unlike Stor-All, does not take the laws into her own hands, but report such criminal activity to the FBI and bring the appropriate lawsuits to recover damages.

47. While such criminal stalking is prohibited by law and in violation of Title VII and other governing statutes/laws, such criminal stalking executed by Stor-All is done for purposes of racial bias and prejudices against African-Americans. From such criminal acts committed by Stor-All a reasonable mind may conclude that its stalking and attacks on Newsome is to cause her injury/harm. It is no secret how difficult it is for African-Americans to get employment; however, then to allow such criminal acts such as those Stor-All has engaged in to bring about Newsome's termination is unacceptable. Resorting to criminal stalking known to be used by "certain" whites to accomplish their goals and to obtain an undue advantage over Newsome. In Newsome's ***Motions to Strike Plaintiff's Motion for Leave to File Memorandum in Opposition to Motion for Rule 11 Sanctions – Submitted by Attorneys David Meranus and Molly G. Vance on Behalf of Plaintiff; and Requests for Rule 11 Sanctions (Jury Trial Demanded in this Action)*** – See **EXHIBIT "12"** – Case Summary Docket (Court of Common Pleas) she addressed an incident involving a situation where whites stalked an African-American male (Carl Brandon) from job-to-job for years for purposes of driving him to commit criminal activities and destroying of his livelihood.

> Carl Brandon (an African-American male) was subjected to similar unlawful/illegal and/or criminal/civil wrongs as that of Newsome in this action – *being stalked from job-to-job, employer-to-employer, and employer being contacted and notified of protected activities involved in* – succumbing to violence in which perpetrators of criminal acts rendered him wanted to push him to. Thus, resulting in the shooting spree that Carl Brandon elected to engage on as a direct and proximate result of the illegal and judicial wrongs he felt was rendered him. Nevertheless, **it is important to note that those engaging in the criminal/civil wrongs** – stalking him from job-to-job, employer-to-employer, etc. – ***should be held just as liable for their role in Brandon's acts***. *While they may not have pulled the trigger of the gun used on the shooting spree,* ***they engaged in acts they either knew and/or should have known may have resulted from their criminal acts and/or attacks*** *leveled against Brandon*. Those who may be familiar with what Brandon was going through noting:

Cut & Pasted From:
http://www.topix.com/forum/city/port-gibson-ms/ T0RUM1ECTB788O4HN# comments

> "I would put Carl Brandon as a model from my town. I think he was one of the more intellegent and well manners persons in the class. i cannot imagine this guy walking up one morning to decide that he want to destroy his life and others." – Sarah Kelly (Chicago, IL)

"Some time a person ***try to walk away from a problem, but there are people in this world that want let them do that***. *This man had left his job and move on, but that was not good enough.* **They had to call his job and tell them what happened 9 years ago, and got this man fired**. I hate that he let the devil take over him at the time, but I do understand . . . I hope we can learn something from this tragedy." – Shelly Jones (Nashville, TN)

"He had lost his job because someone said he had harassed them. He lost his reputation and the respect of some. *When he tried to move on* ***some vindictive, vicious persons went to his next job and scandalized him***. *He fought through every legal avenue available to him and found* ***no*** *justice.*" – Cassandra Cook Butler (AOL)

Cut & Pasted From: http://www.wapt.com/news/8141556/detail.html

"I don't know how you can consider me a danger. I was made a criminal through the system … The sexual harassment charges made against me were trumped up, yet the system allowed the board of supervisors to take them and run with them," Brandon said in court.

Karl Devine, Brandon's longtime friend, said Brandon never got over the fact that the courts upheld the board's decision to fire him in 1997.

Devine believes the years Brandon spent unsuccessfully trying to clear his name, caused him to finally snap. ***"Carl, would always talk about it he said 'The one thing that I want, I just want them to clear my name. They don't have to pay me, they don't have to give me no job, just clear my name,"*** *said Devine.*

48. Stor-All in using such criminal stalking practices engages in such for the purposes of mentally breaking down and destroying Newsome's life. Then when exposed refer to their "play book" on how to defend against such claim and, therefore, come out of the gates labeling Newsome as a *"serial/vexatious" litigator*, *paranoid*, *crazy*, *psychotic*, *potential murder*, *boy-who-cry-wolf*, etc. and then seeks the court(s) for protective orders to which it is not entitled – it being Newsome who needs such injunctions and protective orders issued for her protection and, therefore, in her Counterclaim seeks such relief. See Stor-All's ***Motion for Protective/Restraining Order Against Defendant Denise V. Newsome*** filed with the Hamilton County Court of Common Pleas (Case No. A0901302) on March 13, 2009, to support such labeling and attacks on Newsome – See **EXHIBIT "12"** attached hereto and incorporated by reference.

PAGE KRUGER & HOLLAND MATTER ("PKH"):

It is important to note, that a reasonable mind may conclude that Stor-All, its attorneys, insurance companies and/or Co-Conspirators have knowledge of Newsome's engagement in protected activities involving Page Kruger & Holland ("PKH"), Newsome's former employer who is representing Defendants in a lawsuit brought by Newsome who in said matter was represented by legal counsel until corrupt

practices by opposing counsel to obtain an undue advantage set in. This is a matter that is presently being addressed through the proper legal action. For the factfinder to understand how such criminal stalking and pattern-of-practice/pattern-of-conduct is associated with Stor-All's lawsuit against Newsome, they need look DEEPER into Stor-All's counsel's (Meranus) knowledge of Newsome's engagement in protected activities on February 6, 2009 – See **EXHIBIT "1"** attached hereto and incorporated by reference.[40] In further support of the stalking and "PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT" underlying Stor-All's criminal acts leveled against Newsome the following information is pertinent for factfinders to know so that all the running around Stor-All is doing behind the scene and attempting to project her as a "serial/vexatious" litigator can put such sham/frivolous defense to rest:

49. Page Kruger & Holland is the law firm Newsome was employed with at the time of her arrest on **February 14, 2006.** Prior to her termination of employment, PKH did not advise her of any employment violations and neither was she on probation for any employment issues. In fact, during her employment, Newsome was commended on her work ethics and ability to perform the job duties assigned

[40] This will confirm that during the signing of the attached *Magistrate's Decision*, you brought to my attention **your knowledge of legal actions** brought by me in New Orleans, Louisiana. Information I believe a reasonable mind will conclude has no bearing on the above referenced lawsuit. *I gather your bringing of this information was done to **blackmail** and/or **extort** monies from me* – thinking I was going to drop my Counter-Claim against your client. I gathered from the way you presented the information to me, you that I was going to back down. To your disappointment, I advised you that I had a feeling that there were illegal motives behind the filing of this lawsuit on behalf of your client (Stor-All Alfred, LLC). It also appears your *arrogance* got the best of you. At least I now have additional information as to the reason and ill motives behind you and/or your client contacting Wood & Lamping and the reasons underlying my termination (along with the Conflict of Interest – Thomas J. Breed's relationship with Schwartz Manes Ruby & Slovin – my working directly with Breed at Wood & Lamping and the conflict that would arise if Wood & Lamping were to represent me in this matter. So to appease you and your client, my employment with Wood & Lamping was terminated and I was denied rights under the Family & Medical Leave Act, etc.) SHAME, SHAME, SHAME!!!!!!

I advised you that I was just up in Washington, D.C. in December 2008 addressing concerns of such unlawful/criminal acts committed by you and/or your client. ***This stalking, harassing, etc. me from state-to-state, job-to-job (CONTACTING MY EMPLOYER)**, is clearly prohibited by laws/statutes and clearly in violation of my Constitutional Rights (Ohio and United States), Civil Rights, Landlord & Tenant Act, etc*. Thanks for confirming my beliefs as to Wood & Lamping's motives. This is well deserved information.

While you seemed to be comfortable in advising me that it is the insurance company that is going to pay the liability, what you failed to understand is that the divulgence of your knowledge of matters regarding me in New Orleans, Louisiana opens the doors for additional claims of and against you, your law firm (Schwartz Manes Ruby & Slovin), Stor-All Alfred, LLC, Wood & Lamping and who knows who else. I THANK YOU, THANK YOU, THANK YOU. . . . . for such good news. I shared during my trip to Washington, D.C. continued concerns of conspiracies to destroy my life, liberties and pursuit of happiness, etc. and such willful, malicious and wanton acts as that committed by you and others to continue to cause me irreparable harm/injury.

My termination from employment with Wood & Lamping, LLP, your acknowledgment in Court today in efforts of extorting and/or blackmailing me, (along with other reasons known to you) etc. is clearly UNACCEPTABLE!!!! Your acts which not only violate the Ohio Rules of Civil Procedure, but that of the Ohio Code of Professional Conduct and/or other statutes/laws governing such matters. You are aware that I have filed the appropriate Motion for Sanctions and through this motion am I not only seeking sanctions but, if possible, your disbarment. When you use your profession to interfere with the life of another for unlawful/illegal gain; moreover, for **racial** and/or **prejudicial** reasons, I do not believe as an *"officer of the court"* that you uphold neither the integrity nor the respect of the Court and/or judicial process. The criminal/civil wrongs you, your client and others have committed against me have cause irreparable injury/harm and such acts which cannot go unaddressed.

Again, **THANK YOU, THANK YOU, THANK YOU, THANK YOU, THANK YOU.** . . . You know this is news/information that needs to be shared. This was the nail I needed to expose and shine the light on such criminal/civil wrong. Did you and others in cohort with you not understand the message sent on November 4, 2008 (Presidential Election) – **CHANGE**, **NOT MORE OF THE SAME!!!!**

her which sustains the Letter of References/Correspondence provided in **EXHIBIT "7"** of this instant pleading/document:

> TOMMY PAGE EMAIL – 06/16/05:
>
> TP: "***You looked very smart & professional as you walked toward the building***!"
>
> VN: "Why thank you. I strive to dress and carry myself in the manner in which PKH requires. ☺"
>
> TP: "You do it well." – TOMMY PAGE

> Vogel, First and foremost, you are doing an **excellent** job. These are just a few things that I thought of that might save us both some time and help things flow smoother. . . - - SUSAN O. CARR

It is important to note that since leaving PKH and from information obtained from research, Carr has since left PKH as well and is presently a Law Clerk for one of the Mississippi Courts – First Circuit. See **EXHIBIT "18"** attached hereto.

Attached at **EXHIBIT "19"** is PKH's Phone Directory/Roster attached hereto for purposes of verification.

IT IS IMPORTANT TO NOTE in looking at the PKH Phone Directory, during Newsome's employment with PKH and from her understanding of conversations while employed at PKH, there was a Legal Assistant, John Noblin, who was an attorney; however, he did not want to practice law. Therefore, as a filler (until something better came along) job, John worked at PKH as a Legal Assistant. John later left PKH to accept another job opportunity (non-legal). John is the son of the Clerk of the Court - USDC – Southern District MS (Jackson Division) – J. T. Noblin. See **EXHIBITS "20"** and **"19"** attached hereto and incorporated by reference.

IT IS IMPORTANT TO NOTE that since Newsome's employment with PKH was terminated it appears that at least two of the attorneys are now working ***"WITHIN"*** the courts (judicial system) in Mississippi. Carr being a Law Clerk now and another attorney by the name of **A.B. (Trey) Smith III** is a judge in a Mississippi court. (See **EXHIBIT "21"** attached hereto and incorporated by reference).

> **EMPHASIS ADDED:** Because the evidence presented herein reveals the **"special"** relationships Newsome's former employers have with the courts as well as other employers and/or their attorneys special relationships with the courts and others (i.e. retired judges, Chief of Staff to the President of the United States, U.S. Secretary of State, etc. - such as Entergy's attorneys law firm Baker Donelson Bearman Caldwell & Berkowitz) moreover, the wealth, power and resources that may be behind such crimes leveled against:

CUT & PASTED FROM: ***http://www.martindale.com/Baker-Donelson-Bearman-Caldwell/law-firm-307399.htm***

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, is ranked by The National Law Journal as one of the 100 largest law firms in the country. Through strategic acquisitions and mergers over the past century, the Firm has grown to include more than 550 attorneys and public policy and international advisors. Baker Donelson has offices located in five states in the southern U.S. as well as Washington, D.C., plus a representative office in London, England.

Current and former Baker Donelson attorneys and advisors include, among many other highly distinguished individuals, people who have served as: Chief of Staff to the President of the United States; U.S. Senate Majority Leader; U.S. Secretary of State; Members of the United States Senate; Members of the United States House of Representatives; Acting Administrator and Deputy Administrator of the Federal Aviation Administration; Director of the Office of Foreign Assets Control for the U.S. Department of the Treasury; Director of the Administrative Office of the United States Courts; Chief Counsel, Acting Director, and Acting Deputy Director of U.S. Citizenship & Immigration Services within the United States Department of Homeland Security; Majority and Minority Staff Director of the Senate Committee on Appropriations; a member of President's Domestic Policy Council; Counselor to the Deputy Secretary for the United States Department of HHS; Chief of Staff of the Supreme Court of the United States; Administrative Assistant to the Chief Justice of the United States; Deputy Under Secretary for International Trade for the U.S. Department of Commerce; Ambassador to Japan; Ambassador to Turkey; Ambassador to Saudi Arabia; Ambassador to the Sultanate of Oman; Governor of Tennessee; Governor of Mississippi; Deputy Governor and Chief of Staff for the Governor of Tennessee; Commissioner of Finance & Administration (Chief Operating Officer), State of Tennessee; Special Counselor to the Governor of Virginia; United States Circuit Court of Appeals Judge; United States District Court Judges; United States Attorneys; and Presidents of State and Local Bar Associations.

Baker Donelson represents local, regional, national and international clients. The Firm provides innovative, results-oriented solutions, placing the needs of the client first. Our state-of-the-art technologies seamlessly link all offices, provide instant information exchange, and support clients nationwide with secure access to our online document repository.

Baker Donelson is a member of several of the largest legal networks that provide our attorneys quick access to legal expertise throughout the United States and around the world.

The reasons provided Newsome at the time of her termination are set out in her e-mail of May 15, 2006 memorializing termination meeting. Although Newsome requested whether or not she would be given written reasons (pink slip) for her termination, PKH denied providing her with the grounds upon which it was basing its termination of her employment. Therefore, as a follow-up and to memorialize the reasons provided for Newsome's termination, she submitted their reasons provided for her termination in an e-mail:

> E-MAIL of 05/16/06 from Vogel Newsome to Louis J. Baine III (shareholder), Thomas Y. Page, Jr. (shareholder), Linda Thomas (Office Administrator) – providing the reasons given for Newsome's termination. Page Kruger & Holland's advising being contacted and having knowledge of lawsuit filed by me.

See **EXHIBIT "22"** attached hereto.

IMPORTANT TO NOTE: *Newsome's termination of employment occurred on Monday, May 15, 2006,* ***only 3 days*** *from the hearing date (May 18, 2006) set by the court in a lawsuit brought by her to hear argument from her attorney on his Motion to Withdraw. Newsome's attorney was approached by opposing counsel in that matter and advised of Newsome's engagement in lawsuit. Such criminal act by opposing counsel was done for purposes of getting Newsome's attorney to withdraw – in which they were successful in getting done through corrupt practices and their special relationships to the judges on the bench. Moreover, for purposes of obtaining an undue advantage over Newsome in legal proceedings.* ***This is a matter, from Newsome's understanding is being investigated and has been submitted to the***

proper persons for handling. Tactics used here are those <u>identical</u> to Stor-All and its attorneys' practices in the lawsuit they have brought against Newsome. Information also pertinent for FBI Investigation filed.

> E-MAIL of 03/30/06 regarding CONFLICT CHECK to Lawson Hester (shareholder) and providing Linda Thomas (Office Administrator) a copy on 06/31/06:
>
> VN: Lawson: I recently had a matter occur with a Constable of Hinds County, where I am presently considering. Would this present a conflict? Thanks.

NOTE: Newsome's concerns went unaddressed. See **EXHIBIT "23"** attached hereto. The record evidence further supports that PKH was timely notified of Newsome's concern of conflict in its representing Hinds County, as well as her advising of considering filing a lawsuit against Constable Lewis. It is important to note that this conflict was also brought to Newsome's attention by another attorney, Raymond Fraser (African-American attorney with whom she worked and in whom Newsome advised of what had occurred – aware of Newsome's arrest.) In fact, Fraser *advised Newsome that he had tried to call her back on the day she was arrested in follow up to their telephone conversation because Newsome had called Fraser during the time Constable Lewis, the landlord and others were in her residence to advise Fraser of what was going on.* During said conversation Fraser confirmed that the actions being rendered were unlawful and his surprise in the way things were taking place since he had knowledge of the legal pleadings that were before the court which prohibited such practices.

It is important to note that *Fraser also advised Newsome she should talk to Jamie Travis (an African-American attorney at PKH – who during the time of Newsome's employment was an Associate; however, since her termination and the filing of lawsuit, it appears PKH has made Travis a shareholder – perhaps a move to buy his silence in that from Newsome's understanding from conversations during her employment at PKH, Travis had been seeking shareholder status for a while and felt that he was entitled to it; however, PKH was not budging) <u>in that Travis went to school with Judge Skinner and may be able to assist in getting the matter resolved</u>*. How would the average citizen with no connection to law firms, or the legal industry be aware of such a relationship? Based upon the information provided by Fraser, Newsome found the following: a) Travis completed law school (Mississippi College of Law in **1999**) and was admitted to practice **09/28/1999**; and b) Judge Skinner completed law school (Mississippi College of Law in December **1998**, and was admitted to practice **4/27/99**). See Travis' Bio at **EXHIBIT "24"** and Judge Skinner Bio at **EXHIBIT "25"** attached hereto. However, Newsome did not discuss this matter with Travis in that she knew that the actions rendered her were unlawful/illegal and the very acts of engaging Travis to seek what she took as "special" favors due to his relationship with Judge Skinner to Newsome was unethical and clearly went against Newsome's religious beliefs and concerns that she realized that African-Americans have believed for years - *the judicial system is tainted and the **"shady/corrupt"** dealings that take place behind the scenes*. Newsome definitely did not want to be a part of such corrupt practices that she as well, as other African-Americans, knew was present and the reason why the laws are so adverse towards them when faced with judicial and/or justice issues. Leaving Newsome wondering whether or not Travis used her incident and/or PKH knew from her incident that making Travis a partner/shareholder was simply a **"buy-out"** tactic (for his silence) – giving him an interest in the firm in efforts of warring of any liability it knew it would be facing and any other possible conflicts of interest – due to Travis' (and perhaps others) knowing of his knowledge of illegal wrongs committed in the handling of Newsome. Newsome wanted justice to be based upon the statutes/laws and not upon such improprieties.

A. CCH EEOC DECISIONS:

> Charging Party was hired by Respondent on June 4, 1968, as a bookkeeper. On November 21, 1969, Charging Party was discharged. Charging Party asserts that he had never been reprimanded in connection with his work, and that his supervisor was antagonistic because he is a Spanish surnamed American and because he filed a charge of discrimination against another employer.
>
> Respondent denies the charge and contends that Charging Party was discharged because he was belligerent, uncooperative and unable to perform work assigned.
>
> One of three of Respondent's officials who participated in the decision to discharge Charging Party stated in an affidavit that he had contacted an employer against whom Charging Party had made a previous Commission charge. He states *that the employer* ***recommended*** *that "****we take action now for our own protection.****"* He also stated that "the material in (Charging Party's personnel file) gave indication the (Charging Party) was not rational (sic). The file reflected that he had filed a Civil Rights charge with EEOC. ***I was sure the same thing would eventually happen me***." The record also reveals that Charging Party received salary increases of $50 and $75 per month in 1968, before Respondent became aware of Charging Party's earlier charge. There is no evidence on the record indicating that Respondent would have discharged Charging Party had it not been aware of Charging Party's earlier charge. Such an action based, at least in part, upon Charging Party's participation in Commission proceedings violates Section 704(a) of Title VII.
>
> Decision: There is reasonable cause to believe that Respondent engaged in an unlawful employment practice in violation of Section 704(a) of Title VII of the Civil Rights Act of 1964 by discharging Charging Party.

See **EXHIBIT "26"** attached hereto. There is record evidence of nexus between PKH's termination of Newsome's employment and her engagement in protected activity. PKH was contacted by opposing counsel and advised of Newsome's filing of lawsuit. **Such criminal practices are identical to those used by Stor-All and its attorneys/representatives** – ***contacting of Newsome's employer and notifying of engagement in protected activities; moreover, its intent to file a lawsuit against Newsome; however, to do so, it would require that W&L terminate her employment to remove the cloak of CONFLICT OF INTEREST.***

i) **PKH Matter:** Opposing counsel in lawsuit brought by Newsome contacts PKH and notifies of Newsome's filing of lawsuit against his client as well as additional information regarding her engagement in protected activity.

STOR-ALL Matter: Stor-All contacts W&L and notifies of Newsome's engagement in protected activity as well as problems it is having with Newsome. Stor-All to place W&L on notice of problems it was having with Newsome submitted fax to W&L's attention for purposes of review and information to be used in bringing about the termination of Newsome's employment.

ii) **PKH Matter:** Opposing counsel in PKH matter was busting at the seam to advise Newsome's attorney (Brandon Dorsey) of their knowledge of Newsome's engagement in protected activities – bringing a list to provide to Dorsey and the Judges during their meeting in the Judge's chambers.

STOR-ALL Matter: Just as Stor-All's counsel (Meranus) was *busting at the seams* on February 6, 2009, to make it known to Newsome his knowledge of her engagement in protected activities in New Orleans, Louisiana, a reasonable mind may conclude that Stor-All was anxious to share what it thought was good news regarding Newsome's in protect activities with W&L. However, has come to realize that such criminal acts has lead not only to the demise of Stor-All's case, but Stor-All's attorneys, Judge West and Judge Allen have ***committed "career suicide" by engaging in such criminal acts*** *initiated by Stor-All and carried out to completion on or about September 9, 2009.*

iii) **PKH Matter:** Newsome's employment was terminated because PKH obtained knowledge of her engagement in protected activities and for purposes of providing opposing counsel with an undue advantage over Newsome. Newsome's termination with PKH was on May 15, 2006 and hearing set before ***Motion to Withdraw*** of her attorney in another lawsuit set for May 18, 2006. Opposing parties being satisfied in obtaining the object of that leg of the conspiracy – unlawful withdrawal of Newsome's attorney. Newsome's attorney advising her that he had to live in Mississippi and feed his family. Such a statement that a reasonable mind may conclude that Dorsey succumbed to due to the threats made to him if he continued to represent Newsome. See **EXHIBIT "27"** – Hearing Docket Sheet to support nexus in termination and court matter (acts committed closely in time).

STOR-ALL Matter: Stor-All's, its counsel, W&L and/or Co-Conspirators agreed that Newsome's employment with W&L would be terminated. *Newsome's termination* with W&L occurred on **January 9, 2009**. **Nexus**: – **same** date that *Stor-All's Amnesty Weekend* began. See **EXHIBIT "14"** attached hereto and incorporated by reference as if set forth in full herein. Stor-All executes its NOTICE TO LEAVE THE PREMISES on **January 9, 2009**. Which was approximately two (2) days from the date it threatened through its ***NOTICE OF INTENT TO ENFORCE LIEN ON STORED PROPERTY PURSUANT TO RC §5322.01, ET SEQ.:***

> 5. **UNLESS PAYMENT IS MADE WITHIN TEN DAYS FROM THE DATE THIS NOTICE IS DELIVERED, THE PERSONAL PROPERTY WILL BE ADVERTISED FOR SALE AND WILL BE SOLD BY AUCTION AT OWNER'S FACILITY WHERE THE PROPERTY IS STORED ON January 7, 2009 at 12:00 NOON. IF NO PERSON PURCHASES THE PERSONAL PROPERTY IT MAY BE SOLD AT A PRIVATE SALE OR DESTROYED.**

While Stor-All had began a practice of faxing Newsome correspondence, because of its knowledge that she was being terminated on said date, it did not submit said *Notice to Leave the Premises* to her via facsimile. W&L terminating Newsome's employment in furtherance of conspiracy and completing role in conspiracy initiated by Stor-All. W&L terminating Newsome's employment to eliminate the CONFLICT OF INTEREST that existed with her remaining in the employment of W&L (i.e. W&L representing her an any lawsuit brought by Stor-All's counsel, Meranus, because Newsome provided legal support to Thomas J. Breed – a former attorney for Schwartz Manes & Ruby a/k/a Schwartz Manes Ruby & Slovin which is Meranus' present employer – which would create a CONFLICT OF INTEREST). Stor-All and/or its counsel had notified W&L of its intent to bring a lawsuit against Newsome and the conflict that presently existed; therefore, they needed W&L's assistance in eliminating the conflict – this being the termination of Newsome's employment. On or about January 20, 2009, Stor-All filed its Forcible Entry & Detainer action against Newsome. Said action was

met with Newsome's Counterclaim – ***Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim and Demand for Jury Trial***. The unlawful/illegal and criminal acts of Stor-All and Co-Conspirators were done with willful and malicious intent and to provide Stor-All with an undue advantage in the lawsuit to be brought against Newsome.

IMPORTANT TO NOTE: On January 8, 2009, W&L had authorized Newsome's request for Medical Leave. See **EXHIBIT "14"** attached hereto and incorporated by reference as if set forth in full herein. However, in retaliation of such request and in keeping with its commitment to Stor-All and its counsel, W&L terminated Newsome's employment to deprive her rights secured under the Family Medical Leave Act and other statutes laws prohibiting the unlawful/illegal termination of Newsome's employment. W&L aware of the criminal/civil wrongs it was engaging in knowingly and deliberately committed criminal acts (breaking and entering Newsome's desk to remove evidence known to it to be incriminating – i.e. Employee Handbook - and destroying said evidence for purposes of obstructing justice). While attorneys (which include Thomas J. Breed) authorized Newsome's Medical Leave, W&L in an effort to cover-up such FMLA and other violations falsified and lied during a federal investigation stating that it having no knowledge of Newsome's request. During termination meeting W&L acknowledged receipt of request – which was memorialized in Newsome's follow-up letter responding to reasons provided for termination – however, when questioned, falsified that no such request was received. It is a good thing that Newsome not only had copy of letter memorializing termination meeting but recorded message of W&L's representative confirming knowledge of Newsome's request for Medical Leave AND retained copy of Employee Handbook elsewhere. A reasonable mind may conclude and there is sufficient case laws to sustain that when an employer lies/falsifies testimony, such ill acts are done to cover-up civil/criminal wrongs leveled against an employee. MOREOVER, such acts damages the CREDIBILTY of W&L and/or its representatives. Moreover, such acts by W&L is a criminal offense – ***there go the careers***:

CUT & PASTED FROM: http://miami.**fbi**.gov/statutes/title_18/section1001.htm

Title 18, U.S.C., Section 1001 - False Statements or Entries Generally

> This statute makes it a crime for falsifying, concealing, or covering up material facts surrounding a civil rights investigation, or making false statements, representations, or writings.
>
> This law prohibits a person acting under color of law, statute, ordinance, regulation or custom to make false statements or misrepresentations surrounding their individual or collective actions, during a civil rights investigation. It has been successfully applied to civil rights investigations involving the loss of life, ***where the subjects of the investigation lied to protect their careers and those of other co-conspirators***.
>
> Punishment varies from a fine or imprisonment of **up to <u>five</u> years** or both.

iv) When Stor-All and W&L were conspiring to commit legal wrongs, they knew they were committing they were committing criminal and civil wrongs; however, these conspirators must have thought because Newsome was African-American she was not too bright. Moreover, relied upon the relationships between white employers who harbor bias and

prejudices against African-Americans and/or people of color. Stor-All and W&L agreeing that if legal action was brought against it, they would rely upon the "serial/vexatious" litigator defense – which ***has run up against a BRICK WALL and is frivolous***. *Instead, providing Newsome with critical and crucial evidence needed to support her December 2008 Washington, D.C. trip and evidence for further pursuits of justice.* ***W&L finding that its engagement in such criminal activities has come back to bite them***. *Moreover, they have* ***no credibility***. *Now seeing the* ***criminal acts of Stor-All, Judge West, Judge Allen*** *and other Co-Conspirators and the committal of such crimes on or about September 9, 2009,* ***there goes their CREDIBILTY and lack of defense*** *– moreover,* ***PATTERN-OF-PRACTCE/ PATTERN-OF-CONDUCT***. *Again, Newsome reiterates – IT'S JUST GOOD TO LIVE RIGHT (taken from her daddy)!!* - **The proper officials have been notified. Unlike Stor-All, Newsome believes in taking the matter to the proper authorities for prosecution – i.e. as with the filing of FBI Complaint.**

B. 7 POF 2D RETALIATORY JOB TERMINATION § 4:

> Among employee activities that are protected against retaliatory discharge is the filing of formal unlawful employment practices charges with the EEOC or a state employment practices commission. The filing of charges is protected even if the charge contains collateral statements which are false and apparently malicious, and this includes charges filed against a previous employer. Also protected is an employee's participation in an EEOC investigation or proceeding, or his refusal to participate in proceedings commenced by another . . .

C. PKH: JUDGE WILLIAM L. SKINNER, II ("SKINNER" OR "JUDGE SKINNER"):

NEXUS: It is important to address said matters in that it goes to nexus of matters involving Stor-All – **COPYCAT CRIMES** – Said copycat crimes with Newsome that has run its course and now it is time for such criminals to reap the consequences of said crimes:

50. This is a ***White*** judge presently serving in the Hinds County Court in Jackson, Mississippi. He is the son of the deceased Police Officer William Skinner – who was shot and killed during the 1971 FBI raid on the Republic of New Africa ("RNA") (EMPHASIS ADDED). Prior to this position, Judge Skinner was a judge in the Hinds County Justice Court where Newsome first had an opportunity to meet him under unpleasant circumstances and as a direct and proximate result of violations of rights secured/guaranteed under the United States Constitution, Civil Rights Act, Landlord & Tenant Act and other statutes/laws; in which Newsome's landlord was attempting to unlawfully and illegally obtain her residence and property (i.e. as Stor-All has done). The record evidence contained herein will support that Judge Skinner uses his judgeship to abuse the laws and knowingly commit civil and criminal wrongs against African-Americans; moreover, uses his position in an unlawful/illegal and unethical manner to ***shield/mask*** his retaliation and ***vengeance****-seeking practices* **to *vindicate* his father's death** – in which Newsome has been subjected to. Newsome having had the opportunity to experience first-hand Judge Skinner's ***hatred, racism and discriminatory*** application of the laws to African-Americans (**especially if they are educated**). *THIS IS A JUDGE NOT FIT TO PRESIDE IN THE JUDICIAL SYSTEM AND* ***IS TO BE REMOVED IMMEDIATELY*** *THROUGH THE APPROPRIATE LEGAL PROCESS.* Newsome having initiated the proper actions for redress.

Skinner's outrage is evidenced in an article (as there were many surrounding this incident) where Skinner make statements such as, "*This man is a terrorist*" and "*He ran a terrorist organization, and there is no difference between him an Osama bin Laden*," as he refers to Imari Obadele who was invited to speak at an event honoring Black History Month. Skinner going on to say, "*I'm mad as hell, and I'm not going to take this crap"* as according to reporter. (See **EXHIBIT "28"** attached hereto). Neither was Obadele present at the shootout/raid, according to reports, when Officer Skinner was shot. Such needless outrage by Judge Skinner apparently against a man (Obadele) who was not present at the shootout that eventually led to the death of his father.

In an article, a statement was made by a person by the name of Chokwe Lumumba which reads, "***white*** supremacy is still alive in law enforcement *as it was in the 1970's*. Referring to the Hinds County **Sheriff Malcolm McMillin's** *(one of the key defendants in a lawsuit Newsome has filed in the USDC-MS and one in which said records will support the* ***voluminous*** *lawsuits filed by other citizens against McMillin and/or Hinds County)) stance against Obadele's visit, he said white supremacy is alive today, but different." From the article, one may see just how* ***prevalent*** *the racial divide and racial injustices are, and the* ***bitterness*** *that flows from such behavior*. Moreover, this instant filing/pleading sustains such beliefs and statements made.

No, that was not enough as displayed by Skinner's remark(s), *"I'm mad as hell, and I'm not going to take this crap."* This is a judge who has **run amuck** and ***is clearly out of control***. Approximately 33 years later (since Skinner's father's death) when this story was taken, and he still harbors such animosity. Clearly Judge Skinner has not healed, and neither has he let go to move on with his life. His disappointment in failing in such efforts to keep Obadele from speaking is clear. ***Apparently his father did not instill in him the importance of forgiveness and letting the laws handle such wrongs – instead he learned to harbor resentment, hatred and anger towards African-Americans and wanted a job in which he could take out his frustrations and revenge on African-Americans***. While Newsome is not aware of any evidence to support the conviction of Obadele, what is clear, Obadele served his time on what appears to be charges of conspiracy so Judge Skinner needs to move on. *Instead Judge Skinner continues to rely on special favors from his relationships with the FBI* and make ***public*** ***outburst of rage*** *as displayed in articles.*

Judge Skinner is one of the defendants Newsome has filed a lawsuit against in the USDC-MS. Judge Skinner authorized the unlawful/illegal removal/eviction and taking of Newsome's residence and property. Judge Skinner doing so with ***knowledge*** that he had **no** jurisdiction of the matter brought before him. Therefore, as a matter of statutes/laws, Judge Skinner is not immune from lawsuits. The evidence in this correspondence will support Skinner's knowledge of landlord/tenant laws, so he knew and/or should have known that he was committing civil/criminal wrongs against Newsome. Nevertheless, he proceeded with total disregard to Newsome's protected rights. Furthermore a NEXUS can be established between Judge Skinner relationship with the FBI and others. **Information to sustain the *conflict of interest* of the FBI and its agents and the agency's blatant refusal to uphold the laws and its allowances of Judge Skinner's and others criminal behavior against African-Americans, such as Newsome**: Skinner's father may have been killed by friendly fire – bullet from the gun of an FBI Agent or Jackson Police Officer Nevertheless the appropriate FBI Compliant has been filed and is pending from Newsome's understanding and is a matter in which Newsome has recently sought the status of. Newsome believes this is pertinent information:

SOME OF PROFESSIONAL ORGANIZATIONS JUDGE SKINNER IS ASSOCIATED WITH:
Mississippi Justice Court Judges Association – **President** (2005-2006 and 2006-2007)

The National Judges Association

Mississippi Center for Police and Sheriffs – **President** and **Chairman**

POST GRADUATE EDUCATION:

Landlord/Tenant – 2006 Lorman Education Services

Landlord/Tenant – 2005 Lorman Education Services

Evictions and **Landlord/Tenant** Law in Mississippi – May 2003 National Business Institute

Landlord/Tenant Update Seminar – 2001 Continuing Education

SPECIAL SCHOOLS:
SWAT Training - **FBI**

Crisis Management - **FBI**

FBI Defensive Tactic Instructor Certification

Semi-Automatic Weapon – FBI/JPTA

Pistol Transition for Instructors - **FBI**

AWARDS:
Former Board of Directors State SWAT Association

See **EXHIBIT "25"** – Resume attached hereto and incorporated by reference.

i. JUDGE SKINNER FATHER'S INFO:

Shot during the 1971 FBI **unannounced** raid on the RNA (Republic of New Africa): Note – **Only** *fatally* of this raid (?). While Newsome has not viewed the record, she is left with doubts and/or wondering whether or not Officer Skinner was shot by friendly fire (from another Police Officer or an FBI Agent) and concerns that the *FBI may have covered up such information to frame the RNA members*. Moreover, Officer Skinner's son, Judge Skinner's, ***may be using his father's death as a ransom over the head of the FBI and relying upon the FBI's guilt for Officer Skinner's death to obtain special favors from the FBI***. Surely the record will support that the FBI is required to handle investigations into the civil/criminal wrongs rendered Newsome; however, Newsome is still awaiting the status of on the Complaint that has been filed regarding this matter. Recently requesting, since there has been a CHANGE in Administration of the President of the United States. According to information under the OLD (Bush) Administration, such aggressive and inhumane/torture tactics and human rights violations, etc. – i.e. waterboarding, etc. – was permissible under the OLD (Bush) Administration and it was during the Bush Administration that Newsome submitted her July 2008 Complaint to the U.S. Legislature/Congress. Moreover, during the Bush Administration that Stor-All and its representatives felt free and comfortable in stalking her and subjecting her to such racial and discriminatory practices – relying upon Stor-All's insurance carrier's (Liberty Mutual) familiarity with conducting business in such corrupt manners.

The Jackson, Mississippi Police Academy is named after him (*William L. Skinner Training Academy*). See **EXHBIT "29"** attached hereto and incorporated by reference.

> Lieutenant William Skinner was shot and killed during a standoff with a group of militants who were barricaded in a house. Lieutenant Skinner was standing beneath a tree when he was struck in the head by a single round that had been fired from underneath the house.
>
> The ***Black Liberation Army***[41] was a violent, radical group that attempted to fight for independence from the United States government in the late 1960's and early 1970's. The BLA was responsible for the murders of more than 10 police officers around the country. They were also responsible for violent attacks around the country that left many police officers wounded.

One may question, whether or not Officer Skinner was standing beneath a tree, or was he in his car? See **EXHBIT "29"** attached hereto. There are conflicting stories as to where he was when he was shot. Therefore, leaving and raising some very serious and reasonable doubts as the facts surrounding the shooting death of Officer Skinner.

ii. THE ARREST:

In January 2006, there was a matter brought before Judge Skinner by Newsome's landlord. Newsome's landlord using unlawful/illegal tactics it has repeatedly relied upon to have African-Americans and/or people of color unlawfully/illegally removed from its property. Newsome's Landlord relying upon knowledge of her engagement in protected activities to subject Newsome to the unlawful/illegal actions taken against her. In that Newsome was told she had to be in court, she went. Judge Skinner attempted to get Newsome to argue the merits of the Landlord's case. Newsome refused and advised she was there to confirm the **improper** *service of process*. Therefore, jurisdiction was lacking. During the process (upon reviewing the paperwork), Judge Skinner asked whether or not Newsome was an attorney and she advised him no; and neither did Newsome provide Skinner with information that she worked for a law firm. Newsome believing that justice should be applied upon the laws whether one is an attorney or not nor based on knowledge of where she worked or where she worked for a living. *Newsome came away with the impression that if she were an attorney, Judge Skinner would not have acted in the unlawful/illegal and unethical manner in which he did*. When Judge Skinner insisted that Newsome defend against the Landlord's claims, Newsome simply refused, **turned and walked out of his court in that he lacked jurisdiction and she was not going to argue to the merits of the case. Moreover, the proper pleadings containing supporting evidence and legal conclusion to sustain Newsome's defense is in the record of court**. Newsome was not required to be there and she found the acts of Judge Skinner to be ***atrocious***. *Clearly Judge Skinner was making a **MOCKERY** of the judicial process – to his amusement.* In **retaliation** of Newsome's leaving his courtroom, Judge Skinner took it upon himself to date and sign a "REMOVAL" document. Executing said document *asserting he was Newsome's attorney in which he was not*. (See **EXHIBIT "30"** attached hereto).

IMPORTANT TO NOTE: To further understand this matter, the factfinder needs to know that the Constable (Jon Lewis) and Judge Skinner are real good friends. Constable Lewis and the Landlord are good friends. Because of such good friendship, Lewis resorted to criminal acts – i.e. falsifying process to get tenants into court on behalf of Landlord. Apparently, being successful through such

[41] **It appears the RNA's name was changed to the "Black Liberation Army" (what was the correct name) – apparently a name used by the media to portray the RNA in a negative light.**

criminal activities in the past (i.e. as Stor-All); however, when trying to use such criminal tactics on Newsome, came up against a BRICK WALL. Newsome addressing such criminal activities and has file the proper criminal Complaint with the FBI (which is presently pending) as well as filing of civil lawsuits in this matter. ***Information in that, again, it goes to the COPYCAT acts of Stor-All in the execution of its conspiracy and recruitment of Co-Conspirators to aid and abet them in accomplishing the object of the conspiracy leveled against Newsome***.

The conspiracy leveled against Newsome is racially motivated and stems from her bringing the proper actions to expose such racial bias/prejudices towards her. Stor-All acknowledging on February 6, 2009, knowledge of Newsome's engagement in protected activities. Legal matters Stor-All was referring to are matters that involve race-related claims. Those who have taken it upon themselves have ALL been white. The record evidence will support the felonious actions of **"certain"** Whites and others against Newsome further supporting the criminal actions leveled against her being racially motivated.

> **Felonious:** 2) Constituting or having the character of a felony. 3) Proceeding from an evil heart or purpose; malicious; villainous. 4) Wrongful; (of an act) done without excuse or color of right. – Black's Law Dictionary (Second Pocket Edition)

The record evidence will support that "felonious restraints" Newsome was subjected to.

> **Felonious Restraint:** 1) The offense of knowingly and unlawfully restraining a person under circumstances that expose the person to serious bodily harm. Model Penal Code § 212.2(a). 2) The offense of holding a person in involuntary servitude. Model Penal Code § 212.2(b). – Black's Law Dictionary (Second Pocket Edition)

51. ***FURTHER CONCERNS OF RACIAL BIAS/PREJUDICES OF JUDGE SKINNER – PATTERN-OF-PRACTICE:*** There are young people at the Henley Young Juvenile Detention Center ("HYJDC") (in Hinds County, Mississippi) trying to commit suicide, brutally attacking one another, etc.; therefore, leaving Newsome wondering what threats (if any – i.e. like *J. Reed Walters*[42] – *in Jena 6*

[42] http://en.wikipedia.org/wiki/Jena_Six

> According to US Attorney Donald Washington, the **Federal Bureau of Investigation** (FBI) investigators and federal examiners of the crime found that the hanging of the nooses "had all the markings of a hate crime". However, it could not be prosecuted as such because it failed to meet federal standards for the teens to be certified as adults. . . Attorney J. Reed Walters stated that Washington had found no federal statute under which the teens could be prosecuted, just as he himself had found no applicable state statute.. . .
>
> **Walters warned** the students *"I can be your best friend or your worst enemy. **With the stroke of a pen I can make life miserable for you or ruin your life**. So I want you to call me before you do something stupid.*"

http://mostlywater.org/i_can_end_your_life_with_the_stroke_of_a_pen_teens_facing_80_100_years_without_parole

> **"I Can End Your Life with the Stroke of a Pen": Teens Facing 80-100 Years Without Parole**
>
> Jena, Louisiana: 6 Teens Facing **80-100** Years Without Parole
> Sunday, July 15 2007 @ 08:07 PM PDT - Infoshop News
> http://www.infoshop.org/inews/article.php?story=200707152007...
> On September 1, 2006-the morning after 3 black students attempted to integrate Jena High School's playground by sitting in the traditionally all white area under **a tree-three nooses were left hanging from** the tree's branches. Racial tension rose--a series of fights

Matter) Judge Skinner has made (if any) which would cause them to want to commit such injury/harm to themselves or others. Moreover, how many of those in the Detention Center are there because of a ruling by Judge Skinner. Judge Skinner knew and/or should have known the DETRIMENTAL injury/harm that would occur when placing ADULT sex offenders/criminals in a juvenile detention center (WITH YOUTHS). It appears the injury/harm of these young people is at the expense of the African-Americans and/or people of color. IS THE FBI INVESTIGATING THIS or simply leaving it to Judge Skinner (who is corrupt) to handle? *Again, the **FBI may be doing so because of** its special relationship/ties to Judge Skinner and **its role it may have played in Skinner's father's death and the possible cover-up of said death***. Newsome is awaiting response to status request. In that there is a NEW Administration in the White House, hopefully, Newsome obtain this information. Stor-All and others have been so use to getting away with such criminal actions under the OLD (Bush) Administration – however, CHANGE IS COMING!! Such criminal acts – stalking, pattern-of-practice/pattern-of-conduct, etc., has run its course.

What inhuman (if any) practices were these youth subjected to under Judge Skinner watch? See for yourself. Newsome having warned the proper authorities this Judge Skinner had racial/bias issues that needed to be dealt with through the proper process. Judge Skinner is not fit to be sitting on the bench and/or presiding over any court.

CUT & PASTED FROM:
http://www.jacksonfreepress.com/index.php/site/comments/trouble_at_hinds_youth_detention_center_060309/
Trouble at Hinds Youth Detention Center by Ward Schaefer - June 3, 2009



Hinds County Supervisor Peggy Calhoun says that she has been shut off from the detention center since the county took authority away from Judge Bill Skinner.
A **rash of suicide attempts** at the Hinds County Youth Detention Center brought a long-simmering conflict to a boil Monday. The center, also called Henley-Young, saw **six suicide attempts last month**, District 3 Supervisor Peggy Calhoun revealed at a Board of Supervisors meeting. Over repeated objections from George Smith, president of the county Board of Supervisors, Calhoun **suggested that a "cover-up" was responsible** for the lack of communication between the center and supervisors.

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broke out around town, **a white man pulled a sawed-off shotgun on black students** at a convenience store (they wrestled it away from him), and someone burned down most of the school. When the boys who hung the nooses were caught and the superintendent **brushed it off as a "harmless prank**," every black student in school crowded under the tree in protest. The District Attorney was called into the school to end the protest. Flanked by police officers he held a pen in the air and told them all **"I can end your life with the stroke of a pen."** A week later he tried to make good on his promise. On December 4th, another fight broke out at school and the DA charged six black students with attempted second-degree murder. He wrote **an open letter** *to the students in the town's only paper that* "**when you are convicted, I will seek the maximum penalty allowed by law**."

"Why wasn't the Board of Supervisors notified of these incidents?" Calhoun asked. "I had to request documentation of this information twice, long after the fact. **If a child is hurt** at the center, then **the Board of Supervisors is liable**. It appears that there have been **efforts to cover up** these incidents."

Among other incidents, Calhoun described a male detainee hitting his head repeatedly against his cell door and a female detainee tying socks around her neck. Henley-Young staff may not be providing adequate supervision or communicating enough with each other, Calhoun suggested.

"When the detention center was under the supervision of the judge, there was no problem disclosing what was going on at the center," Calhoun noted, referring to Hinds County Court Judge Bill Skinner.

The Supervisors gave Skinner authority over the detention center, in addition to his powers as Youth Court judge, more than a year ago, but in January, it voted 3-2 in executive session to **revoke that authority due to complaints**. **"The board had received information that we believe were federal violations regarding the operation of the center,"** Supervisor Robert Graham told the Jackson Free Press Tuesday.

Calhoun and District 4 Supervisor Phil Fisher opposed the move, and Skinner has asked a chancery-court judge for an injunction on his behalf. Skinner still serves as a Youth Court judge, however, which means that he controls the influx of juveniles into the detention center.

Skinner did not return calls Tuesday.
Speaking to the Jackson Free Press after the meeting, Graham cautioned that, while serious, Calhoun's comments were merely allegations and require investigation.

"We're going to move on these allegations and make sure that the children are being protected no matter what," Graham said. "**We've requested that the state come in just to check out the allegations.**"

Calhoun provided documentation for her allegations in the form of reports from Henley-Young Director Darron Farr to County Administrator Vern Gavin. The reports detail the seven suicide attempts at Henley-Young since January, as well as incidents of detainee misconduct and an injury that a guard suffered May 28 while trying to break up a fight.

Donald Beard, director of the state's Juvenile Facilities Monitoring Unit, said state evaluators will visit the center June 10. **A visit from the agency earlier this year turned up numerous violations**. *Evaluators found that the center was **holding juveniles and adults** in the same areas and **detaining non-criminal runaways with criminal offenders, both of which violate state law**.*

Beard said evaluators will first look at whether Henley-Young is adequately staffed. Following national standards, his agency recommends that detention centers hold no more than eight juveniles for each staff person in order to prevent problems. If a detainee is on suicide watch, guards should have visual contact with him or her every five minutes, Beard said.

"Our recommendation is that we never allow overcrowding in detention centers for fear of something happening—very much what's alleged at Henley-Young," he said.

Youth Court judges have substantial discretion in dealing with juvenile offenders, Beard added. Instead of detention, judges can refer juveniles to a mental institution or a monitoring program.

"If the detention centers is at full capacity, then some other alternatives should be looked into," Beard said.

Henley-Young Director Farr referred all questions to Gavin, who acknowledged the center's staffing problems.

"We were understaffed for maximum capacity, but at this particular point we are operating at maximum capacity," Gavin said. "So we're caught in a situation where we need additional staff."

The center is currently holding its maximum capacity of 84 juveniles, Gavin said. It has 24 people on staff, but not all of those are on duty at the same time. Gavin also said that Farr has recommended a lower staff-to-detainee ratio of five to one. Farr himself has little control over the number of juveniles he must hold. That figure is the responsibility of the Youth Court and Judge Skinner.

"Whether or not they are released or booked is the decision coming from the judge," Gavin said. "The court side determines who stays and who goes."

The Mississippi Youth Justice Project, an advocacy organization focusing on juvenile justice, toured Henley-Young in December 2008 and found several causes for concern, including the center's use of a restraint chair without properly trained staff. MYJP Director Bear Atwood, the center has stopped using the restraint chair, but she still has concerns about the lack of mental health screening.

"They should be able to say, 'We can't take a child who we can't care for," Atwood said this week.

The attorney representing Judge Skinner in this matter is Brandon Dorsey. From record evidence, ***Brandon Dorsey*** *("Dorsey")* ***was the attorney Newsome retained to represent her*** *as a direct and proximate result of the unlawful/illegal actions taken by her landlord against her* ***that was initiated under the direction*** *of Judge Skinner*. Dorsey was Newsome's attorney who advised her of the reason he could no longer represent her was because he "**has to live in Mississippi and feed his family.**" Apparently, Judge Skinner is now providing Dorsey with the **MEANS** to feed his family; thus, securing his ability to live in Mississippi. Dorsey in the representation of Newsome requested an abrupt withdrawal without just cause for doing so. See **EXHIBIT "27"** attached hereto. Therefore, it is important to Newsome to know what role (if any) Dorsey play in the "**PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT"** ***underlying the conspiracy leveled against Newsome.*** It is apparent Dorsey may have conspired with others to throw the case and in his abandonment of his obligations and duties to Newsome (as her attorney), left her having to continue to defend and file the applicable pleadings to preserve her rights. Such *acts which are clearly* ***PROHIBITED*** by law. Nevertheless, attorneys are allowed to

practice in such an unlawful/illegal and unethical manner. Newsome has initiated the proper actions to address Dorsey's actions.

While the Obama Administration is concerned about what is going on at **Guantanamo Bay, Cuba**, the public would be better served with this Administration addressing the human rights violations, inhumane. . . practices that are occurring in the prisons, jails, detention centers, etc. here in the United States.

HENLEY YOUNG JUVENILE DETENTION CENTER
A/K/A HINDS COUNTY YOUTH DETENTION CENTER:

CUT & PASTED FROM:

http://www.clarionledger.com/apps/pbcs.dll/article?AID=/200906090100/NEWS/906090327
Youth wounded at Henley - Lack of supervision cited in neck bite:

A 15-year-old detainee at the Henley Young Juvenile Detention Center **suffered a neck bite** Monday from a female detainee at the facility, officials confirmed.

Details of just how it happened have not been released.

The boy's mother, Yumetrice Fulton, said she cannot understand why the two were permitted near each other. She said the **teens have been dating each other for some time**.

"At this point, **I'm concerned for my son and his safety**," Fulton said.

The teens' names were not released.

The bite incident is the latest in a string occurrences at the detention center - **including suicide attempts** and **confrontations** - that have some *officials questioning how the facility is being run*.

"It appears that the children **are not** being supervised and **are not** being provided the **proper** care," said District 3 Hinds County Supervisor Peggy Calhoun. . . .

Fulton said a guard at the detention center pulled her son out of class and was talking to him in the hallway when the ***girl ran from a nearby bathroom and attacked him***. The injury required a **tetanus** shot, Fulton said.. . .

An evaluation done earlier this year **found several violations** of state and federal laws.

Seven juveniles have attempted suicide there *since* January, according to a report obtained by The Clarion-Ledger.

In addition, **a guard**, whose name was not released, **suffered a knee injury in May while trying to stop a fight between two boys**, according to the report.

> In a memo obtained by The Clarion-Ledger dated April 28, Farr states that a detainee was found with a pencil in his cell.
>
> "Today, **a pencil was found** in a detainee's cell who was ***trying to commit suicide***," the memo reads. "This memo is being sent out to make sure that everyone who passes out pens and pencils, or any other school item that may or may not cause a child to harm themselves needs to be accounted for before they leave the area they are in with you."
>
> In January, Hinds County supervisors voted 3-2 to **take back control of the detention center from County Judge Bill Skinner**, who oversees Youth Court. Supervisors had handed over supervision to Skinner about a year ago.
>
> *Skinner **is seeking an injunction to stop supervisors from regaining control** of the detention center*. A court hearing is set for June 22.
>
> Skinner's **attorney, Brandon Dorsey of Jackson**, said the judge had no comment about the recent problems.
>
> The state Supreme Court assigned retired Chancery Judge Bill Lutz of Ridgeland to hear the case **after** Hinds County's four Chancery Court **judges recused themselves because they work with Skinner**.

While it appears the Hinds County Board of Supervisors have taken away the control of HYJDC from Judge Skinner, Skinner's **obsession and determination** *to continue his criminal acts*, ***experiments,*** *etc*. has resulted in his filing of an **injunction** to keep control of the HYJDC. Therefore, requiring the **URGENT/ IMMEDIATE** intervention and investigation by the federal government (FBI and appropriate authorities) into Skinner's acts and handling of the HYJDC and whether he is abusing sentencing guidelines in his role as a Judge *to fuel his experiments* and destruction of lives of African-Americans and/or people of color.

Out of all of the attorneys in Jackson, Mississippi and/or the State of Mississippi, *the only attorney Judge Skinner could find to represent him was Brandon Dorsey – Newsome's former attorney in a lawsuit arising out of the civil/criminal wrongs of Judge Skinner against Newsome*. CONFLICT OF INTEREST – Dorsey was retained by Newsome to represent her in the civil lawsuit arising out of his criminal activities while on the bench.

Newsome's former employer, Page Kruger & Holland ("PKH"), is legal counsel for Hinds County. Therefore, gathered that since it is the Hinds County Board of Supervisors that PKH would be representing, Judge Skinner had to go hunting for another attorney. Therefore, retaining Brandon Dorsey (a sole practitioner) to represent in this said matter. Judge Skinner had to obtain counsel elsewhere. ***Most likely a wise attorney would not want to touch this walking liability****. For him to go to Brandon Dorsey and/or Brandon Dorsey to approach him for legal representation – CLEARLY UNACCEPTABLE! As there was a CONFLICT OF INTEREST with PKH in representing Hinds County, Judge Skinner and other Hinds County officials/employees because Newsome was an employee of PKH, a CONFLICT OF INTEREST existed in PKH representing Hinds County officials/employees in the lawsuit Newsome filed in that the Clerk of the Court (J.T. Noblin's) son worked for PKH as did Newsome; therefore, the appearance of impropriety and bias is evidenced – moreover, supported by the withdrawal of the Magistrate Judge AFTER committing legal wrong to provide opposing parties with an undue advantage over Newsome. Nonetheless, Magistrate used the "throw-the-rock and hid-your-hand" tactic. Entering a ruling he knew was tainted and prohibited based upon said conflict; however, entered said Order and withdrew shortly thereafter. However, not before providing opposing counsel with an*

NULL/VOID Order that was UNENFORCIBLE based on said conflict. Magistrate Judge filing RECUSAL for purposes of Conflict of Interest; however, not before he committed legal wrongs and/or unlawful/illegal acts to provide opposing parties with a decision he knew to be NULL/VOID because of said CONFLICT OF INTEREST. See ***EXHIBIT "31"*** *attached hereto.*

Even four of the Chancery Court Judges regarding the HYJDC matter RECUSED themselves because they worked with Skinner. RECUSED – *Are the bells ringing yet?* Why is Judge Skinner on the bench? Why are innocent lives allowed to be destroyed by this crooked and corrupt judge who apparently is attempting to mask his revenge against African-Americans who he blames for his father's death? **OUT OF ALL THE ATTORNEYS IN JACKSON, MISSISSIPPI** one is to believe that the **ONLY** attorney available to represent Judge Skinner was BRANDON DORSEY – ***a former attorney of Newsome***? What a farce and a joke!!!! Moreover, travesties in which INNOCENT lives are now suffering.

D. CONSTABLE JON C. LEWIS ("LEWIS"):

52. Constable Jon C. Lewis – a white male (and ***real good friend*** of Judge Skinner) - ***is the "government" official*** who subjected Newsome to an *unlawful/illegal* arrest and had her detained against her will while he and other unlawfully seized property of Newsome and went through her residence, destroying evidence, stealing property, etc. *During a February 14, 2006 incident****, Newsome had her microcassette recorder on her person recording what was going on***. Why the recording, because it has been projected that she (African-Americans) is expected not to be too bright and **prone to violence**. Moreover, the known abuse by public officials (police officers, etc.) during arrests and the ***racial profiling***. While Newsome was outside the apartment (being requested to step out by Lewis), Lewis appeared to be upset because Newsome would not leave. Newsome advised *she had the right to be there and he and others were in violation of her rights*. So that they could continue their unlawful/illegal acts (destroy evidence to cover-up their illegal wrongs and theft of Newsome's property, etc.), Lewis placed Newsome under arrest. Lewis searched Newsome's pockets and found the tape recorder and removed it. ***Lewis did not turn it in at the Hinds County Detention Center where Newsome was taken, and neither did he return the property to Newsome. THIS IS A CRIME:***

> CUT & PASTED:
> http://www.michie.com/mississippi/lpext.dll?f=templates&fn=main-h.htm&cp=mscode
>
> **§ 97-9-125. Tampering with physical evidence.**
>
> (1) A person commits the crime of tampering with physical evidence if, believing that an official proceeding is pending or may be instituted, and acting without legal right or authority, he:
>
> (a) Intentionally destroys, mutilates, conceals, removes or alters physical evidence with intent to impair its use, verity or availability in the pending or prospective official proceeding;
> (b) Knowingly makes, presents or offers any false physical evidence with intent that it be introduced in the pending or prospective official proceeding; or
> (c) Intentionally prevents the production of physical evidence by an act of force, intimidation or deception against any person.
>
> (2) Tampering with physical evidence is a **Class 2 felony**.
>
> **Sources:** Laws, 2006, ch. 387, § 13, eff from and after July 1, 2006.

§ 97-9-129. Sentencing

(1) A person who has been convicted of any Class 1 felony under this article shall be sentenced to imprisonment for a term of not more than five (5) years or fined not more than Five Thousand Dollars ($5,000.00), or both.

(2) A person who has been convicted of any Class 2 felony under this article shall be sentenced to imprisonment for a term of not more than two (2) years or fined not more than Three Thousand Dollars ($3,000.00), ***or both***.

(3) A person who has been convicted of any misdemeanor under this article shall be sentenced to confinement in the county jail for a term of not more than one (1) year or fined not more than One Thousand Dollars ($1,000.00), or both.

Sources: Laws, 2006, ch. 387, § 15, eff from and after July 1, 2006.

While Newsome requested that Lewis return her property, he failed to do so. Taking Newsome's property and destroying the evidence contained thereon. See **EXHIBIT "32"** March 17, 2006 Request for Arrest Report & Return of Personal Property Retrieved by Constable Jon C. Lewis. . ."

i. <u>OTHER CORRUPT INFORMATION THAT SURFACED ON CONSTABLE LEWIS</u>:

The record evidence will support that Lewis, Landlord and Landlord representatives, and others resorted and/or relied upon the carrying out of criminal acts in which they: 1) invaded the Newsome's privacy; 2) unlawfully seized, stole and/or allowed to be stolen Newsome's property or damage of property; 3) destruction of evidence in that they were notified by Newsome that there criminal actions would be used in legal actions against them, 4) personal injury/harm to Newsome, etc.. <u>*Lewis has* ***welcomed*** *an investigation into his practices*</u>. **Therefore, Newsome hopes that Lewis is just as *zealous, forthcoming* and *willing* to aid in investigation of the Complaint(s) that she has been filed against him.** Moreover, that Lewis is willing to accept whatever punishment is due him as a direct and proximate result for his unlawful/illegal and unethical practices (if found). <u>As the record will reflect that Constable Lewis conducts business in his official capacity that appears to be criminal in nature and *clearly affects the* ***public at large***</u>:

WLBT Channel 3 TOP STORY – 04/19/06 – **Supervisors Looking Into Constable's Methods**:

The Hinds County Board of Supervisor's is looking into the methods used by the county's constable. At issue, is how he collects his fees. The constable says he has done nothing wrong.

In a letter to the county administrator, Justice Court Clerk Patricia Woods accused Constable John Lewis of using questionable tactics.

"There is absolutely nothing criminal here, nothing wrong," said Constable Jon Lewis.

> The clerk said Friday, April 7th, several defendants appeared at justice court to pay fines, but a judge wasn't present. A **Utica** man received a letter telling him to appear, but the man had already paid his speeding ticket in January.
>
> After learning that, the clerk told her staff not to collect any fees from defendants who did not have outstanding warrants.
>
> "I refuse to be a part of his collection process," said Woods in her letter to County Administrator Anthony Brister. "*I cannot imagine how many letters were mailed or payments **received** at his **home** address*."
>
> "**I am *welcoming* an investigation from the auditor's office. I would like it to be looked into *very* thoroughly**," said Lewis.
>
> Constable Lewis says the letter to the defendant about the speeding ticket was a mistake on his part,[43] but he makes not apologies for using tough methods.

See **EXHIBIT "33"** attached hereto. NEWSOME HAS FILED THE APPROPRIATE ACTIONS TO OBLIGE IN Lewis' request to be investigated. A reasonable mind may conclude from the facts, evidence and legal conclusions presented in the record, that perhaps Constable Lewis' eagerness for an investigation was due to the fact he thought the "ball would remain in desired **court(s),**" *ballpark* and/or with the Board of Supervisors – **who would all seek to protect him and render him *special* favors as they endorsed his corrupt practices**. *For to expose Lewis may also expose other corrupt officials as well*; Newsome believes it would be hard for Constable Lewis to be willing to take the fall alone for the criminal acts of his co-conspirators after perhaps obtaining assurance from them that he would be alright – to *"stick with them."* However, to Constable Lewis' and others disappointment, **Newsome has filed the appropriate Complaints and lawsuits against Lewis and the appropriate co-conspirators.**

The record evidence will support that Constable Lewis unlawfully/illegally removed personal property from Newsome's person during his unlawful arrest of her and destroyed and/or tampered with said evidence in that he knew that Newsome would use it in a lawsuit against him and others. Although Newsome requested the return of her property – See **EXHIBIT "32"** attached hereto. To date, Constable Lewis has failed to return Newsome's property; moreover, his attorneys (PKH) have engaged and/or endorsed such criminal acts. ***The FBI (under the BUSH Administration) was made aware of such unlawful/illegal and unethical practices** of Constable Lewis and **also failed** to do anything to correct such injustices.*

Furthermore, the record evidence will support that instead of filing an Answer to the lawsuit filed by Newsome in the USDC-MS against Constable Lewis; he elected to bring malicious criminal charges against Newsome and waived any such defense and/or failed to defend against the claims filed in the lawsuit brought by Newsome in the court. NOW LEWIS AND HIS ATTORNEYS ARE RELYING UPON **"SPECIAL"** FAVORS FROM THE JUDGES/MAGISTRATE TO AID THEM IN THE FURTHERANCE OF THE CONSPIRACY LEVELED AGAINST NEWSOME AND TO DEPRIVE HER **"EQUAL"** PROTECTION OF THE LAWS AND **"DUE PROCESS"** OF LAWS – ***ATTEMPTING TO HAVE THE LAWSUIT FILED AGAINST HIM UNLAWFULLY/ILLEGALLY DISMISSED!***

[43] Only because he has probably been practicing in such unlawful/illegal ways for so long and never expected to be exposed or that they would find out that he was having payments coming directly to him at home – were these payments reported? Hopefully, an investigation by the Legislature/Congress will yield this information. **Providing Constable Lewis with the *investigation* he is requesting**.

In the taking of Newsome's microcassette (and who knows what else Constable Lewis helped himself to of Newsome's property when he returned and/or upon leaving her at the Hinds County Detention Center), Lewis failed to turn in such evidence at the Hinds County Detention Center at the time of Newsome's admission. Instead, Constable Lewis knowingly, deliberately and with forethought kept the microcassette in that ***Newsome advised him that she would be bringing legal action against him and the others while in transit to the Hinds County Detention Center***. Therefore, *Constable Lewis intentionally, deliberately concealed, removed and/or destroyed evidence with the intent to impair and/or prohibit its use in the lawsuit he was advised would be brought against him.*

Newsome believes there is record evidence to support the civil/criminal wrongs of Constable Lewis and others in the unlawful/illegal posting of notices and/or **tampering** with said notices for purposes of depriving Newsome equal protection of the laws, due process of laws, and efforts to obtain an undue and/or unlawful advantage over her. Moreover, *that the actions by said persons being done to threaten, incite fear and intimidation in Newsome to force her to give up her residence*. When Newsome refused to do so and legally took a stand on her protected rights, said persons proceeded to have her residence and property unlawfully seized and participated in the unlawful/illegal and criminal acts arising out of such practices.

> **MISSISSIPPI CODE OF 1972**
> **SEC. 97-3-85. Threats and intimidation; by letter or notice.**
> If any person shall post, mail, deliver, or drop a threatening letter or notice to another, whether such other be named or indicated therein or not, with intent to terrorize or to intimidate such other, he shall, upon conviction, be punished by imprisonment in the county jail not more than six months, or by fine not more than five hundred dollars, or both.
> **SOURCES:** Codes, 1892, Sec. 1303; 1906, Sec. 1377; Hemingway's 1917, Sec. 1117; 1930, Sec. 1147; 1942, Sec. 2384.

Newsome believes that the record evidence will support a "PATTERN OF CONDUCT/PATTERN OF PRACTICE" by Lewis and others to support the underlying conspiracy against Newsome. Moreover, Lewis' and others use of government entities/resources and said entities' authority to commit civil/criminal wrongs against Newsome. Moreover, that such pattern-of-conduct/pattern-of-practice, resulted in Newsome being subjected to excessive force, discriminatory harassment, false arrest, unlawful seizure of property and residence, unlawful arrest, forced out of her residence and having to move away, etc.

> **Title 42, U.S.C., Section 14141**
> **Pattern and Practice**
>
> This civil statute was a provision within the Crime Control Act of 1994 and makes it unlawful for any governmental authority, or agent thereof, or any person acting on behalf of a governmental authority, to engage in a **pattern or practice of conduct** by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration . . . justice or the incarceration . . . that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.
>
> Whenever the Attorney General has reasonable cause to believe that a violation has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.

Types of misconduct covered include, among other things:

1. Excessive Force
2. Discriminatory Harassment
3. False Arrest
4. Coercive Sexual Conduct
5. Unlawful Stops, Searches, or Arrests

NEXUS ESTABLISHED: *Between Mississippi, Kentucky and now Ohio matter. Moreover, PATTERN-OF-PRACTICE/PATTERN-OF-CONDUCT underlying the conspiracy leveled against Newsome. Stor-All's counsel (Meranus) verifying said relationship on February 6, 2009.*

CUT & PASTED FROM: http://www.**fbi**.gov/hq/cid/civilrights/statutes.htm. It is important to note, that said information is already in the record of this court(s).

Newsome believes that the record will support that government officials (Judges/Magistrates, government officials, agents, constable, bailiff, etc.) acting under color of law, statute, ordinance, regulations, did willingly, knowingly, deliberately with malicious intent deprive or cause Newsome to be deprived of rights, privileges, etc. secured or protected by the Constitution, Civil Rights Act and other statutes/laws of the United States.

Title 18, U.S.C., Section 242
Deprivation of Rights Under Color of Law
This statute makes it *a **crime*** for **any person acting under color of law, statute, ordinance, regulation,** or custom to ***willfully*** *deprive* or ***cause*** *to be deprived f*rom any person those rights, privileges, or immunities secured or protected by the Constitution and laws of the U.S.

This law *further **prohibits** a person **acting under color of law, statute, ordinance, regulation or custom** to willfully subject or cause to be subjected any person to **different** punishments, pains, or penalties, than those prescribed for punishment of citizens on account of such person being an alien or **by reason of his/her color or race**.*

Acts under "color of any law" include acts not only done by federal, state, or local officials within the bounds or limits of their lawful authority, but also acts done without and beyond the bounds of their lawful authority; provided that, *in order for unlawful acts of any official to be done under "color of any law,"* the unlawful acts **must be done** *while such official **is purporting** or **pretending to act** in the performance of his/her **official** duties*. This definition includes, in addition to law enforcement officials, individuals such as Mayors, Council persons, **Judges**, Nursing Home Proprietors, Security Guards, etc., persons who are bound by laws, statutes ordinances, or customs.

Punishment varies from a fine or imprisonment of up to one year, or both, **and if bodily injury results** or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire shall be fined or imprisoned **up to ten years or both**, and if death results, or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

CUT & PASTED: http://www.**fbi.**gov/hq/cid/civilrights/statutes.htm.

Newsome is seeking the intervention by the appropriate authorities and to date is awaiting information on the Complaints filed. Newsome has requested investigations into the ongoing conspiracies leveled against her and to enact and direct the enforcement of the laws which deter such unlawful/illegal actions rendered her. Conspiracy actions against Newsome have been orchestrated by those who are white and based are racially motivated animus. Acts done with willful and malicious purposes of injuring, oppression, threats and intimidation to prevent Newsome from exercising ***protected*** *rights secured under the Constitution as well as other statutes/laws*.

> **Title 18, U.S.C., Section 241**
> **Conspiracy Against Rights**
> This statute **makes it *unlawful*** for two or more persons to *conspire to injure, oppress, threaten, or intimidate any person of any state, territory or district in the free exercise or enjoyment of any right or privilege secured* to him/her by the Constitution or the laws of the United States, (**or because of his/her having exercised the same**).
>
> It further makes it unlawful for two or more persons to go in disguise on the highway or on the premises of another with the intent to prevent or hinder his/her free exercise or enjoyment of any rights so secured.
>
> Punishment varies from a fine or imprisonment of **up to ten years**, or both; and if death results, or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title or imprisoned for any term of years, or for life, or may be sentenced to death.

CUT & PASTED FROM: http://www.**fbi**.gov/hq/cid/civilrights/statutes.htm. .

Newsome is seeking the intervention by the appropriate authorities and to date is awaiting information on the Complaints filed in that she believes there is record evidence to support the felonious acts Lewis and others have taken against her; in which she is seeking indictments against those found guilty (if any) of such criminal/civil wrongs leveled against Newsome.

> **MISSISSIPPI CODE OF 1972**
> **SEC. 97-1-3. Accessories before the fact.**
> Every person who shall be an accessory to any felony, before the fact, shall be deemed and considered a principal, and shall be indicted and punished as such; and this whether the principal have been previously convicted or not.
>
> **SOURCES:** Codes, Hutchinson's 1848, ch. 64, art. 12, Title 8 (6); 1857, ch. 64, art. 2; 1871, Sec. 2484; 1880, Sec. 2698; 1892, Sec. 950; 1906, Sec. 1026; Hemingway's 1917, Sec. 751; 1930, Sec. 769; 1942, Sec. 1995.

CUT & PASTED FROM: http://www.mscode.com/free/statutes/97/001/0003.htm. [NEXUS: Newsome, therefore, filing FBI Complaint in Stor-All matter out of criminal acts committed on or about September 9, 2009, and Stor-All all completing the object of its conspiracy with ill intent to obtain a defense to the

Counterclaim of Newsome that is pending in the Hamilton County Court of Common Pleas (Case No. A0901302).

E. HINDS COUNTY:

On or about July 11, 2007 (deadline to file Answer to complaint), rather than file an Answer to Newsome's civil lawsuit filed against him, Constable Lewis filed (on July 16, 2007) an **untimely** "*Motion to Dismiss/Motion to Quash*" – which was met by a **timely** Motion to Strike . . . by Newsome. Constable Lewis instead of filing a timely Answer to the Civil Complaint filed against him by Newsome in USDC-MS, moved in the Hinds County Justice Court (*where his friend Judge Skinner worked*) to bring malicious criminal charges against Newsome alleging "*Resisting Arrest*" and "*Disorderly Conduct Failure to Comple (sic) With Law Enforcement*." See **EXHIBIT "34"** attached hereto. These charges were dismissed. See **EXHIBIT "35"** attached hereto. **IMPORTANT TO NOTE:** *Newsome **never** had to enter a plea to such malicious criminal charges*. The malicious criminal charges brought against Newsome by Constable Lewis were unlawful/illegal and *merely brought as a **dilatory tactic** to provide a defense to the civil lawsuit Newsome had filed against him* in the USDC-MS – Case No. 3:07-cv-00099. Constable Lewis brought such malicious criminal charges against Newsome *well* **over a year** (approximately **16** months later – after Lewis' unlawful arrest of Newsome). **Constable Lewis was aware as early as February 14, 2006, that he would be sued because Newsome advised him that she would be brining legal action against him on the way to the Hinds County Detention Center.** Newsome believes a reasonable mind may conclude that based upon the evidence, one may conclude that the action by Constable Lewis in the filing of said malicious criminal charges against Newsome, was done under the advisement of his counsel of the law firm of Page Kruger & Holland (Newsome's former employer who terminated her employment upon learning of Newsome's engagement in protected activities – filing of lawsuit(s))

53. On or about **June 26, 2006**, Newsome filed a "formal" typewritten Complaint in person with the FBI in Jackson, Mississippi. Filing was made under the BUSH Administration. To date Newsome awaits the FBI findings and has recently requested a status update from U.S. Attorney Eric H. Holder – under the OBAMA Administration.

54.

MITCHELL MCNUTT & SAMS ("MMS"):

The following information is pertinent to aid the factfinder in seeing the nexus between Stor-All's matter and her employment with MMS. Moreover, how Stor-All is quick to paint Newsome as a "serial/vexatious" litigator; however, failing to provide factfinder with information to reveal the corrupt practices of said employer because they are sharing common traits – practicing before the court with the willful and malicious intent to misrepresent and falsify information in pleadings filed in courts, etc. Stor-All while it is doing all of its running around deliberately fails to make known to the factfinder that the reason for Newsome's termination of employment with MMS was due to the ongoing conspiracy leveled against her as well as her reporting the unethical practices in the practice of law by an attorney (Robert Gordon) in falsifying information filed in the courts as well as Newsome's reporting of civil rights

violations. ***Neither does Stor-All make it known how MMS admitted to subjecting Newsome to discriminatory and hostile treatment during her employment.*** To better under the circumstances surrounding Newsome's employment with this law firm, she states:

55. Mitchell McNutt & Sams was a former employer of Newsome who subjected her to very very. . . hostile, sexual and discriminatory treatment. MMS also encouraged and/or condoned its employees providing of false information during government investigations for purposes of depriving Newsome rights secured under the Constitution, Civil Rights Act, and other statutes/laws for the purpose of obstructing the administration of justice, depriving her equal protection of the laws, due process of laws, etc.

CUT & PASTED FROM: http://miami.**fbi**.gov/statutes/title_18/section1001.htm

Title 18, U.S.C., Section 1001 - False Statements or Entries Generally

> This statute makes it a crime for falsifying, concealing, or covering up material facts surrounding a civil rights investigation, or making false statements, representations, or writings.
>
> This law prohibits a person acting under color of law, statute, ordinance, regulation or custom to make false statements or misrepresentations surrounding their individual or collective actions, during a civil rights investigation. It has been successfully applied to civil rights investigations involving the loss of life, ***where the subjects of the investigation lied to protect their careers and those of other co-conspirators***.
>
> Punishment varies from a fine or imprisonment of up to five years or both.

MMS conducting and/or operating a business in which it knew it was violating the Fair Labor Standards Act ("FLSA"), Title VII, Occupational Safety & Health Administration ("OSHA"). Newsome brought such unlawful practices to MMS' attention and as a direct and proximate result, MMS allowed its employees to subject Newsome to retaliatory practices, constant hostile, sexual and discriminatory practices. MMS was aware of its employees' unlawful/illegal actions towards her; however, did nothing to deter such behavior. Instead, MMS moved to terminate and/or fire Newsome. **IT IS IMPORTANT TO NOTE:** *Newsome was able to obtain such admission of hostile, sexual harassment and discrimination from MMS' employees during cross examination during the Mississippi Department of Employment Security handling of her request for Unemployment Benefits*. Such examination will further support MMS' willingness to produce employees who were willing to falsify and/or perjure themselves to protect their jobs and to see that Newsome was deprived unemployment benefits. (See **EXHIBIT "36"** – Excerpt of Transcript attached hereto and incorporated by reference.)

A. **MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY ("MDES")**
Decision Code No. 2400
Reporting Point No. 0480
Case No. 00002-R-05-01 and 00241-R-05-01
Circuit Court Case No. 251-2005-163CIV

There is record evidence to support a "PATTERN OF CONDUCT" and how Newsome's former employer and its representatives have a total disrespect for the laws and place themselves above the laws, relying upon the **special** favors of government employees and/or Courts. Moreover, the employer's links ties to key organizations. How employer(s) stopped at nothing to deprive Newsome the relief she sought through the action with the appropriate government agency. How MMS' employees were willing to come before the MDES and produce information they knew to be false and/or misleading for the purpose of obstruction justice, deprivation of rights, etc.. MMS' representatives came with what they thought was a well laid out plan, that before they knew it, they were providing testimony to support Newsome's claims of retaliation, discrimination, hostile treatment, etc. *MMS being represented by counsel; however, no match for Newsome and the tricks and pre-rehearsal tactics were of any use because they were set on another course – providing Newsome with the testimony and evidence she needed.*

> *DeCarlo v. Bonus Stores, Inc.*, 413 F.Supp.2d 770 (S.D.Miss.,2006.) - In his complaint, McArn charged that Terminix maliciously defamed him before the Mississippi Employment Security Commission by stating he was fired for a "bad attitude." At trial, McArn testified that Terminix's contention that he was insubordinate was false. That is the extent of McArn's evidence of defamation.
>
> (n. 10) Under Mississippi law, public policy exception to employment at will doctrine permits employee to bring action in tort for damages against his employer if he is terminated for: **(1)** *refusing to participate in illegal act*, or **(2)** **reporting** *illegal acts of his employer to employer or anyone else*.
>
> *McArn v. Allied Bruce-Terminix Co., Inc.,* 626 So.2d 603 (Miss.,1993) - [3] McArn argues that the Mississippi Employment Security Commission was falsely told that he was terminated for a bad attitude and not told the true reason for his firing. McArn argues that Miss.Code Ann. § 71-5-131 (1972) permits a claim for defamation whenever the employer makes statements to the Commission which are "false in fact and maliciously ... made for the purpose of causing a denial of benefits."
>
> There is no question but that Miss.Code Ann. § 71-5-131 provides that communications between an employer and the Commission are privileged and "when qualified privilege is established, statements or written communications are not actionable as slanderous or libelous absent bad faith or malice if the communications are limited to those persons who have a legitimate and direct interest in the subject matter." Benson v. Hall, 339 So.2d 570, 573 (Miss.1976).
>
> In his complaint, McArn charged that Terminix maliciously defamed him before the Mississippi Employment Security Commission by stating he was fired for a "bad attitude." At trial, McArn testified that Terminix's contention that he was insubordinate was false. That is the extent of McArn's evidence of defamation.

FOR EXAMPLE: See **EXHIBIT "36"** Testimony taken under cross-examination and MMS' representative(s) admitting to discriminatory practices and harassment against Newsome:

> **TRANSCRIPT:** Excerpts From Allen's and Gordon's Examination during Unemployment Compensation Hearing: *McArn v. Allied v. Allied Bruce-Terminix Co., Inc.,* 626 So.2d 603 (Miss. 1993) – *Whether or not there is a written contract, there should be public policy exceptions to employment-at-will doctrine for employee who refuses to participate in illegal act or employee who reports illegal act of his employer; these exceptions will apply even where there*

is "privately made law" governing employment relationship, or where illegal activity either declined by employee or reported by him affects third parties among general public, though they are not parties to lawsuit. (n.3) *Employer's alleged statement to Employment Security Commission that employee was terminated for a "bad attitude" was privileged and could not be basis for libel suit, absent proof that such statements were false or maliciously made.*

Newsome	56	2-4	Okay, so my December 1, 2004 e-mail in regards to harassment incident, was not out of the ordinary. I have submitted complaints in the past in regards to Mr. Gordon's behavior, is that correct?
Allen	56	5	You have.
Newsome	56	6-8	At any time during my employment, did I mention to you that I felt that Mr. Gordon's treatment, or his behavior, and conduct in regards to me was hostile?
Allen	56	9	You did.
Newsome	56	10	Okay, was this before your June 7th Memorandum or after?
Allen	56	11	I don't recall.[44]
Newsome	56	16-18	And the complaint that I submitted to OSHA, OSHA contacted the firm, you were to respond, if I'm not mistaken, by June 8, 2004. Is that correct?
Allen	56	19-20	I don't know the exact date. We did respond within the time limits they asked us to.
Newsome	57	1-4	Okay, the date of that Memorandum . . .was June 7, 2004, the response, if I'm not mistaken, because like I said, I wasn't aware this was coming up, was due on June 8, 2004. That e-mail or that Memorandum came out the day prior. Did that have anything to do?
Allen	57	5-6	Absolutely not, that's why I stated in here, you could do all you wanted about, with, with agencies.[45]
Newsome	57	7-10	But also in regards to the complaints that I had submitted to the firm, have I ever submitted any complaints of harassment, discrimination, or anything to the attention of Mitchell, McNutt & Sams in regards to Bob Gordon?
Allen	57	11	Discrimination, harassment, yes, you've used that word several

[44] PRETEXT – Allen's memory was so good with dates, etc. when MMS' attorney, Ardelean, was coaching him; however, now unable to recall dates and time under cross-examination.

[45] PRETEXT – Credibility, malicious, willful and wanton memorandum brief. Claims Allen was not aware that Memorandum was created day before OSHA deadline to respond to complaint; however, he coincidentally mentions my filing complaints with agencies in Memorandum.

			times.
Newsome	57	12-14	Okay, and did I ever mention to you that I felt that I was discriminated or either in the handling of my complaints being discriminative in any nature?
Allen	57	15-16	You asked me to follow through with going to the Board, is that what you're referring to?
Newsome	57	17-20	No, I'm asking did you ever receive any e-mail correspondence from me in regards to complaints I submitted to the firm, that I felt I was being subjected to certain treatment?
Allen	57	20	Discriminatory.
Newsome	58	1	Discriminative treatment?
Allen	58	2	You're, I believe you sent me one like that, yes.
Newsome	58	3-5	Okay, so you were, so Mitchell, McNutt & Sams was made aware prior to November 30th on several occasions that I had filed complaints in regards to Mr. Gordon's behavior?
Allen	58	6	Yes.
Newsome	58	7-9	Did Mitchell, McNutt & Sams at any time prior to November 30, 2004 submit in writing to me, written responses to my complaints in regards to Mr. Gordon's behavior?
Allen	58	10-12	Let's see, we, we talked about it at the Board, and talked to Mr. Gordon about it, and I'm trying to think if, what happened from that point forward. I don't recall if we sent anything to you, if I did.
Newsome	58	13-15	Okay, so I can, it, it is your testimony that I submitted several complaints, but the firm never responded to me in writing in regards to my complaints on Mr. Gordon's behavior.
Allen	58	16	I responded back to you.
Newsome	58	17	In regards to Mr. Gordon's behavior?
Allen	58		Uh hum.
Newsome	58	17-18	Do you have any documentation?[46]
Allen	58	19-20	Oh, I tried, I may have some e-mails that we had through

[46] PRETEXT – At hearing regarding matter, MMS representatives were turning over exhibits regarding Newsome and its evidence of unlawfully and/or illegally padding her personnel file; however, produced not one document to support MMS' handling of discrimination and harassment complaints Newsome submitted against Gordon.

			correspondence commenting back on.
Newsome	59	1-3	Okay, did Mr. Gordon ever receive an elaborate e-mail or Memorandum such as. . . that you forwarded to me in regards to the complaints I submitted in regards to him?
Allen	59	4	Did he receive one?
Newsome	59	5-9	Did Mr. Gordon, I submitted a complaint in regards to harassment or discrimination like I said, I don't' have them all, but I submitted my complaints to the firm in regards to Mitchell, McNutt & Sams conduct and behavior as well as Mr. Gordon, did you ever follow up with an e-mail or memorandum as you June 7, 2004?
Allen	59	10	To Mr. Gordon?
Newsome	59	11	To Mr. Gordon?
Allen	59	12	No.
Newsome	59	13-14	So Mitchell, McNutt & Sams did nothing to deter or discourage Mr. Gordon's behavior?
Allen	59	15-16	I don't know if there was, there was some discussions with, that, that we had.

Another example:

Newsome	144	19-20	Yes, just a moment. It was the incident that I went out to lunch with Attorney Mike Farrell and Ladye Margaret?
Gordon	146	7-13	She was gone for, what to me was an inordinate of the time to get something to pick up, to pick something up to bring it back. My recollection is that she was gone approximately forty-five minutes or so, and then she returned and at that time I criticized her for having gone and eaten out when I had told her that she needed to work through the lunch hour, and if she was going to get something to eat, go get it, and bring it back.
Newsome	146	14-15	So you said it was about forty-five minutes. For the record, can you explain your conduct when I did return, your behavior?
Newsome	147	1-2	So would you say your behavior, for instance stomping around and slamming the door is acceptable?
Gordon	147	3-4	I don't know that I stomped around and slammed the door, but I, yes, I was very upset.
Newsome	147	5	Okay, would you say you were hostile?

Gordon	147	6	Yes.
Newsome	147	8-9	Were you aware that your behavior was noticed by other employees at Mitchell, McNutt & Sams?
Gordon	147	10	Yes.
Newsome	147	11	Are you aware that I reported that behavior to Mr. Allen?
Gordon	147	12	Sitting here right now, I don't, I do not recall being aware of that.
Newsome	148	1-2	You, were you aware that when I went to lunch, that I was not driving, that I did go with Mr. Farrell and Ladye Margaret?
Gordon	148	3-4	You told me that when you returned, you did not tell me that before you were going.
Newsome	148	5-6	Prior to leaving. Were you aware that the lunch break was only about probably thirty-five minutes?
Gordon	148	7	It occurred, it appeared to me it was around forty-five minutes.
Newsome	148	16-17	Did that thirty-five minutes, or if you say forty-five minutes, did that preclude or prevent you from getting that Pleading filed in time?
Gordon	148	18-20	We got the Pleading filed on that day, but while you were out, a revision or revisions to that Pleading were sitting at your desk and not being done.
Newsome	149	14-16	And are you aware that your conduct affected the work of another attorney, who was wondering whether or not you had calmed down that day after that particular incident?
Gordon	149	17	No.
Newsome	150	2	So Mr. Gordon, you would say your conduct was hostile?
Gordon	150	3	That's what I, yes, I said that.
Newsome	150	4-5	Did Mitchell, McNutt & Sams ever notify you of your conduct of being you know, you being a hostile employee?
Gordon	150	6	No.
Newsome	150	13-14	Are you aware that I have, that I submitted complaints in regards to your conduct to Mitchell, McNutt & Sams?
Gordon	150	15	You have submitted complaints or e-mails alleging harassment.

This was information easily obtainable had the government agency(s) to which Newsome filed complaints, would have found if they really wanted to determine the truth and/or merits of her claims; however, failed to uphold the laws as a direct and proximate result of depriving Newsome equal protection of the laws and due process of laws. There is record evidence to support that MMS falsely accused Newsome of insubordination and deliberately created situations through their retaliatory practices which were met with notification of Newsome's objections. The above information sustaining that such racial prejudices, hostility, rage, anger, etc. towards Newsome because of her race and knowledge of her engagement in protected activities. Moreover, that MMS and employees were aware of Newsome reporting of such unlawful/illegal practices by them. ***IMPORTANT TO NOTE:*** *MMS closing their doors to the Jackson, Mississippi office shortly after MDES matter.*

Newsome has initiated the proper Complaints to have matter(s) investigated and awaits feedback on said Complaints. Newsome in filing Complaints does so for preservation of her rights; moreover, to have the appropriate documentation/evidence to sustain timely, properly and adequately reported to the proper government agencies (i.e. those cloaked with enforcing the statutes/laws). This information is provided to support/sustain the "PATTERN OF CONDUCT" argument underlying the conspiracy actions of Stor-All and its Co-Conspirators. Moreover, MMS' in the "PATTERN OF CONDUCT" of the conspiracy leveled against Newsome. Such employer's simply hand-off the baton to the next co-conspirator and the unlawful/illegal and criminal actions against Newsome continues. Newsome believes that a reasonable mind may conclude that as MMS did with the Wage & Hour Division, it provided MDES with information clearly outside the proceedings addressing Newsome's engagement in protected activities in order to obtain an undue and unlawful advantage over Newsome. Moreover, how the MDES took it upon itself to deprive Newsome of rights guaranteed/secured under the Constitution, Civil Rights Act and/or governing statutes because of its knowledge of her engagement in protected activities.

B. **OCCUPATIONAL SAFTY & HEALTH ADMINISTRATION ("OSHA")**
Case No. 4-1220-04-027 or 4-1220-05-04

Newsome has filed the proper Complaints to initiate the proper investigation into the handling of this matter and awaits findings on the matter. Moreover, determine whether or not OSHA officials engaged in the "PATTERN OF CONDUCT" underlying the conspiracy against Newsome. Moreover, whether or not its agency officials engaged in criminal activity and engaged in conspiracy leveled against Newsome. Newsome has requested investigation(s) into the OSHA action to determine whether there were violations of her Constitutional/Civil Rights n handling of matter. Moreover, MMS' as well as the OSHA's role (if any) played in the conspiracy alleged. Newsome believes that an investigation may also yield that as MMS did with the Wage & Hour Division (which is addressed below), it resorted to the same corrupt and criminal acts and provided OSHA with information clearly outside the proceedings addressing her engagement in protected activities to obtain a ruling in it favor; or, that OSHA took it upon itself to deprive Newsome of rights guaranteed/secured under the Constitution, Civil Rights Act, OSHA and/or governing statutes because of its knowledge of her engagement in protected activities. Therefore, completing its leg of the conspiracy acts leveled against Newsome.

C. **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ("EEOC"):**
Case No. 131-2005-01442

Newsome has filed the proper Complaints to initiate the proper investigation into the handling of this matter and awaits findings on the matter. Moreover, determine whether or not EEOC officials engaged in the "PATTERN OF CONDUCT" underlying the conspiracy against Newsome. Moreover, whether or not its agency officials engaged in criminal activity and engaged in conspiracy leveled against

Newsome. Newsome has requested investigation(s) into the EEOC action to determine whether there were violations of her Constitutional/Civil Rights, Title VII and other statutes/laws in the handling of this matter. Moreover, MMS' as well as the EEOC's role (if any) played in the conspiracy alleged. Newsome believes that an investigation may also yield that as MMS did as it did with the Wage & Hour Division (which is addressed below), it resorting to the same corrupt and criminal acts and provided EEOC with information clearly outside the proceedings addressing her engagement in protected activities; and, that the EEOC took it upon itself to ***retaliate*** against Newsome because of lawsuits filed against it such as *Newsome v. Equal Employment Opportunity Commission*, 301 F.3d 227; therefore depriving Newsome of rights guaranteed/secured under the Constitution, Civil Rights Act, Title VII and/or governing statutes/law because of its knowledge of her engagement in protected activities. Therefore, completing the EEOC's leg of the conspiracy acts leveled against Newsome.

Furthermore, Newsome has requested through the proper Complaints investigations into the handling of ALL charges she filed with the EEOC and determine whether the ruling of each charge was ***influenced*** by any other charges that were filed by her to determine whether or not each Charge was determined on its ***own*** *merits* and not because of the Commission's knowledge of her other charges filed – rather than be prejudiced by knowledge of filing of other EEOC Charges by Newsome. **Because, if so, the EEOC *has violated not only its own policies and procedures* but that of the statutes/laws in which it was created to enforce and uphold for ill purposes** – *i.e. retaliation, discrimination, prejudices, deprivation of rights, obstruction of justice, etc.* Moreover, whether or not the EEOC's officials/employees engaged in any conspiracy alleged by Newsome and/or entered arbitrary rulings for purposes of aiding and abetting the conspiracy leveled against Newsome. Newsome believes a reasonable mind may conclude that based upon all of the Charges she filed with the EEOC, there was sufficient information to warrant an investigation and to see that employers were sanctioned and/or required to comply with the laws. However, this did not happen and the EEOC merely engaged in a "pattern-building" manner and unlawfully/illegally dismissed valid charges for failure of not wanting to perform their duties. Newsome is requesting that if said violations are found by the EEOC and its officials/employees that the proper punishment be rendered to deter such actions in the future in that this is of a public interest. Moreover, the EEOC has sufficient evidence of EEOC's officials refusal to abide by the statutes/laws upon which it was created – relying on the Courts to cover up such criminal/civil wrongs as it did in *Newsome v. Equal Employment Opportunity Commission*, 301 F.3d 227.

D. WAGE & HOUR DIVISION ("WHD"):

The record evidence will support that (under the OLD ADMINISTRATION – Bush) the Department of Justice/Office of Solicitor General, U.S. Department of Labor/ESA – Wage and Hour Division, and Administrative Review Board were timely properly and adequately placed on notice of MMS' violation of the FLSA. To no avail. Said agency(s) records will support sufficient facts, evidence and legal conclusions presented to sustain the complaint and/or concerns Newsome brought to its attention. ***While these agencies were aware of MMS' violation of the laws governing the FLSA and/or Wage and Hour Laws, they did nothing to deter such acts or to see that the wrongs complained of were corrected and that the injustices rendered against Newsome as a direct and proximate result of her reporting said violations were corrected. Instead said agency, its agents and others engaged in conspiracy***.

U.S. Department of Labor – **FLSA NARRATIVE REPORT**:

> Evidence: Interviews of Supervisor Robert Gordon, Attorney Mike Farrell, and Secretary Ladye Margaret Townsend[47] revealed that Ms.

[47] All of whom are "White" and having a personal interest and financial interest (either employment and/or business investment related).

Newsome had been rebellious and insubordinate in job duties assigned her from the start of her employment.

[redacted] interview (Exhibit [redacted]) stated that every since Ms Newsome was hired she been looking for a way to get fired to pursue a lawsuit. . . After this incident Ms Newsome began working on whether she was paid properly . . . Newsome disagreed with Attorney Farrell and told Cochanuer and Townsend she was going to contact Wage Hour. [redacted] didn't know if Newsome did or not because nothing came of it. [redacted] further confirmed other events of insubordination. (Exhibit [redacted]).

Further action:
[redacted]

(Note) During the course of this investigation, District Director ("DD") Billy Jones retired from the department. Regional Administrator McKeon assigned Assistant District Director ("ADD") Oliver Peebles as Acting DD fro the Gulf Coast District. DD Peebles has been advised through all actions of this case, and all of his instructions have been followed.

See **EXHIBIT "37"** attached hereto. Newsome believes the redacted information is pertinent, in that she may not have been provided with the entire file. *During Newsome's employment with MMS,* ***she noticed how Billy Jones would call quite often requesting to speak to Michael Farrell*** *(one of the attorneys). Newsome found this interesting because during one of the meetings with Farrell, he made it known how he was familiar with the Wage & Hour Division; moreover, how he had the employees personal direct lines and provided such information to Newsome to establish his special relationship with employees of the Wage & Hour Division.* Newsome believes the Complaints initiated and requesting an investigation into the Wage & Hour's handling of this matter may yield evidence of the government agency(s) and/or its agents cover-up in aiding and abetting her former employers in covering up civil/criminal wrongs rendered against Newsome. Moreover, how it secretly handled issues evidencing the wrongs complained of by Newsome; however, failed to assure that the employers were required to come into compliance with the laws. For instance, while the Wage & Hour wanted Newsome to believe she did not understand the FLSA and that MMS was not in violation, such was not the case. Prior to bring her Wage & Hour Charge, Newsome spoke with an attorney she had worked with at another firm and said attorney confirmed Newsome's understanding of the statutes/laws was correct. In fact, said attorney had also advised that his/her law firm had recently represented a client who was paying its employees in the same manner as MMS and violations were found by the Wage & Hour Division and the matter was resolved.

IT IS IMPORANT TO ALSO NOTE that shortly after being employed with **PKH,** one of the attorneys brought it to Newsome's attention that PKH was recently found to be in violation and sanctioned for FLSA/Wage and Hour violations. This is pertinent information, because an investigation will yield that although PKH was sanctioned, it was still operating in violation of the laws during Newsome's employment. Thus, going to support additional motive behind Newsome's unlawful/illegal termination. Not only that, it goes to the fact that there are many employers that are operating in violation of the FLSA and/or Wage & Hour laws and the WHD is aware of such and discriminatively apply the laws to employers – sanctioning some and allowing others to continue to practice in ways contrary to the statutes/laws governing payment of employees' wages. ***THIS IS IMPORTANT*** *in that the* ***public at large*** *is affected* and employers are relying upon unlawful/illegal methods to keep from having to pay employees their full wages earned.

IT IS IMPORTANT TO NOTE that to have found MMS in violation, MMS would have been required to compensate all of its employees (hourly/salaried/non-exempt) back wages owed for all of the time in which they had been practicing in such a manner. For the WHD to have acknowledged the violations would have been very costly in that MMS, PKH and others who have been conducting business in violation of the FLSA and/or Wage & Hour laws for quite some time. Moreover, Newsome believes an investigation will yield the name of government employees (i.e. Billy Jones) that knew of such violations and did nothing – allowing MMS, PKH and others to continue in a manner they knew were in violation of the FLSA and/or Wage & Hour laws.

> **MISSISSIPPI CODE OF 1972**
> **SEC. 97-9-61. Perjury; penalty.**
> Persons convicted of perjury shall be punished by imprisonment in the penitentiary as follows: For perjury committed on the trial of any indictment for a capital offense or for any other felony, for a term not less than ten years; for perjury committed on any other judicial trial or inquiry, or in any other case, for a term **not exceeding ten years**.
> **SOURCES:** Codes, Hutchinson's 1848, ch. 64, art. 12, Title 5(2); 1857, ch. 64, art. 205; 1871, Sec. 2661; 1880, Sec. 2922; 1892, Sec. 1244; 1906, Sec. 1319; Hemingway's 1917, Sec. 1052; 1930, Sec. 1083; 1942, Sec. 2316.

It appears from the information obtained MMS employees were willing for falsify and/or provide false statements for the purposes of obstructing the administration of justice and to see that Newsome was deprived the relief sought. See **Title 18, U.S.C., Section 1001 - False Statements . . .** above.

E. PUBLIC INTEREST:

Newsome believes that such information is of public concern in that it affects the financial welfare and/or being of other citizens and the economy. Newsome believes an investigation into her Complaints will yield findings that employers who use such unlawful/illegal practices to deprive employees earned wages have knowingly done so with the willful and malicious intent to withhold wages/earnings from their employees. Furthermore, the Wage & Hour Division's assistance and condoning such unlawful/illegal practices; because to find in favor of the evidence (such as that presented by Newsome), will require that MMS compensate its employees as well as Newsome for the **unpaid** wages earned that it failed to pay. Thus, being a huge financial hit on MMS. However, had MMS complied with the statutes/laws, it would not now be required to compensate employees for the monies/wages illegally/unlawfully withheld.

IT IS IMPORTANT TO NOTE: That there is a Mississippi Appeals Court Judge who was employed by MMS prior to taking judgeship role. This judge's name is Donna Barnes. See **EXHIBIT "38"** attached hereto and incorporated by reference. Newsome also attach a copy of the MMS Phone Directory for its employees during her employment. See **EXHIBIT "39"** attached hereto. This is pertinent information to support MMS' reliance upon its special relationships with Judges in the courts and government agency officials where Newsome filed Charge(s).

IT IS IMPORTANT TO NOTE: That it appears MMS has closed its Jackson, Mississippi Office in which Newsome was working **AFTER** the MDES matter and its receipt of the Transcript provided from the MDES hearing. However, while the MDES was in the position to deter and punish MMS and its employees for the unlawful/illegal actions committed against Newsome, said government agency failed to do so for the purposes of aiding and abetting MMS representatives. So attorneys Mike Farrell and Robert Gordon along with co-worker Ladye Margaret Townsend would have to look

elsewhere for employment. MMS closed the downtown Jackson, Mississippi location ***shortly*** after the MDES hearing. MMS had moved into the facility about May 2004, and had plans of expanding.

56. On or about December 11, 2004, MMS was timely, properly and adequately placed on notice that Newsome would be bringing the proper lawsuit against it – in keeping with ***Newsome v. Equal Employment Opportunity Commission*, 301 F.3d 227**. See **EXHIBIT "9"** – Letter to L.F. Sams, Jr., attached hereto. *In an effort of **doing damage control**, MMS appears to have closed its Jackson, Mississippi office – at least cleaned said office of its employees (Mike Farrell, Robert Gordon, and Ladye Margaret Townsend) that **provided false information during a federal investigation. The damaging testimony Newsome obtained at the MDES hearing has proven to be beneficial***. Under the statutes and laws governing said matters in the state of Mississippi, the statute of limitation is approximately **six (6) years** to bring a civil action under the applicable laws for the relief Newsome seeks. Therefore, Newsome's deadline would be approximately December **2010**. The complaint against MMS has been drafted and Newsome intends to bring it within the appropriate time. *It is important to note that the United States District Court Southern District of Mississippi-Jackson Division thought that Newsome would be filing a lawsuit about December 2007 (**thinking Newsome would be filing under a 3-year statute of limitations – disappointed to find Newsome was advised of the 6-year statute which is applicable instead**[48]), so what said court did in efforts of financially burdening Newsome and in efforts of obstructing the administration of justice, it resorted to illegal bond-setting practices - entering a ruling requiring that Newsome pay a security bond – which was not permissible and neither could such ruling be sustained and was timely contested - in efforts of precluding Newsome from filing lawsuit. As recent as December 2008, said court has usurped its authority, abused its powers, etc. and closed case and is attempting to close the doors of its court in its aiding and abetting MMS and others so that Newsome cannot bring the required lawsuit to recover from the injury/harm sustained.* However, said court was disappointed when it was advised Newsome was onto it and that under the statutes/laws that her civil action against MMS would be brought within the statute of limitation of approximately six (6) years rather than the three years the court thought Newsome was waiting to act under. Now with such knowledge that Newsome intends to bring the proper lawsuit against MMS within the time allowed under the laws, said court is attempting to close its doors to Newsome – ACTIONS THAT ARE CLEARLY UNCONSTUTIONAL and clearly PREJUDICIAL/DISCRIMINATORY. Such actions of said court are public record and can be seen through entries of said court in other lawsuits filed by Newsome. Said court is aware that Newsome will be filing a lawsuit against MMS in the future; therefore, has acted in a manner that has compromised the integrity of said court and the judicial process. Therefore, warranting the Complaint Newsome has filed with the appropriate agencies to which she believes is presently pending as a matter of statutes/laws.

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[48] *Walton v. Utility Products, Inc.,* 424 F.Supp. 1145 (D.C.Miss. 1976) - (n.2) Under law of Mississippi, general six-year period of limitations rather than three-year period of limitations which applies to action founded on implied contracts and action to recover back pay governs employment discrimination suit charging violation of federal statute guaranteeing equal rights under the law. 42 U.S.C.A. § 1981; Code Miss.1972, §§ 15-1-29, 15-1-49. (n. 4) Under law of Mississippi, employee's claim against **employer charging violation of federal statue guaranteeing equal rights,** filed within **six years** of alleged racial discrimination, was not time barred. Code Miss.1972, § 15-1-49; 42 U.S.C.A. § 1981.

Bethlehem Steel Co. v. Payne, 183 So.2d 912 (Miss. 1966) - Exception to general rule that statutory limitations upon the time within which suit must be brought are procedural is where statute creating a right provides for time within which suit must be brought.

Heath v. D. H. Baldwin Co., 447 F.Supp. 495 (N.D.Miss.Greenville.Div.,1977) - General **six-year** statute of limitations in Mississippi was applicable to suit by laid off employee against employer and union claiming racial discrimination. Code Miss. 1972, § 15-1-49; 42 U.S.C.A. § 1981.

Howard v. Sun Oil Co., 294 F.Supp. 24 (S.D.Miss.,1967) - Ordinarily, suit in tort for damages brought more than **six years** after commission of tort is barred by Mississippi six-year statute of limitations. Code Miss.1942, § 722.

BARIA FYKE HAWKINS & STRACENER ("BFH&S")/
BRUNINI GRANTHAM GROWER & HEWES ("BGG&H"):

57. For purposes of understanding the "Pattern of Conduct" involving the conspiracy leveled against Newsome by Stor-All, the following information is pertinent. Moreover, will support Meranus knowledge of legal matters involving Newsome in New Orleans, Louisiana. Therefore, establishing and sustaining the ***nexus*** between conspirators and co-conspirators – Stor-All's insurance company's (Liberty Mutual) with Entergy who is represented by Baker Donelson Bearman Caldwell & Berkowitz which is the matter Meranus advises Newsome of on February 6, 2009. Stor-All using such relationships to further said conspiracies and for stalking purposes to destroy the life of Newsome, obstruct the administration of justices, deprive her equal protection of the laws, due process of laws, liberties and pursuit of happiness, etc. (See **EXHIBIT "1"** attached hereto and incorporated by reference as if set foth in full herein):

> This is a law firm Newsome began working for in late 2002. It is a law firm Newsome was employed with while she was involved in a lawsuit against Entergy (USDC-Eastern District of LA, New Orleans; Case No. 2:99-cv-03109) **As a matter of law**, this case is **still** pending (while the Docket may show it as closed, as a matter of law, it is still approachable) because **no** *final* judgment (although Newsome has ***repeatedly*** requested entry of "final" judgment) has ever been entered in this case. Clearly, further evidence of the courts' blatant disregard for Newsome's rights and refusal to enter the required judgments in compliance with the statutes/laws in which they are governed. *Therefore, this is a matter that Newsome has brought though the appropriate legal avenues – so certain parties (i.e. such as Stor-All) should not be so quick to pop the cork on the Champaign bottle*.
>
> Shortly after one of the partners' (David Baria) BFH&S trip to New Orleans, Newsome's employment with BFH& S was terminated. The following e-mail evidences Newsome's employment:
>
> > 06/27/03 E-Mail:
> > VN: David, In that I am presently working and due to the circumstances involving my employment with BFH&S, I would like to have a friend of mine pick up my paycheck on Monday. Also, would like to know whether or not I will be getting my vacation pay as well. If so, please have these checks ready for my friend when she comes by. If there is a problem with this request, kindly advise.
>
> See **EXHIBIT "40"** June 27, 2003 E-mail between Newsome and Baria; attached hereto.
>
> While employed at BFH&S, Newsome worked with David Baria (*Former **President** of the Mississippi Trial Lawyers Association*). Prior to a trip to New Orleans, Louisiana for a conference, Newsome realized that Baria's behavior and/or attitude towards her had changed. After his return from New Orleans it was more noticeable and his demeanor very agitated, hostile, etc. Newsome believes that prior to and during his trip to New Orleans that Baria may have communicated with attorneys representing Entergy in a lawsuit Newsome had filed. Baria abruptly terminated Newsome's employment with BFH&S ***without*** notice; telling her that she did not seem to be happy there, so he was letting her go to do something else. Such a statement which Newsome knew was false and never did Newsome advise Baria of being unhappy working at

BFH&S. Newsome believes that her termination from BFH&S was a mutual agreement (in the conspiracy that had been hatched against her to ruin her life and blacklist her) in that after the malicious deeds of Baria, he and the other partners left to go to lunch. Newsome's termination was prior to lunch. **Newsome must note, that while there, she was commended for the good job she was doing.** *In fact, the employment agency, which assigned Newsome there, advised her of the positive feedback it had received in regards to Newsome's job performance and how for such reasons BFH&S wanted to extend to her a job. A job in which Newsome accepted.* While Newsome believes that her abrupt termination with BFH&S was due to the fact that she was suing Entergy and termination of employment was done as a favor for Entergy's attorneys, she had no proof so she merely moved on. However, Newsome believes that based upon the evidence presented herein (as Meranus' eagerness to share such news of good tiding on February 6, 2009, of Stor-All's knowledge of her engagement in protected activities) as well as that obtained through Investigations that have been initiated, it will yield additional evidence to sustain the allegations asserted by her.

58. After leaving BFH&S an employment agency assigned Newsome to the law firm of Brunini Grantham Grower & Hewes (BGG&H). The people there seemed so nice. Only being there for about a couple days, Newsome was assigned to work with Charles L. McBride ("Chuck"). Chuck was pleased with Newsome's work **(as evidenced in the Reference information provided above at ____)**. Therefore, Newsome was approached by the Human Resource person and asked if she was interested in the job and that BGG&H was interested in hiring her. Newsome advised that she was interested and accepted BGG&H's offer of employment. Newsome then had a conversation with Chuck which during that conversation he had mentioned to her the need to run everything (correspondence, etc.) by him before going out because he was aware of a situation where a secretary had inadvertently mailed out legal documents to the opposing side in error. Had he been the attorney on the other side, he would not have opened the document and would have destroyed realizing that it was information that he should not have received. Newsome advised Chuck she understood. Newsome had first-hand knowledge of the situation Chuck was referring to from the additional information he provided. Upon leaving his office and thinking on their conversation, Newsome returned to advise Chuck that she had first-hand knowledge of the situation he brought to her attention because she was the secretary for the other law firm (***which was BFH&S***) who had received this information and left it at that. *While Newsome could have remained silent, she knew it was important to be truthful and honest*. Chuck advised Newsome that he would have to check into this; ***however, it should be okay***. However, it was to the contrary. ***Apparently, upon checking with BFH&S – David Baria – Baria was upset and objected to their hiring Newsome***. As a ***direct and proximate result*** of Baria's behavior and his **threats to bring legal action** against BGG&H if they hired Newsome, it resulted in BGG&H's ***offer of employment being rescinded***. When Newsome discussed this matter with an attorney she had worked with at another firm, she was advised that BGG&H could have taken the proper if they wanted to and still hire her in that lawyers are known to do this all the time (i.e. lawyers leaving and going to work with other law firms all the time and if there is a concern of potential conflict an agreement is reached to correct any such concerns). Therefore, if there were concerns, all BGG&H had to do was have Newsome sign an agreement to confidentiality - not only that, neither Chuck nor the case files in relation to the matter in question were in the department of BGG&H that Newsome would be working in. Nevertheless, this is what happened.

It is important to note that while BGG&H also contacted a former employer of Newsome's (Owens Law Firm – African-American owned) to see if there would be a problem with her working for BGG&H. Owens Law Firm had no problem with Newsome working with BGG&H. However, you can see how BFH&S (a white-owned law firm) began to create problems for Newsome and creating problems with her obtaining employment elsewhere while conspiring with others who Newsome have brought legal matters against.

IT IS IMPORTANT TO NOTE: That there should be documentation in the records of BFH&S and BGG&H in that upon obtaining a receipt of Baria's correspondence relating to this matter and Newsome's assurance to Baria that she would abide by any confidentiality required. However, this was not acceptable to Baria. Apparently, Baria did not think that as his secretary (Newsome) knew anything, so in his response to her correspondence he gave the go ahead in advising that she was under no such obligations of confidentiality. Therefore, Newsome responded in kind (via correspondence) singing like a mockingbird and advised both Baria's firm and BGG&H of what she knew and addressed the concerns of unethical practices of Baria's wife, Marcie Fyke ("Fyke"), in that Fyke was engaging in acts she knew were prohibited by Court Order. Newsome was performing tasks for Fyke not knowing that the Court had issued certain orders prohibiting certain acts. Fyke was providing information to the media, etc. when she knew and/or should have known that what she was doing was unethical, etc. As Newsome mentioned BFH&S and BGG&H have the documentation surrounding this matter. Newsome believes that from her acts and the information provided to BGG&H, something happened, because for a period of time Fyke was not practicing law. (See **EXHIBIT "41"** attached hereto and incorporated by reference – thus information regarding reasons may be determined from investigation(s) Newsome has requested. Moreover, the reasons why Fyke appears to be in *sole* practice now). Newsome believes that BGG&H may have sought actions against Fyke for such unethical practices and violations made known to it. This probably being why BFH&S (Baria **Fyke** Hawkins & Stracener) ***dropped* her name from the firm** and it later became *"Baria Hawkins & Stracener."* See **EXHIBIT "42"** attached hereto and incorporated by reference. Since then, it appears Baria has left and the other two attorneys (Hawkins and Stracener) have picked up another partner to join the firm and the new name is "Hawkins Stracener & Gibson, PLLC." (See **EXHIBIT "43"** attached hereto) – *Now dropping both Baria and Fyke (David Baria's wife) from the name of the firm.* ***Perhaps wanting to be sure they get rid of any possible future liability to them.***

> **IT IS IMPORTANT TO NOTE:** Prior to forming the law firm of BFH&S, Stracener (Eric) worked with a law firm by the name of **Page Kruger & Holland** (Newsome's former employer – employment which ended in May 2006*). Baria and Stracener knew Newsome was working at Page Kruger & Holland because she was seen there.*

While Newsome was employed at MMS, she was out one day for lunch when Baria and the other partners came into the restaurant she was having lunch in. Newsome knew that she was seen and gathered they were wondering why and/or how she was able to eat there. The next thing you know, Baria's law firm was call MMS's (Mike Farrell). Newsome knows because MMS had Caller-ID and because the Jackson, Mississippi office was just starting back up, she was required to answer the phones. Factfinders can see from the above information, how both Baria and Fyke have been dropped from the firm and other partners moved on.

A. MARY ("MARCIE") MARVEL FYKE:

This being David Baria's wife and she worked at the law firm Baria Fyke Hawkins & Stracener. At the time of Newsome's discharge from Page Kruger & Holland, the Mississippi Bar had Marcie listed as "Inactive." While Newsome is not sure for such status, her checking every now and then after the information she provided revealed that Fyke had been Inactive for quite some time. However, upon Newsome's mentioning this and the conspiracy hatched against her in the federal lawsuit filed in USDC-MS (Case No. 3:07-cv-00099), Fyke resurfaced and apparently has ***active*** status since the filing of Newsome's lawsuit filed in February 2007. However, it appears she is solo. See **EXHIBIT "44"** attached hereto and incorporated by reference.

XXVI. COMMONWEALTH OF KENTUCKY MATTER:

59. Before Newsome begin to address the Kentucky issue, she believes it is important to raise concerns as to how there appears to be a systematic and/or well-designed ("PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT") conspiracy network between whites associated with matter involving her across state lines and/or the country. From the information contained in this record, the evidence will yield a *pattern-of-**organized**-criminal* wrongs involving government entities/employees to oppress African-Americans and/or people of color seeking to exercise rights under the Civil Rights Act, Title VII, Fair Housing Act, Constitution, etc. – the laws created and designed to protect persons of color from the unlawful/illegal wrongs complained of herein. What is disturbing, is not ONLY that such unlawful/illegal practices and conduct are following Newsome, but how the government has used its resources to **"blacklist"** her and "network" within their own organizations to engage in such unlawful/illegal and unethical practices against Newsome for the purposes of obstructing the administration of justice and to deprive her equal protection of the laws and due process of laws. Yes, Newsome has found that there is government officials' participation in such activities that is disturbing; in that when a citizen brings concerns of such injustices (***without** evidence*) he/she is projected as being crazy or mentally imbalanced, etc. However, when a citizen have evidence to sustain his/her claims (*as in Newsome's case*), the government officials participate with others to further such civil/criminal injustices against Newsome. **IMPORTANT TO NOTE:** *If factfinder was to Google Newsome's name on the internet, look at the information that appears. This is important because it is such **egregious** acts by government officials designed to for purposes to blacklist her and to see that she is not able to gain employment anywhere. Newsome is entitled to an explanation for such actions by our government and through the appropriate Complaints filed has requested an investigation into such criminal/civil wrongs. Moreover, Newsome is **CONFIDENT** that not **ALL** cases of citizens who have brought legal actions against the government or against prominent employers/law firms, etc. have been posted on the internet.* ***Therefore, leaving a valid reason for wanting to know why such citizens (as Newsome) are targeted? Why, because of their race (African-American) and because they are educated and have taken on exposing such corrupt practices**.*

While Newsome recently worked in Ohio, her residence was in Covington, Kentucky. Since moving here, Newsome finding that Kentucky has a reputation as being well known for its Klu Klux Klan (KKK) associations. Which Newsome finds very sad. Newsome also has learned that the courts in Kentucky operate under the *"Good-Boy" policy/association/system* – which to Newsome excludes African-Americans and/or people of color. It is not about practicing the law, it is who you know.

IT IS IMPORTANT TO NOTE as Newsome has mentioned, that she was recently employed with a law firm in Ohio (Wood & Lamping). Said law firm authorized one of its attorneys to assist Newsome in the Kentucky matter; however, said attorney (*white*) became upset when confronted with the bad advice being provided. Moreover, it was made known to Newsome of opposing counsel's (*white*) reputation for corrupt practices and making Kentucky news for being a slumlord. It appears they were attempting to force Newsome to give up her residence and a place she enjoyed rather than comply with the laws and correct the wrongs made known to Landlord. Therefore, the attorney assigned Newsome by Wood & Lamping abandoned her and she proceeded on. Newsome is very disturbed by the fact that it appears that *"certain"* Whites feel that they have the right to determine where she is to live and if she does not agree with their unlawful/illegal demands to give up her residence, they resort to civil/criminal actions TO FORCE NEWSOME OUT!

IT IS IMPORTANT TO NOTE that Newsome has filed a civil lawsuit against the Landlord in Kentucky.[49] There is record evidence to sustain that said filing was not made before diligent efforts were

[49] Kenton County ***Circuit*** Court Case No. 06-CI-03270.

taken to resolve the issues addressed. **IT IS IMPORTANT TO NOTE** that the attorney representing the landlord, James West ("West"), also worked with the Judge, Gregory M. Bartlett, before Bartlett took the bench. *Do you think this was information made known to Newsome by the court?* NO. **This information was provided to Newsome by one of the lawyers at the law firm (Wood & Lamping) Newsome was presently employed at**. Moreover, said lawyer advised Newsome why some attorneys *do **not*** like practicing in the state of Kentucky – **because of the "GOOD BOY" network in place in Kentucky**. Therefore, Newsome believes it is safe to conclude that rather than the laws being upheld in Kentucky, they are more likely to render decision based on their special relationships and special favors to attorneys, judges, friends, colleagues, etc. – especially if your skin was the right color. **IT IS IMPORTANT TO NOTE** that in said action Newsome had successfully obtained an Injunction/Restraining Order against the Landlord; however, since obtaining same, West through the assistance of Bartlett tried to get it removed/lifted and attempting to unlawfully/illegally get their hands on rent money Newsome has paid into Escrow. However, the proper pleadings had been filed to preserve Newsome's rights. **IT IS IMPORTANT TO NOTE** *that Newsome filed the applicable pleadings requesting the recusal of Bartlett from the matter; however, he has failed to do so. He has **also failed to obey** the ruling of the higher court (Kentucky Court of Appeals) and refuses to enter rulings in compliance with the statutes/laws. Therefore, this matter and the unresolved issues are presently pending.*

A. ATTORNEY

It is important to note that Newsome retained an attorney to represent her in the Kentucky matter. This attorney's name was Brian Bishop. However, in keeping with the pattern-of-illegal/unlawful actions, Judge Bartlett granted a Bishop's Motion to Withdraw - said motion which was also timely contested. Bishop required a Retainer to represent Newsome, which she paid and which to date he has not returned any unearned portion. However, this does not shield him from any investigation into the Complaints that have been filed by Newsome to determine whether or not such actions by him violated Newsome's Constitutional and Civil Rights and/or other statutes/laws governing said matters. *Moreover, whether said acts by Bishop were done in furtherance of the "PATTERN-OF-PRACTICE"/"PATTERN OF CONDUCT" underlying the conspiracy leveled against Newsome - using the Stor-All method. The corrupt and unlawful practices opposing counsel repeatedly stoop to in contacting Newsome's attorney(s) and advising of matters outside case involving Newsome to prejudice her attorney. Then when it time for a court appearance they appear looking all smug and conceded. Opposing counsel actually embarrassed because a nonlawyer has cleaned their clock* –as in the Stor-All matter, that they ***ALL*** *have resorted to criminal activities for the purposes of defeating Newsome in court* – ***knowingly committing "career suicide."***

60. **IT IS IMPORTANT TO NOTE:** That the Warrant of Possession (document relied upon by the Kenton County Sheriff's Department) on the backside has written notation that prior to unlawfully/illegally breaking into and burglarizing Newsome's residence, etc., that it acknowledged the **POSTING** Newsome had posted on her door advising that there is an ***Injunction and Restraining Order*** in place which prohibits the removal or eviction of Newsome from her residence. See **EXHIBIT "45"** attached hereto and incorporated by reference as if set forth in full herein. Thus, pertinent in that it goes to support and prove willful, malicious and wanton acts of the Kenton County Sheriff's Department, landlord, their counsel, Judges and/or Conspirators to deprive Newsome justice. Criminal acts which are racially motivated. Moreover, Newsome hopes that an investigation will determine whether upon reading and noting that there is an Injunction and Restraining Order, whether authorization to proceed was obtained by Judge Bartlett, Judge Ruttle and/or any other Judge advising that it was okay to proceeding in the unlawful entry, burglary, theft, unlawful entry of Newsome's residence. The criminal acts leveled against Newsome on October 9, 2008, were done with knowledge that she had a legal and lawful

Injunction and Restraining Order in place. See **EXHIBIT "45"** attached hereto and incorporated by reference as if set forth in full herein. That rent she was required to pay into escrow was current at the time of criminal activities (see **EXHIBIT "46"** attached hereto and incorporated by reference as if set forth in full herein; nevertheless, her goes the white landlord, his attorney and criminals committing crimes prohibited by law.

61. Like Stor-All the landlord (in Kentucky matter) went to a corrupt judge to obtain a NULL/VOID ruling to aid and abet them in the committing of criminal activity.

62. On October 13, 2008, Newsome filed a timely FBI Complaint in this matter which is still pending. She has recently requested status on this matter and is patiently waiting a response.

XXVII. NEWSOME'S ATTORNEYS

When the factfinder does not have ALL information to enter a ruling and harbor such ill will and animosity towards Newsome as Stor-All, said malice, envy, hatred, etc. makes he/she easy prey for Stor-All and its representatives to engage them in conspiracies. While Stor-All would like to paint Newsome as a "serial/vexatious" litigator, it fails to advise of the criminal practices opposing counsel engage in for purposes of obtaining an undue advantage over Newsome. *Then, although they have obtained an undue advantage, they still cannot defeat under the laws, so they resort to criminal activities. The following information is pertinent to aid the factfinder understand the PATTERN-OF-PRACTICE/PATTERN-OF-CONDUCT opposing parties and their counsel resort in efforts of obtaining an undue advantage in lawsuits and still they are ALL unable to get the job done without resorting to criminal acts – succumbing to "career suicide:"*

63. Newsome has requested the intervention of the appropriate government entities through the filing of a Complaint – which to date is still pending. Newsome has recently requested a status update on such matters. Moreover, Newsome has brought the appropriate actions permissible under the laws to request an investigation into the handling of judicial matters and the criminal/civil wrongs of judicial officials and others in the carrying out of "**PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT"** *in the underlying conspiracy actions leveled against her.*

64. The USDC-MS is presently attempting to **close its doors** to Newsome unless she subject's myself to the ***illegal bond setting*** *it is attempting to subject her to in efforts of extorting monies from her. Since there has been a changing of the guards, Newsome is working on finding out where this matter is and what has transpired that it has taken so long to hear anything. Could there be a COVER-UP going on?* ***Factfinders need to know that Judges/Magistrate in said matter have engaged in criminal acts. The record cannot be certified because it has been breached and/or compromised.*** There is record evidence to support Newsome's ability to retain legal representation (attorney/counsel) to represent her in lawsuits filed. Therefore, supporting attorneys' belief in the merits of Newsome's lawsuits; however, for some apparent reason her attorneys would abruptly move to withdraw and clearly elect to violate the Code of Professional Conduct, etc. for the purposes of aiding the court as well as

opposing counsel in depriving Newsome the relief sought through the legal actions in which they were retained to represent her in. Newsome has requested an investigation into the actions and motives behind such unethical and unlawful/illegal practices. Matters which are still pending from Newsome's understanding. Newsome initiating the appropriate investigations in that she believes it is important to determine what role (if any) her attorneys have played in the **"PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT"** *underlying the conspiracy leveled against her*. Moreover, what means of coercion was used by conspirators and co-conspirators' in their success in inducing Newsome's attorneys to commit civil/criminal wrongs against her through their unlawful/illegal and unethical practices. ***It is already difficult for African-Americans to get a good attorney to represent them in civil rights actions because of their inability to pay fees, corrupt practices, etc. Then when they come in a pro se status they are attacked and/or subjected to such judicial misconduct by those entrusted with power to uphold the laws siding with the dark side and entering rulings contrary to law and participating in criminal activity. Therefore, leaving Newsome with having to proceed pro se to preserve her rights in the lawsuits they were retained for and/or involved in***. Newsome having for instance retained the following attorneys to represent her:

65. **Brandon I. Dorsey** was the first attorney Newsome retained to represent her in the civil lawsuit arising in Mississippi matters. Upon *being* ***contacted*** and *being* ***provided*** *with documentation of previous lawsuits* in unrelated matters filed by Newsome, Dorsey abruptly moved for a withdrawal and deliberately and knowingly provided information he knew to be false and/or misleading to courts to obtain a withdrawal. While Newsome knew that such actions by Dorsey were unlawful/unethical and contested his withdrawal, the court obliged him for the purposes of ***aiding and abetting*** opposing counsel and for purpose of providing opposing parties with an undue/illegal and unlawful advantage over Newsome. Dorsey advised Newsome during his representation of her, that he ***has to live in Mississippi and feed his family*** – not being able to handle the pressure from opposing counsel and others. See **Title 42, U.S.C., Section 3631 - Criminal Interference with Right to Fair Housing**.[50] Dorsey required a Retainer to represent Newsome, which he returned. However, this does not shield him from any investigations that have been filed against him to determine whether or not such actions by him violated Newsome's Constitutional and Civil Rights and/or statutes/laws governing said matters and whether he is subjected to be punished if civil/criminal violations occurred. Moreover, his role (if any) played in the furtherance of the conspiracy alleged by Newsome in the USDC-MS (3:07-cv-00099) action or the **"PATTERN-OF-PRACTICE"/"PATTERN-OF-CONDUCT"** *underlying the conspiracy leveled*

50

Title 42, U.S.C., Section 3631
Criminal Interference with Right to Fair Housing

This statute makes it unlawful for any individual(s), by the use of force or threatened use of force, to injure, intimidate, or interfere with (or attempt to injure, intimidate, or interfere with), any person's housing rights because of that person's race, color, religion, sex, handicap, familial status or national origin. Among those housing rights enumerated in the statute are:

- The sale, purchase, or renting of a dwelling;
- the occupation of a dwelling;
- the financing of a dwelling;
- contracting or negotiating for any of the rights enumerated above.
- applying for or participating in any service, organization, or facility relating to the sale or rental of dwellings.

This statute also makes it unlawful by the ***use of force or threatened use of force, to injure, intimidate***, or **interfere with any person who is assisting an individual** or class of persons in the exercise of their housing rights.

Punishment varies from a fine of up to $1,000 or imprisonment of up to one year, or both, and if bodily injury results, shall be fined up to $10,000 or imprisoned up to ten years, or both, and if death results, shall be subject to imprisonment for any term of years or for life.

CUT & PASTE: http://www.**fbi.**gov/hq/cid/civilrights/statutes.htm.

against Newsome. REMINDER: Dorsey is the attorney representing Judge Skinner.

66. **Wanda X. Abioto** was the second attorney Newsome retained to represent her in the civil matter after Dorsey abandoned her. Abioto having **over 20** years of experience in the legal field. Nevertheless, later on in proceedings she too moved to withdraw as counsel for Newsome and filed a *Motion to Withdraw* after representing Newsome in the County Court and authorizing the filing of the Complaint in Federal Court. She represents Newsome in USDC-MS Case No. 3:07-cv-00560. While Abioto submitted her *Motion to Withdraw*, said motion was met by Newsome's opposition pleading. From said pleading and the supporting attachments submitted (which are of public record), Newsome believes a reasonable mind may conclude that that opposing counsel may have obtained information regarding Abioto's sanctions by the Tennessee Bar and Mississippi Bar [see **EXHIBIT "47"** attached hereto and incorporated by reference] and used such information for purposes of extortion/blackmail to strong-arm her in abandoning Newsome; moreover, taken to get Abioto to throw the lawsuit – *wherein Abioto tried in her deliberate and willful acts in not having one of the defendants* (the ***only*** defendant Newsome gave her to handle in that Newsome had Process Server handle service on other parties) *in said action served*. As a matter of law, such error and attempts by Abioto to throw the case has been corrected by opposing party's attorney, Monroe, filing a joint pleading with a properly served defendant in that action; therefore, remedying Abioto's and his attempt. Abioto clearly ignored Newsome's e-mails and phone calls requesting she contact her. *Newsome had to find out through Monroe's filings on behalf of his clients what he had been up to – **badgering**, **harassing** and **threatening Abioto** attempting to get her to withdraw the lawsuit filed on Newsome's behalf. Monroe making such threats and attacks on Abioto via correspondence*. See **EXHIBIT "48"** attached hereto. *Monroe going as far as requesting "in court hearing," which was timely met with Newsome's objections.* Newsome was aware of the harm intended towards her and Monroe's request for court appearance was merely done to hide his ill intent – obsession and fetish with Newsome. Monroe (like Stor-All and its counsel) being a predator and stalker. There was no way Newsome was going to give into such sick and hidden obsessions of opposing counsel. As with Monroe, Stor-All Meranus suffers from the same condition; however, while the courts have entertained such criminal activities, Newsome does not oblige in that she is aware of the sickness and the harm such persons seek to cause her. *The actions of Monroe clearly are **prohibited** by statutes/laws*. See **Title 42, U.S.C., Section 3631 - Criminal Interference with Right to Fair Housing** above. What was Abioto's role (if any) played ***in the furtherance*** of the conspiracy alleged by Newsome in the USDC-MS (3:07-cv-00099) action.

67. **Richard Rehfeldt** was the attorney Newsome retained to represent her in the criminal matter arising out of her February 14, 2006 unlawful/illegal arrest. While Rehfeldt was retained to represent Newsome, protect her interest and rights, Newsome believes he may have conspired with opposing counsel in her civil lawsuit(s) and others to set Newsome up and *their goal was to obtain a "guilty" verdict on the criminal charges filed against her*. Because Newsome had concerns of a possible cover-up by the FBI and that those engaging in conspiracy actions against her were out to seal a "guilty verdict," she placed the FBI on notice of such corrupt plans and conspiracy on or about October 1, 2007. Newsome believes that the FBI (*based on its involvement in the 1971 shooting and death of Police Officer William Skinner*) would have aided in the unlawful conviction of Newsome. However, the FBI upon receipt of Newsome's October 1, 2007 correspondence and not certain what other persons were obtaining copies of this document, **squashed** their plans to railroad her. *The "CONSPIRACY" plan was to find Newsome "guilty" so that **"certain"** whites (Judge Skinner, Hinds County, Sheriff, Constable, etc.) and their counsel would have a defense against the civil lawsuit Newsome had filed.* However, ***unbeknownst*** to Rehfeldt, he was not aware that Newsome had contacted the FBI and notified it of the conspiracy that had been leveled against her. Newsome knew after her meeting with Rehfeldt in August 2007, that he was acting suspicious and would probably attempt to compromise her case. Therefore, *Newsome contacted the FBI. Newsome gathered from her August 2007 meeting with Rehfeldt, when he was trying to set her up to accept being found guilty that he did not like the fact that she would research information he provided to determine whether his advice was accurate – of course it was not. Rehfeldt*

was employed to represent Newsome and she wanted to be sure that her rights and interests were protected. It was apparent Rehfeldt did not expect Newsome to go and research the laws to determine the best defense for her regarding the malicious criminal charges filed. Rehfeldt thought Newsome was going to be stupid enough to place everything in his hands without feedback. It was a good thing Newsome did not do this because it was clearly a setup. Newsome provided Rehfeldt with instructions on how she wanted him to proceed with the representation of her in the criminal matter. From the ***deliberate*** acts of Rehfeldt – *in his* ***failing to notify*** *Newsome of the court date*, ***it is obvious that he was working with others to assure that Newsome would not appear in court in hopes of getting the court to automatically find her guilty***. *It will be very interesting to find out what explanation Rehfeldt provided the court for Newsome's absence*. Newsome do know Rehfeldt called her **after** everything was over to pretend like he did not know why she was not there in court. *The reason being was because Rehfeldt* ***had deliberately failed*** *to advise and notify Newsome of the court date that had been set on the criminal charges brought by Constable Jon Lewis.* Newsome believes the object [***to find her guilty for purposes of providing opposing parties to lawsuit filed against them with a defense to Newsome's civil lawsuit***] of conspiracy as not obtained because Newsome notified the right sources – rather than take the laws into her own hands. Rehfeldt required a Retainer to represent Newsome, which to date he has not returned any unearned portion. However, this does not shield him from any investigation that has been initiated to determine whether or not such actions by him violated Newsome's Constitutional and Civil Rights and/or statutes/laws governing said matters. Moreover, his role (if any) played ***in the furtherance*** of the conspiracy alleged by Newsome in the USDC-MS (3:07-cv-00099) action.

CONCLUSION

WHEREFORE PREMISES CONSIDERED, Newsome files this instant Complaint and Request for Investigation in good faith in that she seeks vindication and justice for the criminal and civil wrongs rendered her. Newsome reserves the right to reserve this instant Complaint in that it has been prepared under duress and for purposes of expedition to see that the proper government authority has been timely, properly and adequately notified of the criminal activities of Conspirators. In July 2008, Newsome filed an Official Complaint with the United States Legislature/Congress. Newsome believes this is presently pending before for said government body. Newsome has submitted Complaint to President Barack Obama and United States Attorney General Eric Holder and is await status as to what may have happened to this Complaint – i.e. concerns of conspiracy to cover-up, destroy evidence, etc. Under the applicable statutes/laws of this United States, Newsome was legally and lawfully authorized to file said with the United States Legislature/Congress. However, PLEASE BE ADVISE that is a separate matter and should not preclude the FBI's initiating, investigation and handling of this instant Complaint.

RELIEF SOUGHT

Newsome prays for the following relief:

A. **Immediate** issuance of Injunction, Restraining and Protective Order of and against Conspirators and their legal representatives and/or representative from subjecting Newsome to any further criminal and civil wrongs;

B. **Immediate** payment of $3,000.00 to compensate Newsome for the replacement of stolen and damaged property/possession. Moreover, Newsome has suffered irreparable injury/harm and such criminal actions have had a mental, physical and emotional impact on her life and she should not be required to have to endure any more humiliation, frustration, exertion, etc. to try and determine where items are.

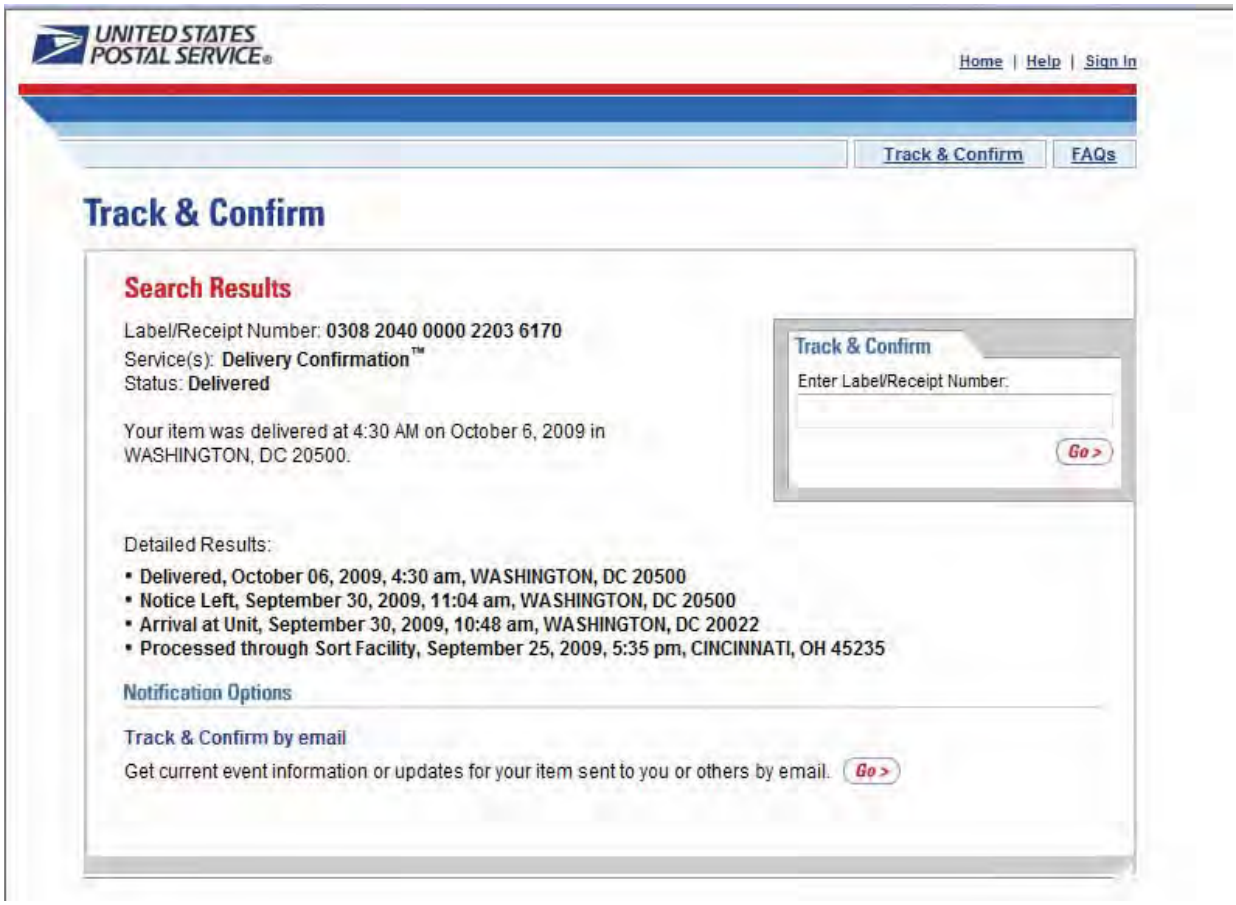
C. Criminal prosecution of Person(s)/Conspirators and the proper indictment rendered for those who may be found guilty;

D. Any and all other relief allowed under the statutes/laws governing said matters.

Respectfully submitted this **23rd** day of **September, 2009**.

Vogel Denise Newsome
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

09/24/09 MAILINGS - RECEIPTS FOR FBI COMPLAINTS



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Search Results

Label/Receipt Number: **0308 2040 0000 2203 6170**
Service(s): **Delivery Confirmation™**
Status: **Delivered**

Your item was delivered at 4:30 AM on October 6, 2009 in WASHINGTON, DC 20500.

Track & Confirm
Enter Label/Receipt Number:
Go >

Detailed Results:

- **Delivered, October 06, 2009, 4:30 am, WASHINGTON, DC 20500**
- **Notice Left, September 30, 2009, 11:04 am, WASHINGTON, DC 20500**
- **Arrival at Unit, September 30, 2009, 10:48 am, WASHINGTON, DC 20022**
- **Processed through Sort Facility, September 25, 2009, 5:35 pm, CINCINNATI, OH 45235**

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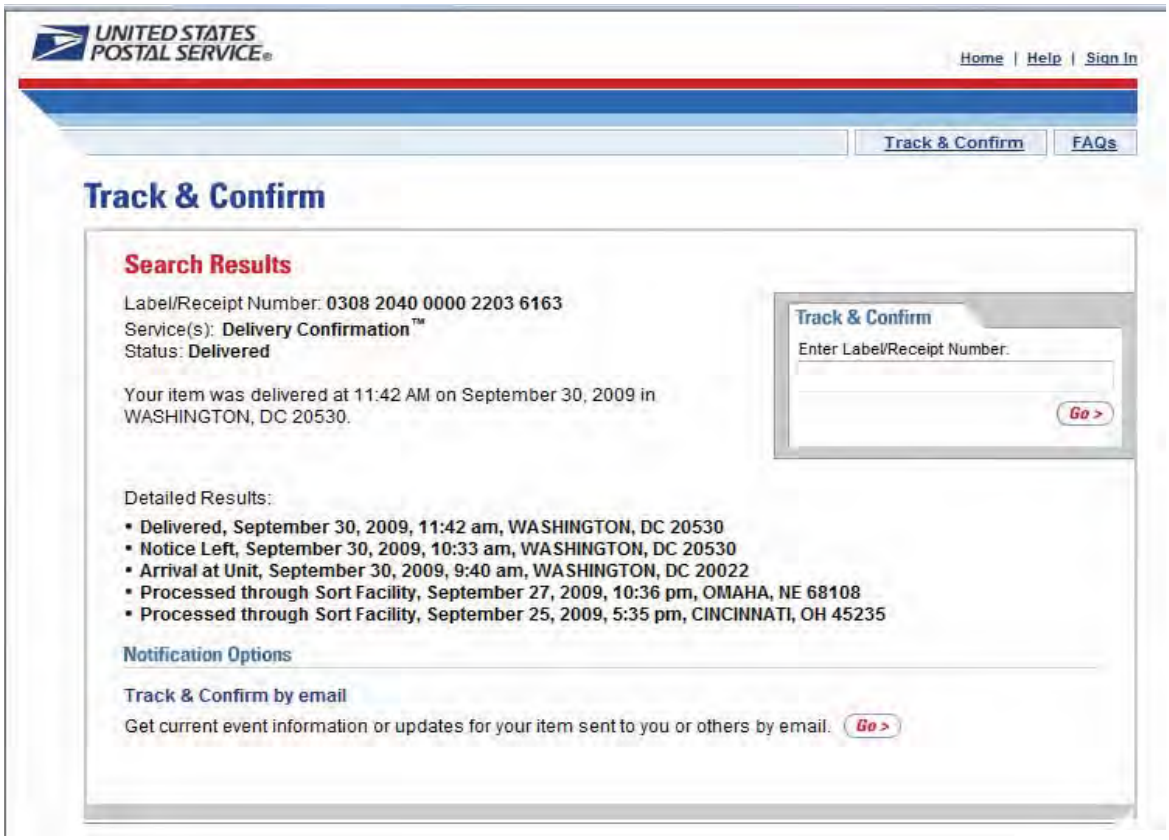

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Search Results

Label/Receipt Number: **0308 2040 0000 2203 6163**
Service(s): **Delivery Confirmation™**
Status: **Delivered**

Your item was delivered at 11:42 AM on September 30, 2009 in WASHINGTON, DC 20530.

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Go >

Detailed Results:

- **Delivered, September 30, 2009, 11:42 am, WASHINGTON, DC 20530**
- **Notice Left, September 30, 2009, 10:33 am, WASHINGTON, DC 20530**
- **Arrival at Unit, September 30, 2009, 9:40 am, WASHINGTON, DC 20022**
- **Processed through Sort Facility, September 27, 2009, 10:36 pm, OMAHA, NE 68108**
- **Processed through Sort Facility, September 25, 2009, 5:35 pm, CINCINNATI, OH 45235**

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U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Brick Bradford
Special Investigations
Cincinnati

550 Main Street, Room 9000
Cincinnati, OH 45202

Telephone: (513) 562-5750
Fax: (513) 562-5680

EXHIBIT 31

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 00-30521
Summary Calendar

D.C. Docket No. 99-CV-3109-G

U.S. COURT OF APPEALS
FILED
JUL 12 2000
CHARLES R. FULBRUGE III
CLERK

U.S. DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
FILED AUG - 4 2000
LORETTA G. WHYTE
CLERK

VOGEL DENISE NEWSOME

Plaintiff - Appellant

v.

ENTERGY SERVICES INCORPORATED

Defendant - Appellee

Appeal from the United States District Court for the Eastern District of Louisiana, New Orleans.

Before JOLLY, DAVIS, and BENAVIDES, Circuit Judges.

J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

It is ordered and adjudged that the judgment of the District Court is vacated, and the cause is remanded to the District Court for further proceedings in accordance with the opinion of this Court.

ISSUED AS MANDATE: AUG 03 2000

A true copy
Test
Clerk, U. S. Court of Appeals, Fifth Circuit
By _____ Deputy
AUG 03 2000
New Orleans, Louisiana

EXHIBIT
32

Fee
Process
X Dktd
CtRmDep
Doc.No. 65

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

U.S. COURT OF APPEALS
FILED
JUL 12 2000
CHARLES R. FULBRUGE III
CLERK

No. 00-30521
Summary Calendar

VOGEL DENISE NEWSOME,

Plaintiff-Appellant,

versus

ENTERGY SERVICES INCORPORATED,

Defendant-Appellee.

- - - - - - - - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 99-CV-3109-G
- - - - - - - - - - -

Before JOLLY, DAVIS and BENAVIDES, Circuit Judges.

PER CURIAM:*

Vogel Denise Newsome, proceeding pro se and in forma pauperis (IFP), filed a complaint alleging, *inter alia*, violations under Title VII of the Civil Rights Act. She contends that she was subjected to race and gender-based discrimination while working in a temporary assignment for Entergy Services, Incorporated. She filed a motion for appointment of trial counsel, which the district court denied. Newsome wishes to appeal the district court's denial of her motion for appointment of trial counsel and requests from this court appointment of

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

appellate counsel to pursue the issue. *See Caston v. Sears, Roebuck & Co.*, 556 F.2d 1305, 1308 (5th Cir. 1977)(holding that this court has jurisdiction to entertain an appeal from the denial of a motion for appointment of counsel in the context of a Title VII civil rights' complaint, even though the case has not yet been resolved on the merits).

When the district court considered Newsome's motion for appointment of counsel, it made findings relating to the "exceptional circumstances" test outlined in *Ulmer v. Chancellor*, 691 F.2d 209, 213 (5th Cir. 1982), and applicable to IFP cases. *See* 28 U.S.C. § 1915(d). The district court, however, did not make findings under the appropriate standard for Title VII cases. When a complainant requests appointment of counsel under Title VII, the court must consider: (1) the merits of plaintiff's claims of discrimination; (2) the efforts taken to obtain counsel; and (3) the plaintiff's financial ability to retain counsel. *See Caston*, 556 F.2d at 1308; *Gonzalez v. Carlin*, 907 F.2d 573, 580 (5th Cir. 1990). The IFP standard and the Title VII standard for appointment of counsel are not interchangeable. *See Gonzalez*, 907 F.2d at 580.

Although it cited to *Gonzalez* and the standard for appointment of counsel in Title VII cases, the district court relied solely on the *Ulmer* factors when it denied Newsome's request for appointment of trial counsel. Because it did not adequately develop the proper standard, the district court's order denying appointment of trial counsel is VACATED and the case REMANDED to the district court for further consideration

under the appropriate standard. Newsome's motion for appointment of appellate counsel is DENIED. *Cf. Whitehead v. Johnson*, 157 F.3d 384, 388 (5th Cir. 1998).

MOTION DENIED; VACATED and REMANDED.

2000E, CLOSED

U. S. District Court
Eastern District of Louisiana (New Orleans)
CIVIL DOCKET FOR CASE #: 2:99-cv-03109-GTP

Newsome v. Entergy NO Inc, et al
Assigned to: Judge G. Thomas Porteous, Jr
Demand: $0
Case in other court: 00-30521
Cause: 42:2000 Job Discrimination (Race)

Date Filed: 11/03/1999
Date Terminated: 03/20/2002
Jury Demand: Plaintiff
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: Federal Question

Plaintiff

Vogel Denise Newsome

represented by **Vogel Denise Newsome**
P. O. Box 31265
Jackson, MS 39286-1265
601-885-9536
PRO SE

Michelle Ebony Scott-Bennett
Justice for All Law Center, LLC
Gretna Plaza Bldg.
1500 Lafayette St.
Suite 122
Gretna, LA 70053
504-368-1711
Email: jfalc@bellsouth.net
TERMINATED: 04/03/2002
LEAD ATTORNEY

V.

Defendant

Entergy New Orleans, Inc.
TERMINATED: 01/18/2000

represented by **Allyson Kessler Howie**
Entergy Services, Inc. (New Orleans)
639 Loyola Avenue
26th Floor
P. O. Box 61000
New Orleans, LA 70113
504-576-5849
Email: ahowie@entergy.com
TERMINATED: 01/18/2000
LEAD ATTORNEY

Renee Williams Masinter
Entergy Services, Inc. (New Orleans)
639 Loyola Avenue
26th Floor

EXHIBIT 33

P. O. Box 61000
New Orleans, LA 70113
504-576-2266
Email: AMASINT@entergy.com
TERMINATED: 01/18/2000

Defendant

Entergy Services Inc represented by **Allyson Kessler Howie**
(See above for address)
TERMINATED: 06/13/2000
LEAD ATTORNEY

Renee Williams Masinter
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Amelia Williams Koch
Baker Donelson Bearman Caldwell & Berkowitz (New Orleans)
201 St. Charles Ave.
Suite 3600
New Orleans, LA 70170
504-566-5200
Fax: 504-636-4000
Email: akoch@bakerdonelson.com
ATTORNEY TO BE NOTICED

Jennifer F. Kogos
Jones Walker (New Orleans)
Place St. Charles
201 St. Charles Ave.
Suite 5100
New Orleans, LA 70170-5100
(504) 582-8000
Email: jkogos@joneswalker.com
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/03/1999	1	COMPLAINT (1 summons(es) issued) (daf) (Entered: 11/04/1999)
11/03/1999	2	ORDER granting pla leave to proceed in forma pauperis by Magistrate Sally Shushan (daf) (Entered: 11/04/1999)
11/03/1999		Automatic Referral (Utility Event) to Magistrate Sally Shushan (daf) (Entered: 11/04/1999)
11/10/1999	3	RETURN OF SERVICE of summons and complaint upon defendant Entergy NO Inc on 11/10/99 (cca) (Entered: 11/12/1999)

11/18/1999	4	Motion by defendant Entergy NO Inc and ORDER extending time through 12/20/99 to answer pla's original cmp by Judge Morey L. Sear Date Signed: 11/19/99 (nn) (Entered: 11/23/1999)
12/01/1999	5	Response by plaintiff Vogel Denise Newsome to defendant's ex parte motion for extension of time within which to answer, plead, or otherwise respond [4-1] (tbl) (Entered: 12/02/1999)
12/09/1999	6	MINUTE ENTRY (12/8/99): MEMO & ORDER re: dft's mtn for ext of time to file an answer to pla's cmp by Judge Morey L. Sear Date Signed: 12/8/99 (gw) (Entered: 12/09/1999)
12/20/1999	7	ANSWER by defendant Entergy NO Inc to complaint by plaintiff Vogel Denise Newsome [1-1] (sup) (Entered: 12/23/1999)
12/28/1999	8	MINUTE ENTRY(12/27/99): A Preliminary Telephone Conference is set 2:00 1/11/00 before mag by Magistrate Sally Shushan (nn) (Entered: 12/28/1999)
12/29/1999	9	Motion by plaintiff Vogel Denise Newsome and ORDER granting leave to file a response to dft's ans to their original cmp by Magistrate Sally Shushan Date Signed: 1/3/00 (nn) (Entered: 01/03/2000)
01/03/2000	10	Response by plaintiff Vogel Denise Newsome [7-1] to dft's answer to his cmp (nn) (Entered: 01/03/2000)
01/12/2000	11	MINUTE ENTRY(1/11/00): A telephone status conf was held this date; the parties advised that they do not wish to consent to trial before the mag; pla's deposition is scheduled for 3/15/00 at 9:30am by Magistrate Sally Shushan (nn) (Entered: 01/12/2000)
01/14/2000	12	NOTICE/ORDER that a preliminary conference is scheduled by telephone before courtroom deputy at 3:15 1/25/00 by Clerk (cbn) (Entered: 01/14/2000)
01/18/2000	13	Notice of Deposition by defendant Entergy NO Inc of Vogel Denise Newsome on 3/15/00. (gw) (Entered: 01/18/2000)
01/18/2000	14	NOTICE by plaintiff Vogel Denise Newsome of temporary change of address (nn) (Entered: 01/20/2000)
01/18/2000	15	Motion by plaintiff Vogel Denise Newsome and ORDER amending his original cmp by substituting Entergy Services Inc in lieu of dft Entergy New Orleans Inc Magistrate Sally Shushan Date Signed: 1/20/00 - 1 sms issd. (nn) (Entered: 01/20/2000)
01/26/2000	16	ORDER ; Preliminary Conference held 3:15 1/25/00 ; Pre-Trial Conference set 4:30 7/19/00 ; Settlement conference set 10:20 6/15/00 ; jury trial set 8:30 8/14/00 by Judge Morey L. Sear Date Signed: (cbn) (Entered: 01/26/2000)
02/07/2000	17	RETURN OF SERVICE of summons and complaint upon defendant Entergy Services Inc on 1/26/00 (nn) Modified on 04/28/2000 (Entered: 02/07/2000)
02/08/2000	18	ANSWER by defendant Entergy Services Inc to amended complaint by plaintiff Vogel Denise Newsome [1-1] (nn) Modified on 04/28/2000

		(Entered: 02/09/2000)
02/09/2000	21	PLAINTIFF'S AMENDED complaint [1-1]; no new parties added (nn) (Entered: 02/29/2000)
02/11/2000	19	MOTION by plaintiff Vogel Denise Newsome for appointment of counsel to be heard before mag (nn) (Entered: 02/16/2000)
02/16/2000	20	MINUTE ENTRY(2/15/00): setting hrg on pla's motion for appointment of counsel [19-1] at 8:30 1/22/00 by telephone by Magistrate Sally Shushan (nn) (Entered: 02/16/2000)
02/28/2000	23	Motion by plaintiff Vogel Denise Newsome and ORDER extending time for pla to respond to disc by 3/13/00; pla's deposition is rescheduled for a mutually convenient date for pla and defense counsel by Magistrate Sally Shushan Date Signed: 2/29/00 (nn) (Entered: 03/01/2000)
02/29/2000	22	MINUTE ENTRY(2/22/00): A conf was held this date; ORDER denying pla's motion for appointment of counsel [19-1] by Magistrate Sally Shushan (nn) (Entered: 02/29/2000)
03/08/2000	24	MOTION by plaintiff Vogel Denise Newsome to appeal order entered denying pla's application for appointment of attorney to be heard before Judge Sear; no hrg date (tbl) (Entered: 03/13/2000)
04/11/2000	25	MINUTE ENTRY(4/10/00): [24-1] Hrg on pla's motion to appeal order entered denying pla's application for appointment of attorney is AFFIRMED by Judge Morey L. Sear Date Signed: 4/10/00 (nn) (Entered: 04/12/2000)
04/17/2000	26	NOTICE by plaintiff Vogel Denise Newsome of change of address (nn) (Entered: 04/17/2000)
04/17/2000	27	Motion by plaintiff Vogel Denise Newsome to stay execution of judgment of order denying his mtn for appointment of counsel and ORDER denying same; there is no provision in federal law for such appointment by Judge Morey L. Sear Date Signed: 4/18/00 (nn) (Entered: 04/19/2000)
04/18/2000	28	Motion by plaintiff Vogel Denise Newsome and ORDER granting his request for information from Mag Shushan by Magistrate Sally Shushan Date Signed: 4/18/00 (nn) (Entered: 04/19/2000)
04/25/2000	29	Notice of appeal by plaintiff Vogel Denise Newsome from Dist. Court decision of 4/10/00 and 4/18/00 [27-1] [25-1] (nn) (Entered: 04/26/2000)
04/25/2000	30	Motion by plaintiff Vogel Denise Newsome and ORDER granting leave to appeal in forma pauperis by Judge Morey L. Sear Date Signed: 4/16/00 (nn) (Entered: 04/27/2000)
05/02/2000	31	MOTION by defendant Entergy Services Inc to compel disc referred to Magistrate Sally Shushan to be heard before mag at 9:00 5/17/00 (nn) (Entered: 05/03/2000)
05/08/2000	32	Memo in opposition by plaintiff Vogel Denise Newsome to motion to compel disc [31-1] filed by defendant Entergy Services Inc. (sek) (Entered: 05/08/2000)

05/12/2000		Record on Appeal sent to Circuit Court [29-1] (nn) (Entered: 05/15/2000)
05/12/2000		Notification by Circuit Court of Appellate Docket Number [29-1] 00-30521 (nn) (Entered: 05/15/2000)
05/15/2000	33	MOTION by plaintiff Vogel Denise Newsome for summary judgment referred to Magistrate Sally Shushan to be heard before mag at 9:00 5/31/00 (nn) (Entered: 05/15/2000)
05/16/2000	34	MINUTE ENTRY(5/16/00): granting dft Entergy Services' motion to compel disc [31-1] by Magistrate Sally Shushan (nn) (Entered: 05/16/2000)
05/17/2000	35	Notice of Deposition by defendant Entergy Services Inc of Vogel Denise Newsome on 6/1/00 (nn) (Entered: 05/18/2000)
05/19/2000	36	Plaintff's objections to Mag's granted motion to defendant to compel (cbn) (Entered: 05/22/2000)
05/19/2000	37	Witness and exhibit list submitted by defendant Entergy Services Inc (cbn) (Entered: 05/23/2000)
05/22/2000	38	MOTION by plaintiff Vogel Denise Newsome for protective order and staying of taking of depo to be heard before Mag Judge Shushan at 9:00 6/7/00 (pck) (Entered: 05/23/2000)
05/22/2000	39	Response by plaintiff Vogel Denise Newsome the 5/19/00 filing of dft's wit & exh [37-1] list (pck) (Entered: 05/23/2000)
05/23/2000	40	Memo in opposition by defendant Entergy Services Inc to motion for summary judgment [33-1] filed by defendant Entergy Services Inc (cbn) (Entered: 05/24/2000)
05/30/2000	41	Motion by plaintiff Vogel Denise Newsome and ORDER granting leave to file their response to dft's memo in opp to their mtn for summary judgment by Judge Morey L. Sear Date Signed: 6/1/00 (nn) (Entered: 06/02/2000)
06/01/2000	42	Reply by plaintiff Vogel Denise Newsome to dft's response to their motion for summary judgment [33-1] (nn) (Entered: 06/02/2000)
06/07/2000	43	Memo in opposition by defendant Entergy Services Inc to motion for protective order and staying of taking of depo [38-1] filed by plaintiff Vogel Denise Newsome (cbn) (Entered: 06/08/2000)
06/09/2000	44	MINUTE ENTRY (6/8/00): ORDERED that pla's motion for protective order staying the taking of her depo [38-1] is denied; Pla is to submit for her depo w/in 20 days of entry of this order at a time & place agreed to with counsel for Entergy by Magistrate Sally Shushan (gw) (Entered: 06/09/2000)
06/09/2000	45	MINUTE ENTRY(6/9/00): ORDER referring to Magistrate Sally Shushan the motion for summary judgment [33-1] filed by plaintiff Vogel Denise Newsome by Judge Morey L. Sear (nn) (Entered: 06/12/2000)
06/12/2000	46	Objections by plaintiff Vogel Denise Newsome to Mag's order denying pla's mtn for protective order & staying of taking of deposition [44-1] (nn) (Entered: 06/12/2000)

06/12/2000	47	MINUTE ENTRY(6/12/00): Status conference set 10:20 6/15/00 is continued to be reset pending resolution of pla's mtn for summary judgment by Judge Morey L. Sear (nn) (Entered: 06/13/2000)
06/13/2000	48	Motion by defendant Entergy Services Inc and ORDER withdrawing attorney Allyson Kessler Howie and substituting attorneys Amelia Williams Koch, Jennifer A. Faroldi for same by Judge Morey L. Sear Date Signed: 6/14/00 (nn) (Entered: 06/15/2000)
06/19/2000	49	Report and Recommendation: It is recommended that pla's mtn for summary judgment be denied by Magistrate Sally Shushan Date of Mailing: 6/20/00 (nn) (Entered: 06/20/2000)
06/19/2000	50	Motion by defendant Entergy Services Inc to extend pre-trial mtn & disc deadlines and ORDER denying same as ex-parte by Judge Morey L. Sear Date Signed: 6/20/00 (nn) (Entered: 06/21/2000)
06/21/2000	51	Notice of Deposition by defendant Entergy Services Inc of Vogel Denise Newsome on 6/28/00 (nn) (Entered: 06/21/2000)
06/21/2000	52	Motion by defendant Entergy Services Inc and ORDER granting their mtn to supplement their mtn to ext pre-trial mtn & disc deadlines, extending the deadlines to 7/31/00 by Judge Morey L. Sear Date Signed: 6/22/00 (nn) (Entered: 06/23/2000)
06/23/2000	53	MOTION by plaintiff Vogel Denise Newsome for Objection to Findings/Report and Recommendation to be heard before Judge Sear at 9:15 7/19/00 (ck) (Entered: 06/26/2000)
06/26/2000	54	MOTION by plaintiff Vogel Denise Newsome to stay execution of judgment pending appeal to be heard before judge at 9:15 7/19/00 (nn) Modified on 07/20/2000 (Entered: 06/27/2000)
06/26/2000	55	MOTION by plaintiff Vogel Denise Newsome to disqualify Mag Shushan where she is bias or prejudice toward a party to be heard before judge at 9:15 7/19/00 (nn) (Entered: 06/27/2000)
07/03/2000	56	MOTION by defendant Entergy Services Inc for summary judgment to be heard before judge at 9:15 7/19/00 (jd) (Entered: 07/03/2000)
07/05/2000	57	Memo in opposition by plaintiff Vogel Denise Newsome to motion for summary judgment [56-1] filed by defendant Entergy Services Inc (plr) (Entered: 07/05/2000)
07/05/2000	58	Memo in opposition by defendant Entergy Services Inc to Objections to Findings/Report and Recommendation [53-1] filed by plaintiff Vogel Denise Newsome (nn) (Entered: 07/06/2000)
07/05/2000	59	Motion by defendant Entergy Services Inc and ORDER to cont the Pre-Trial Conference scheduled for 7/19/00 is granted by Judge A. J. McNamara Date Signed: 7/10/00 (gw) (Entered: 07/11/2000)
07/11/2000	60	Memo in opposition by defendant Entergy Services Inc to motion to stay execution of judgment pending apeal [54-1] filed by plaintiff Vogel Denise

		Newsome (cbn) (Entered: 07/12/2000)
07/11/2000	61	Memo in opposition by defendant Entergy Services Inc to motion to disqualify Mag Shushan where she is bias or prejudice toward a party [55-1] filed by plaintiff Vogel Denise Newsome (cbn) (Entered: 07/12/2000)
07/12/2000	62	Motion by pla Vogel Denise Newsome & ORDER for leave to file resp to dft's opp to pla's petn to stay execution of jgm pending appeal by Judge Morey L. Sear (ijg) (Entered: 07/18/2000)
07/18/2000	63	Resp by pla Vogel Denise Newsome to dft's opp to pla's motion to stay execution of judgment pending appeal [54-1] (ijg) (Entered: 07/18/2000)
07/19/2000	64	MINUTE ENTRY (7/17/00): ORDERED that pla's motion to stay execution of judgment pending appeal of the denial of appointment of counsel [54-1] is granted by Judge Morey L. Sear Date Signed: 7/18/00 (gw) (Entered: 07/20/2000)
08/03/2000		Record on appeal returned from U.S. Court of Appeals [0-0] (nn) (Entered: 08/04/2000)
08/04/2000	65	Judgment from Court of Appeals remanding the matter back to District Court [29-1]; the district court's order denying appointment of trial counsel is Vacated; pla's mtn for appointment of appellate counsel is denied (JOLLY, DAVIS & BENAVIDES) Issued as mandate on 8/3/00 (nn) Modified on 08/04/2000 (Entered: 08/04/2000)
08/29/2000	66	MINUTE ENTRY (8/29/00) Hearing set 9/14/00 at 2:00 pm to determine whether pla Vogel Denise Newsome should be granted an atty to represent her in this litigation by Judge Morey L. Sear (gw) (Entered: 08/30/2000)
09/06/2000	67	Memo in opposition by defendant Entergy Services Inc to appointment of counsel for plaintiff (cbn) (Entered: 09/08/2000)
09/14/2000	68	SMOOTH MINUTES: Reported/Recorded by Vicky Hollard; Hrg to determine whether pla should be granted an attorney to represent her in this litigation was submitted this date by Judge Morey L. Sear (nn) (Entered: 09/15/2000)
09/26/2000	69	MINUTE ENTRY (9/25/00) MEMO & ORDER: ORDERED that pla's application for appointment of trial counsel is denied by Judge Morey L. Sear (gw) Modified on 09/27/2000 (Entered: 09/27/2000)
09/29/2000	72	Petition by plaintiff Vogel Denise Newsome to stay execution of judgment of order denying pla's mtn for appointment of counsel (nn) (Entered: 10/24/2000)
10/11/2000	70	MINUTE ENTRY (10/10/00) ORDERED that the hearing of 9/14/00 be transcribed & certified as true & correct & returned to the judge by 10/25/00 by Judge Morey L. Sear Date Signed: 10/10/00 (nn) (Entered: 10/11/2000)
10/18/2000	71	Transcript of hearing to determine whether pla should be granted an atty to represent her held 9/14/00 before Judge Sear (nn) (Entered: 10/19/2000)
10/24/2000	73	MINUTE ENTRY (10/24/00) denying pla's mtn for reconsideration of the

		m.e. of 9/26/00 [72-1] by Judge Morey L. Sear (nn) (Entered: 10/24/2000)
10/25/2000	74	NOTICE case reallotted effective November 1, 2000, to Judge G. T. Porteous Jr. by Clerk (nn) (Entered: 10/26/2000)
10/30/2000	75	Notice of appeal by plaintiff Vogel Denise Newsome from Dist. Court [73-1] minute entry entered 10/24/00, [69-1] minute entry entered on 9/26/00 (rg) (Entered: 10/31/2000)
10/31/2000	76	MOTION by plaintiff Vogel Denise Newsome for leave to appeal in forma pauperis & UNSIGNED ORDER. (gw) (Entered: 11/03/2000)
11/03/2000	77	ORDERED that in accordance with Rule 7201E, referring to Magistrate Sally Shushan the motion for leave to appeal in forma pauperis [76-1] filed by plaintiff Vogel Denise Newsome by Judge G. T. Porteous Jr. Date Signed: 11/1/00 (gw) Modified on 11/28/2000 (Entered: 11/03/2000)
11/09/2000	78	MINUTE ENTRY (11/9/00) Re pla's mtn to proceed in forma pauperis on appeal, pla to provide addl info provided in Form 4 of the Fed Rules of Appellate Procedure w/in 10 days of the date of this order; by Magistrate Sally Shushan (rg) (Entered: 11/13/2000)
11/20/2000	79	Response by defendant Entergy NO Inc to [78-1] the Court's 11/9/00 minute entry (rg) (Entered: 11/21/2000)
11/28/2000	80	MINUTE ENTRY (11/28/00) Pla's motion to disqualify Mag Shushan where she is bias or prejudice toward a party is DENIED [55-1]. Pla's mtn to appeal in forma pauperis is GRANTED; by Magistrate Sally Shushan (rg) (Entered: 11/29/2000)
12/06/2000		Record on Appeal sent to Circuit Court [75-1] USCA Number: 00-31299 (rg) (Entered: 12/11/2000)
12/07/2000	81	NOTICE/ORDER that a preliminary conference is scheduled by telephone before courtroom deputy at 3:00 12/14/00 by Clerk (rew) (Entered: 12/07/2000)
12/18/2000	82	ORDER: ORDERED that the Clerk close case for statistical purposes; by Judge G. T. Porteous Jr. Date Signed: 12/14/00 (CASE CLOSED) (rg) (Entered: 12/19/2000)
12/19/2000	83	NOTICE by plaintiff Vogel Denise Newsome of change of address (rg) (Entered: 12/19/2000)
01/30/2001	84	ORDER from Court of Appeals: Pla's mtn for appointment of counsel for appeal is DENIED; (Clerk USCA) (rg) (Entered: 01/31/2001)
05/29/2001	85	Judgment from Court of Appeals affirming the decision of the District Court [75-1]; (HIGGINBOTHAM, WIENER, BARKSDALE) Issued as mandate on 5/29/01 (dw) (Entered: 06/01/2001)
05/29/2001		Record on appeal returned from U.S. Court of Appeals [0-0] (dw) (Entered: 06/01/2001)
10/15/2001		LETTER from U.S. Supreme Court regarding denial of Writ of Certiorari as

		to plaintiff Vogel Denise Newsome (rg) (Entered: 10/22/2001)
10/24/2001	86	Motion by defendant Entergy Services Inc and ORDER to reopen case; by Judge G. T. Porteous Jr. Date Signed: 10/25/01 (rg) (Entered: 10/26/2001)
10/30/2001	87	Renotice of Hearing by defendant Entergy Services Inc setting its motion for summary judgment [56-1] at 10:00 11/21/01 (rg) (Entered: 10/31/2001)
11/13/2001	88	Motion by plaintiff Vogel Denise Newsome and ORDER re- setting dft's motion for summary judgment [56-1] to 12/19/01 by Judge G. T. Porteous Jr. Date Signed: 11/14/01 (ck) (Entered: 11/19/2001)
11/13/2001	89	Motion by plaintiff Vogel Denise Newsome and ORDER that the name of attorney Michelle Ebony Scott-Bennett be entered as counsel of record for same by Judge G. T. Porteous Jr. Date Signed: 11/14/01 (dw) (Entered: 11/19/2001)
12/10/2001	90	Memo in opposition by plaintiff Vogel Denise Newsome to motion for summary judgment [56-1] filed by defendant Entergy Services Inc (rg) (Entered: 12/11/2001)
03/20/2002	91	ORDER & REASONS: ORDERED that dft Entergy's motion for summary judgment is GRANTED pursuant to Rule 56 of the FRCP; [56-1] by Judge G. T. Porteous Jr. Date Signed: 3/18/02 (rg) (Entered: 03/20/2002)
03/20/2002	92	JUDGMENT: ORDERED that there be jgm in favor of dft Entergy New Orleans, Inc. and agst the pla Vogel Newsome, dismissing pla's claims w/prej; by Judge G. T. Porteous Jr. Date signed: 3/18/02 (CASE CLOSED) (rg) (Entered: 03/20/2002)
04/01/2002	93	MOTION by plaintiff Vogel Denise Newsome to stay proceedings to enforce a jgm; mtn to amd jgm & mtn to set aside jgm to be heard before Judge Porteous at 10:00 4/24/02 (rg) Modified on 04/16/2002 (Entered: 04/03/2002)
04/03/2002	94	Motion by plaintiff Vogel Denise Newsome and ORDER withdrawing attorney Michelle Ebony Scott-Bennett for Vogel Denise Newsome; by Judge G. T. Porteous Jr. Date Signed: 4/8/02 (rg) (Entered: 04/09/2002)
04/10/2002	95	Memorandum by plaintiff Vogel Denise Newsome in opposition to [94-1] the motion & order granting the withdrawal of attorney Michelle Ebony Scott-Bennett for Vogel Denise Newsome (rg) (Entered: 04/11/2002)
04/16/2002	96	Memo in opposition by defendant Entergy Services Inc to motion to stay proceedings to enforce a jgm; mtn to amd jgm & mtn to set aside jgm [93-1] filed by plaintiff Vogel Denise Newsome & response to pla's response to mtn to w/draw filed by atty Michelle Scott-Bennett (rg) Modified on 04/17/2002 (Entered: 04/17/2002)
05/06/2002	97	ORDER & REASONS: ORDERED that pla's motion to stay proceedings to enforce a jgm; mtn to amd jgm & mtn to set aside jgm is DENIED; [93-1]; by Judge G. T. Porteous Jr. (rg) (Entered: 05/06/2002)
05/13/2002	98	MOTION by plaintiff Vogel Denise Newsome for reconsideration of the Court's denial of pla's mtn to stay proceedings to enforce a jgm, mtn to amd

		jgm; and mtn to set aside jgm to be heard before Judge Porteous at 10:00 6/5/02 (rg) (Entered: 05/17/2002)
05/20/2002	99	Memo in opposition by defendant Entergy Services Inc to motion for reconsideration of the Court's denial of pla's mtn to stay proceedings to enforce a jgm, mtn to amd jgm; and mtn to set aside jgm [98-1] filed by plaintiff Vogel Denise Newsome (rg) (Entered: 05/20/2002)
06/11/2002	100	ORDER & REASONS: ORDERED that pla's motion for reconsideration of the Court's denial of pla's mtn to stay proceedings to enforce a jgm, mtn to amd jgm; and mtn to set aside jgm is DENIED. [98-1] Pla Vogel Newsome is to file no further pleadings in this Court, as set forth in this order. Pla instructed to seek further relief w/the USCA; by Judge G. T. Porteous Jr. (rg) (Entered: 06/11/2002)
07/10/2002	101	Notice of appeal by plaintiff Vogel Denise Newsome from Dist. Court [100-1] order entered on 6/11/02, [97-1] order entered on 5/6/02, [92-2] judgment entered on 3/20/02 (rg) (Entered: 07/11/2002)
07/10/2002	103	MOTION by plaintiff Vogel Denise Newsome for leave to appeal in forma pauperis ; no ntc of hrg. (rg) (Entered: 07/24/2002)
07/18/2002	102	AMENDED JUDGMENT: The Court's jgm signed 3/18/02, doc #92, is amended: ORDERED that there be jgm in favor of dft Entergy Services, Inc., and agst pla Vogel Newsome, dismissing pla's claims w/prej; in all other respects the jgm signed 3/18/02 remains unchanged; by Judge G. T. Porteous Jr. Date signed: 7/17/02 (rg) (Entered: 07/18/2002)
07/23/2002	104	Motion by plaintiff Vogel Denise Newsome and ORDER for leave to appeal in forma pauperis; by Judge G. T. Porteous Jr. (rg) (Entered: 07/24/2002)
07/24/2002		Record on Appeal sent to Circuit Court [101-1] USCA Number: 02-30705 (rg) (Entered: 07/25/2002)
01/17/2003		Record on appeal returned from U.S. Court of Appeals [0-0] (rg) (Entered: 01/21/2003)
01/17/2003	105	ORDER from Court of Appeals: the mtn of appellee to dism the appeal for lack of juris is granted; the mtn of appellant to strike or deny appellee's mtn to dism the appeal for lack of juris is denied; the mtns of appellant for sanctions agst appellee are denied; [101-1] (BARKSDALE, DEMOSS, BENAVIDES) (rg) (Entered: 01/21/2003)
10/21/2003		LETTER from U.S. Supreme Court denying Writ of Certiorari as to plaintiff Vogel Denise Newsome (lg) (Entered: 10/23/2003)

BEFORE THE UNITED STATES DEPARTMEN OF JUSTICE

VOGEL DENISE NEWSOME — PETITIONER/PLAINTIFF

VS. — CASE NO. _____

ENTERGY SERVICES, INC. — RESPONDENT/DEFENDANT

PETITIONER'S PETITION SEEKING INTERVENTION/PARTICIPATION OF THE UNITED STATES DEPARTMENT OF JUSTICE

TO: Office of the Solicitor General
c/o Paul D. Clement
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Telephone: 202/514-2203

COPY: Office of the Assistant Attorney General
Civil Rights Division
c/o R. Alexander Acosta
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Telephone: 202/514-2151

COME NOW Vogel D. Newsome ("Newsome") before the United States Department of Justice ("DOJ") to file Petition Seeking Intervention/Participation of the United States Department of Justice to:

(a) seek DOJ's intervention and participation in a private litigation styled *Vogel Denise Newsome v. Entergy Services, Inc.*; in the United States District Court, Eastern District of Louisiana ("EDC-LA"); Civil Action No. 99-3109; assigned to Judge G. Thomas Porteous, Jr. ("Judge Porteous" or "Porteous") and Magistrate Judge Sally Shushan ("Shushan");

(b) seek the DOJ's intervention and participation in private litigation in preparing the appropriate Petition/Pleading required to present this matter to the United States Congress;

(c) prepare and present a Petition to the United States Congress ("Congress) on behalf of Newsome, requesting Congress exercise its jurisdiction over the pending Court action and issue order instructing the EDC-LA to resume/proceed with this matter to trial and/or enter an Order and Reasons in compliance with Federal Rules of Civil Procedure ("FRCP") Rule 52, its Local Rule 62(c) and a Final Judgment on post motion(s) pursuant to FRCP 58 and

Newsome v. USDO

EXHIBIT 34

other applicable laws governing rulings on said motions addressing all issues: (i) separately stating each issue raised in the post motions filed by Newsome and rule expressly on each issue stating the reason for each ruling made, and (ii) separately stating each issue raised in Newsome's Amended Complaint and rule expressly on each issue stating the reason for each ruling made;

(d) seek the DOJ's intervention/participation in bringing *criminal* and *civil* actions against Defendant, Entergy Services, Inc. ("Entergy"), its in-house counsel – Renee Williams Masinter ("Masinter") and Allyson K. Howie ("Howie"); outside counsel – Locke, Liddell & Sapp, L.L.P ("LLS"), *Amelia Williams Koch ("Koch"), *Steven F. Griffith, Jr. ("Griffith") and *Phyllis Cancienne ("Cancienne"); and outside counsel – Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P ("JWW") and Jennifer A. Faroldi, for any and all unlawful actions resulting in an obstruction of the administration of justice and deprivation of Newsome's Constitutional Rights and Civil Rights;

NOTE: *According to information Newsome received on September 11, 2004, after checking the website at "www.martindale.com Lawyer Locator," Koch, Griffith and Cancienne are no longer with the law firm of Locke, Liddell & Sapp, L.L.P, but are presently at the law firm of Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C. ("Baker Donelson") in New Orleans, Louisiana.

It is important to note that although Newsome is proceeding *pro se* in the action *sub judice,*[1] to date, she has not been provided with any documentation and/or pleading advising of changes to Entergy's counsel's information. However, when Newsome checked the docket sheet of the EDC-LA, sure enough the change to Koch's information had been updated; but nothing showing an entry on the docket of the Court for said change (none other than at the top where parties are listed). Thus, it is important to Newsome to find out how the EDC-LA received said information and when said information was received. Moreover, why Koch failed to notify *pro se* Newsome of said

[1] Action presently pending before the Eastern District Court of Lousiana – New Orleans.

changes. **Moreover, it supports awareness by Entergy that the issues are still alive and pending before the EDC-LA.**

(e) seek the DOJ's intervention and participation in bringing *criminal* and *civil* actions against Newsome's attorney, Michelle Ebony Scott-Bennett ("Bennett"), in the action *sub judice* for knowingly submitting a Motion to Withdraw in representation of Newsome, with knowledge that said Motion to Withdraw contained false and misleading information, and that such false and misleading information was done for the purposes of obstructing the administration of justice in the EDC-LA, and, to obtain granting of Motion to Withdraw and deprive Newsome Constitutional Rights and Civil Rights. As a direct and proximate result of Bennett's actions, Newsome has been deprived equal protection of the laws and due process of laws. Furthermore, Bennett's actions supports and constitute fraud not only upon the EDC-LA, but upon Newsome - taking of Newsome's money, etc. with no intentions by Bennett to represent her throughout Court proceedings and unto the conclusion of the action;

(f) seek the DOJ's intervention and participation in filing the applicable pleadings/complaints for appointment of counsel for Newsome or that the DOJ provide Newsome with legal representation throughout the lawsuit in the action *sub judice*.

(g) seek the DOJ's intervention and participation in bringing *criminal* and *civil* actions against Judges/Magistrates under the applicable laws governing their unlawful conduct/practices - if after an investigation into the handling of the action *sub judice* warrants such to correct the wrongs rendered Newsome as governed by the laws of the United States.

Newsome seeks the DOJ's intervention and participation in the action before the EDC-LA – **Q: How does the Division decide whether to participate in a case as amicus curiae or to intervene in private litigation?** A: *Attorneys in the Appellate Section make a preliminary assessment of a case's suitability for amicus participation or intervention. Recommendations to participate or to intervene must be approved by the Assistant Attorney General for Civil Rights and by the Solicitor General* (obtained

information from Appellate Section FAQs at DOJ's website at http://www.usdoj.gov/crt/app/faq.htm) (italics added).[2] See **Exhibit 10** attached hereto. *It is important to note that in this Petition, Newsome uses underlining, boldfacing and italics for special emphasis*. This Petition is submitted in good faith and is by no means being provided to hinder, impede or obstruct the administration of justice. In support of this Petition for intervention/participation by the DOJ in the action *sub judice*, Newsome submits the following request(s), reason(s) and/or statement(s):

1. Newsome through filing this Petition, request written findings – on each numbered issue and the government's position on the matters addressed herein, and on the EDC-LA's handling of the matter presently pending before said Court.

2. Newsome request the intervention/participation of the DOJ in this matter requestng it prepare the appropriate petition(s)/pleading(s)/document(s) required by law to bring this matter before the United States Congress, seeking Congress's intervention in the action *sub judice*. Thus, requesting Congress to enter the appropriate pleading(s) which will allow the Court action (Case No. 99-3109) to proceed to trial as required by law.

3. The EDC-LA in its handling of the action *sub judice* has violated Newsome's United States Constitutional Rights and Civil Rights. Newsome because of the unlawful practices occurring in said action. Newsome has been deprived equal protection of the laws and due process of laws. Newsome is a citizen of the United States. Thus, such violation supports and warrants the DOJ's jurisdiction over said matter under the applicable laws governing said matters.

4. The EDC-LA matter, Civil Action No. 99-3109, is still an active matter and pending before said Court pursuant to FRCP Rule 54(b):

> ***In the absence** of such determination and direction*, any order or other form of decision, however designated which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties ***shall not** terminate the action as to any of the claims or parties*, and the order or other form of decision is subject to revision at any time

[2] The submittal of this Petition to the DOJ will also support and show to Congress (if need be), that Newsome has exhausted administrative remedy prior to bringing matter directly to it for intervention.

before the entry of the judgment adjudicating all the claims and the rights and liabilities of all the parties.

Because the EDC-LA's Order and Reasons entered on post motions fail to adjudicate all of the claims or the rights and liabilities of all of the parties, and because there **has never** been a *Final* Judgment entered on the timely raised, and filed, post motions brought by Newsome pursuant to Rule 54(b) and any and all applicable laws governing said matters, the Order and Reasons entered the action *sub judice* is amendable. Newsome demands that the Order and Reasons be amended to comply with federal laws governing said matters and a *Final* Judgment be entered in the action *sub judice* in compliance with FRCP Rule 52, Rule 58 and any other applicable laws. Moreover, *Newsome demands that the EDC-LA in the requested amended Order and Reasons and Final Judgment address **all** issues raised within the Amended Complaint and its findings on **each** issue raised.* Said findings by the Court is to be supported by "factual/substantial" evidence and legal conclusions to support its findings as required by laws pursuant to FRCP Rule 52 and other applicable laws governing said matter. Newsome is also demanding that EDC-LA, as a matter of law, address ***all*** issues raised in post motions.

FEDERAL STATUTE – FRCP RULE 52

Rule 52. Findings by the Court; Judgment on Partial Findings

(a) Effect.

In all actions tried upon the facts without a jury or with an advisory jury, *the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58*; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses. The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the court. It will be sufficient if the findings of fact and

conclusions of law are stated orally and recorded in open court following the close of the evidence or appear in an opinion or memorandum of decision filed by the court. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rule 12 or 56 or any other motion except as provided in subdivision (c) of this rule.

(italics added).

(b) Amendment.

On a party's motion filed no later than 10 days after entry of judgment, the court may amend its findings -- or make additional findings -- and may amend the judgment accordingly. The motion may accompany a motion for a new trial under Rule 59. When findings of fact are made in actions tried without a jury, the sufficiency of the evidence supporting the findings may be later questioned whether or not in the district court the party raising the question objected to the findings, moved to amend them, or moved for partial findings.

(c) Judgment on Partial Findings

If during a trial without a jury a party has been fully heard on an issue and the court finds against the party on that issue, the court may enter judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue, or the court may decline to render any judgment until the close of all the evidence. Such a judgment shall be supported by findings of fact and conclusions of law as required by subdivision (a) of this rule.

5. On or about **April 1, 2002,** Newsome entered post motion entitled, Plaintiffs [sic] Motion to Stay Proceedings to Enforce a Judgment; Motion to Amend Judgment; and Motion to Set Aside Judgment ("Combined Motions"), pursuant to FRCP Rule 62(a)(b), Rule 59(a) and Rule52. Pleading attached hereto as **Exhibit 3** – Brief only.

6. Newsome filed Combined Motions in a timely manner as required and/or governed by law after Judge Porteous entered an Order and Reasons along

with Judgment on March 20, 2002, granting Defendant's Motion for Summary Judgment. Within 10 days, Newsome on March 30, 2002, submitted for filing her Combined Motions. EDC-LA filed Combined Motions on April 1, 2002. See Record Document Nos. ("Rec. Doc. No.") 91 and 92. – Docket Sheet at **Exhibit 1**. Thus, supporting that Newsome did not waive the right to contest ruling by the EDC-LA.

7. If litigant desires to preserve argument for appeal, litigant must press and not merely intimate the argument during proceedings before district court; if argument is not raised in such a degree that district court has opportunity to rule on it, Court of Appeals will not address it on Appeal. *FDIC v. Mijalis*, 15 F.3d 1314, 1327 rehearing denied (5th Cir. 1994); citing *Butler Aviation Int'l Inc. v. Whyle (In Re Fairchild Aircraft Corp.)*, 6 F.3d 1119, 1128 (5th Cir. 1993).

8. There is no "bright line rule" which exist to determine whether a matter has been properly raised below. However, "a workable standard, is that the argument must be raised sufficiently for the EDC-LA to rule on it." *In Re E.R. Fegert, Inc.*, 887 F.2d 955, 957 (9th Cir. 1989). This principle accords the EDC-LA the opportunity to reconsider its ruling and correct its errors. *Morrow v. Greyhound Lines, Inc.*, 541 F.2d 713, 724 (8th Cir. 1976).

9. On or about **May 6, 2002,** EDC-LA simply entered an Order and Reasons only (with no Final Judgment). Said Order and Reasons is not in compliance with the federal rules pursuant to FRCP Rule 52(d). Moreover, Order and Reasons entered by Porteous, *was certain to omit and not address the Rule 52 Motion* filed by Newsome. See **Exhibit 7** attached hereto.

10. On or about **May 13, 2002,** Newsome timely, properly and adequately notified the EDC-LA of the error in its handling of the matter *sub judice*, to no avail. Moreover, Newsome addresses Court's failure to address Rule 52 Motion, and its failure to address ***all*** issues raised in Combined Motions and Amended Complaint. Nevertheless, to date, there has not been a ***Final*** Judgment on the post motions filed in the action *sub judice*. See **Exhibit 6** – Brief only, attached hereto.

11. As a direct and proximate result of Newsome bring the errors in Porteous' Order and Reasons to his attention, Porteous became upset and knowingly ill-advised Newsome to take the matter to the Fifth Circuit. Such instructions, which are clearly erroneous, because EDC-LA had never entered an Order and Reasons and a Final Judgment in compliance with federal rules on the post motions. See **Exhibit 8** attached hereto. Said filing by Judge Porteous will support his hostility towards Newsome for her bringing errors in his ruling to the Court's attention. Moreover,

through said instructions issued by Porteous, it is evidenced that he does not want to address the post motions issues in the action *sub judice*. Thus, supporting the need for his disqualification in the action *sub judice* and this lawsuit be reassigned to another Judge other than Judge Morey L. Judge A. J. McNamara and Judge Ivan L. R. Lemelle.

12. The EDC-LA misapplied the law when addressing Newsome's Combined Motions addressing the errors of the EDC-LA. However, the Combined Motions is an acceptable legal recourse to address errors in the Court's Order and Reasons. For instance, the Fifth Circuit Court of Appeals found in *McCrea v. Harris County Houston Ship Channel Nav. Dist.,* 423 F.2d 605, 610 (n. 19)(5th Cir. 1970) cert. Denied, 1970, 400 U.S. 927, 91 S.Ct. 189, 27 L.Ed.2d 186[3]:

> It does not appear that appellant objected to this failure in the court below. ***She made no motion to amend the judgment under Rule 52(b) Fed.R.Civ.Proc.,*** no motion for new trial, and approved the judgment as to form.

13. Even assuming that the remarks stated the law incorrectly . . . attorney made no objection to them at that point nor at any other point prior to his appeal. ***It is important that the parties make known to the trial court what omissions or commissions are objected to and why so that the trial court can act to correct errors if they are present*** . . . Moreover, since the trial court corrected himself *sua sponte* in his final instructions, we are unconvinced that a miscarriage of justice results from our refusal to consider the issue now. *Delesdernier v. Porterie,* 666 F.2d 116 (n. 6), 124, 125. *Thus, supporting a miscarriage of justice by the EDC-LA in its failure and refusal to consider issues raised and correct errors brought to its attention by Newsome.*

14. Given the fact that it has been over two years that this issue has been before the EDC-LA, it is unlikely that Judge Porteous is going to move and correct his errors on his own. Thus, the intervention/participation of the United States Department of Justice and Congress is needed to aid Judge Porteous and insure that the laws are enforced and upheld. Moreover, the Department of Justice is needed by Newsome to investigate Judge Porteous' behavior and conduct in this matter to determine whether or not he has also engaged with Defendant to conspire to deprive Newsome rights secured under the Constitution of the United States. ***Moreover, whether Porteous' behavior and/or conduct, towards Newsome, is arbitrary and individious – prejudicial/discriminative.***

[3] This case provides an example of the wisdom of that rule. *McCrea* at 658 (n. 47).

15. Since the EDC-LA is adamant and insist on ignoring and passing over the issues without comments and thus insist, through its actions, on rendering Newsome a clear injustice and depriving her equal protection of the laws and due process of laws - which are secured under the United States Constitution, and the Fifth Circuit refuses to hear the appeal - Newsome brings this matter before the United States Department of Justice to address and bring the unlawful handling of this lawsuit to the attention of Congress on her behalf or bring the applicable legal action it knows to bring to correct wrong complained of.

16. EDC-LA **LOCAL RULE 62(c)** states:

> *This court's opinion in any such action shall **separately state each** issue raised in the petition and rule expressly **on each** issue stating the reason for each ruling made.*

17. There are approximately 13 numbered issues raised in the Combined Motions filed by Newsome on April 1, 2002 in the action *sub judice.* To date, the EDC-LA has not entered an opinion or ***final*** judgment on the Combined Motions separately stating each issue raised, and has failed to rule expressly on each issue and provide its reason for each ruling made as required by law. See **Exhibit 3** – Brief only, pp. 2-3, (Rec. Doc. 93).

18. There are approximately 12 numbered issues raised in Reconsideration of Denial of Combined Motions filed by Newsome on May 13, 2002, in the action *sub judice.* To date, the EDC-LA has not entered an opinion or ***final*** judgment on the Reconsideration of Denial of Combined Motions separately stating each issue raised, and has failed to rule expressly on each issue and provide its reason for each ruling made as required by law. See **Exhibit 4** – Brief only, pp. 2-3, (Rec. Doc. 98).

19. There are approximately 36 numbered issues raised in the Amended Complaint filed by Newsome on February 9, 2000, in the action *sub judice.* To date, there has not been a trial on this matter; neither has the EDC-LA entered an opinion or ***final*** judgment separately stating each issue raised, and has failed to rule expressly on each issue and provide its reason for each ruling made as required by law. See **Exhibit 2** – Brief only, (Rec. Doc. 21).

20. The Order and Reasons entered by the EDC-LA on the post motions under the controlling laws can be defeated by a more favorable finding; and, Order and Reasons cannot be maintained under controlling laws governing said matters.

21. There are no legal findings of facts and conclusion of law to support Order and Reasons entered by the EDC-LA on Newsome's post motions.

22. There is no evidence to support the findings of the Order and Reasons entered by the EDC-LA on the post motions filed.

23. The record evidence will support that the EDC-LA took a far departure from it Local Rules and federal statutes/laws governing said matter and ill-advised Newsome to take this matter before the Fifth Circuit with full knowledge that Order and Reasons entered was not in compliance with laws, and a ***Final*** Judgment had not been entered in this action.

24. Newsome has exhausted the judicial process on the EDC-LA's failure to enter Order and Reasons in compliance with the laws and the EDC-LA's failure to enter a ***Final*** Judgment on the Combined Motions – as required by law. Therefore, Newsome may now proceed to bring this matter before Congress, and request that Congress exercise it's jurisdictional authority and instruct the EDC-LA to comply with laws governing said matters.

UNITED STATES CONSTITUTION
AMENDMENT XIV
AMENDMENT VII –CIVIL TRIALS

14th Amendment to United States Constitution – *Citizenship; Privilege and Immunities; Due Process; Equal Protection; Apportionment of Representation; Disqualification of Officers; Public Debt; Enforcement:*

> Section 1 – All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and the state wherein they reside. *No State shall make or enforce any law which abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person, life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*

> **CASE LAW:**
> The due process clause of the Fourteenth Amendment was intended to prevent the government from abusing its power, or employing it as an instrument of oppression. *Collins v. City of Harker Heights,* 112 S.Ct. 1061 (1992).

Due process expresses requirement of fundamental fairness. *Lassiter v. Department of Social Services of Durham County, N.C.,* 101 S.Ct. 2153 (1981).

There are pure questions of law involved in this action and refusal to consider them would result in a manifest/miscarriage of justice. *Guerra v. Manchester Terminal Corporation,* 498 F.2d 641, 658 (n.47) citing *Triple R. Welding & Oil Field Maintenance Corp.,* 472 F.2d 713, 716 (5th Cir. 1973).

Amendment VII – Civil Trials:

In suits at common law, where the value in controversy shall exceed twenty dollars, the right to trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of common law.

CASE LAW:

Without waiver of the right of trial by jury, by consent of parties, the court errs if it substitutes itself for the jury, and, passing upon the effect of the evidence, finds the facts involved in the issue and renders judgment thereon. *Baylis v. Travelers' Ins. Co.*, 5 S.Ct. 494, 113 U.S. 316, 28 L.Ed. 989.

A defendant has no right under this amendment to a trial by court without a jury. *Hurwitz v. Hurwitz,* 136 F.2d 796, 78 U.S. App. D.C. 66.

When evidence against a defendant affords a rational choice for competing inferences, this amendment requires that the claim be submitted to a jury. *Moore v. Guthrie Hospital, Inc.*, 403 F.2d 366.

An exception to the scope of review applicable only in cases where the defendant availed himself of his right to trial by jury, but not when he agreed to a bench trial, moreover, might be held to offend . . . fourteenth amendments' protection of the right to trial by jury. *See* Comment, Removal of Supreme Court Appellate Jurisdiction: A Weapon Against Obscenity?, 1969

Duke L. J. 291, cf. *United States v. Jackson,* 390 U.S. 570 (1968).

25. This is a civil litigation matter wherein Newsome sought to have her case tried before a jury pursuant to the Seventh Amendment of the United States Constitution. *Newsome **did not** waive said right.* Newsome never agreed, in the action *sub judice* to have her lawsuit decided by one Judge, but clearly requested a jury in this action. The Amended Complaint/Complaint (original) filed in the action *sub judice* clearly states:

> **JURY DEMAND:**
> Plaintiff demands a jury on all issues so triable.
> *The purpose of the prima facie case consist of sufficient evidence in the type of case to get Plaintiff past a motion for directed verdict in a jury case or a motion to dismiss in a nonjury case, **it is the evidence necessary to require defendant to proceed with his case.*** White v. Abrams, 495 F.2d 724, 729 (9th Cir. 1974); FRCP Rule 41(b).

See **Exhibit 2** – Brief only, p. 16.

26. Newsome's Amended Complaint (and the original Complaint filed in the action *sub judice*) *clearly* and *distinctly* sets forth *prima facie cases* and is accompanied by factual statements and/or substantial evidence for **(a)** Hostile Work Environment at pp. 4-9; **(b)** Retaliation at p. 9; **(c)** Pretext at pp. 9-11; **(d)** Conspiracy at p. 12; and **(e)** Punitive Damages at pp.12-13. See **Exhibit 2** – Brief only (documents referenced as exhibits are in the records of the lower court(s)) - attached hereto.

27. Judge Porteous, in the action *sub judice* did not have the consent of parties to pass on a jury trial and to decide the issues presented in this action himself (*self-appointed judge & jury*). Neither is there any documentation in the record to support that Newsome consented to a nonjury action. Thus, Porteous has erred for substituting himself for the jury, failing to produce any evidence to support his ruling, and entering Order and Reasons which is not in compliance with laws governing said matters.

28. **Under the Seventh Amendment of the United States Constitution, Defendant Entergy, in the action *sub judice*, has no right to a trial without a jury, nor to have the pending lawsuit decided on its motion for summary motion.**

29. Because of the competing inferences and Newsome's challenges (a) to Entergy's proffered reasons for her unlawful discharge; (b) to the ***perjured*** testimony of Entergy's key witness, Jerald Bailey; and (c) to other

arguments presented or raised by Entergy in the action *sub judice*, the law and the Constitution supports that Newsome's claims are to be submitted to a jury.

30. In granting Entergy's Motion for Summary Judgment the EDC denied Appellant her right to a jury trial. There are contested issues and evidence in the record to support that the proffered reasons provided by Entergy for Newsome's termination are false and unsubstantiated by any evidence. Thus, it is not the purpose of FRCP relating to summary judgment to deny litigants right to trial if they really have issues to try. *United States v. Burket,* 402 F.2d 426, 427 [n. 10] (5th Cir. 1968) citing *National Screen Service Corporation v. Poster Exchange, Inc.,* 305 F.2d 647 (5th Cir. 1962).

31. In order to assure that Newsome's Seventh Amendment rights are not violated, the federal courts are to take great care not to deny Newsome a full trial once she has provided/produced "substantial evidence" to prove that the proffered reasons provided by Entergy is false and that genuine issues of fact exists. *Devex Corp. v. Houdaille Indus., Inc.,* 382 F.2d 17 (7th Cir. 1967) and/or judgment might depend on the credibility of the witnesses. . . . where the credibility is, or may be crucial, summary judgment becomes improper and **a trial is indispensable**. *Cales v. Chesapeak & Ohio Ry. Co.,* 46 F.R.D. 36, 40 (D.C. VA 1969).

32. The intervention/participation of the DOJ and the United States Congress is needed to aid Newsome in correcting the wrongs rendered her, in that plain error when examined in the context of entire case, is so obvious and substantial that failure to correct it would affect fairness, integrity, or public reputation of judicial proceedings. *Peaches Entertainment Corp. v. Entertainment Repertoire Associates, Inc.,* 62 F.3d 690 (5th Cir. 1995).

APPPOINTMENT OF COUNSEL ISSUE AND WITHDRAWAL OF NEWSOME'S COUNSEL MICHELLE E. SCOTT-BENNETT

Newsome submits the instant Petition requesting the intervention and participation of the United States Department of Justice to submit to the United States Congress and/or that the DOJ file the applicable pleadings/complaints to correct the wrongs rendered her in the EDC-LA's refusal to appoint counsel, and then once Newsome retained counsel on her own, its granting/allowing her attorney to withdraw in

the action *sub judice.* Moreover, Newsome seeks the DOJ to file the applicable pleadings/complaints with the appropriate agency for the disbarment of her attorney, Michelle Ebony Scott-Bennett, if it is found that her Motion to Withdraw in the action *sub judice* was unlawful under rules/laws governing attorney practices/conduct and said withdrawal infringed upon Newsome's Constitutional Rights. In support of said request(s), Newsome states the following:

Congress's View:

Although there is no constitutional right to an appointment of counsel in civil cases, federal courts are empowered by statute to appoint counsel when circumstances justify it. *Armstrong v. Snyder,* 103 F.R.D. 96 (D.C. Wis. 1984).

> In *Castner v. Colorado Springs Cablevision,* 979 F.2d 1417, 1421 (10th Cir. 1992), the decision whether to appoint counsel requires accommodation of two competing considerations. **First, the court must consider Congress's "special . . . concern with legal representation with Title VII actions."** *Jenkins v. Chemical Bank,* 721 F.2d 876, 879 (2d Cir. 1983). In enacting the attorney appointment provision of the Civil Rights Act of 1964 and later reaffirming the importance of that provision in the legislative history of the Equal Employment Opportunity Act of 1972, Congress demonstrated its awareness that Title VII claimants might not be able to take advantage of the federal remedy without appointment of counsel. As explained in House Report No. 92-238:
>
> > By including this provision in the bill, the ***committee emphasizes*** *that the nature of Title VII actions more often than not pits parties of unequal strength and resources against each other. The complainant, who is usually a member of the disadvantaged class, is opposed by an employer who infrequently is one of the nations major producers, and who has at his disposal a vast of resources and legal talent.*

H.R. Rep. No. 238, 92nd Cong., 2d Sess., reprinted in 1972 U.S.C.C.A.N. 2137, 2148. The Court, therefore, must give "serious consideration" to a plaintiff's request for counsel in a Title VII action. *Jenkins* at 880 and *Castner* at 1421.

> [C]ourts have an obligation to consider request for appointment with care . . . remain[ing] mindful that appointment of an attorney may be essential for a Plaintiff to fulfill "the role of 'a private attorney general,' vindicating a policy 'of the highest authority.'" Quoting *New York Gaslight Club, Inc. v. Carey,* 447 U.S. 54, 63, 100 S.Ct. 2024, 2030, 64 L.Ed. 2d 723 (1980).

[W]hen a litigant unable to afford counsel and unable to present his case is forced to proceed *pro se*, there is little guarantee that a civil rights action will be successfully prosecuted to appeal so that the denial of counsel may be reviewed. *Robbins v. Maggio,* 413 (5th Cir. 1985).

33. Despite supporting Congressional and federal laws/decisions addressing such matters, the EDC-LA elected to pit ***indigent pro se*** Newsome against a giant corporation – Entergy and its vast legal *dream team*. See Nos. 46 and 47 of this instant Petition.

34. On or about **April 3, 2002**, Counsel for Newsome, Michelle E. Scott-Bennett ("Bennett") filed a Motion to Withdraw as counsel in the action *sub judice*. Bennett submitted said motion with full knowledge that Newsome contested the withdrawal. Bennett submitted said motion with full knowledge that the information contained in Motion to Withdraw was false and misleading. See **Exhibit 5** attached hereto.

35. **Michelle Ebony Scott-Bennett** (Attorney for Newsome in the action *sub judice*); **Louisiana Bar No. 25342**; Admitted 1998 (approximately **6 yrs.** of experience in the legal profession as an attorney); Undergraduate education: Louisiana State University, B.A.; Law School: Loyola University- New Orleans, LA, J.D. See **Exhibit 12,** p. 7 – from martindale.com Lawyer Locator information – attached hereto.

36. The unlawful actions of Bennett resulting approximately **two** days ***after*** Newsome had submitted her Combined Motions (Plaintiffs [sic] Motion to Stay Proceedings to Enforce a Judgment; Motion to Amend Judgment; and Motion to Set Aside Judgment). Combined Motions was filed on or about April 1, 2002. *Had Newsome not moved when she did to file the applicable post motions, this lawsuit and the issues contained in her*

Amended Complaint and post motions would not have been preserved for addressment by the DOJ or the United States Congress.

37. Amongst all the drama surrounding the unlawful actions of Bennett, Newsome immediately contacted the EDC-LA (via telephone) and advised said Court that she would be filing a rebuttal to the Motion to Withdraw. An Administrator of the Court advised Newsome she had 10 days to file her response.

38. On or about **April 8, 2004** – only ***five*** days since filing of Motion to Withdraw - the EDC-LA with knowledge that Newsome would be filing a rebuttal to Motion to Withdraw, moved *swiftly* (before 10 days to file response had expired) to enter an Order granting Bennett's Motion to Withdraw. Said actions by the EDC-LA is unlawful and was done to deprive Newsome protected rights secured under the United States Constitution and the Civil Rights Act.

39. EDC-LA unlawfully allowed the withdrawal of Newsome's attorney, Michelle Ebony Scott-Bennett. EDC-LA erred in the granting of said withdrawal. Prior to entering ruling granting withdrawal, the EDC failed to afford Newsome the appropriate time required by law to respond to the motion. The EDC moved *swiftly/quickly to grant dismissal with knowledge that Ms. Newsome had notified the Court she would be filing her objections*. Furthermore, the record evidence will support there was never an agreed Order between the parties agreeing to withdrawal. Thus, the law requires that party(s) be afforded the opportunity to object within the time frame allotted by law.

40. On or about **April 10, 2004**, despite the injustice rendered by the EDC-LA granting Bennett's Motion to Withdraw, Newsome promptly submitted a timely pleading entitled – Plaintiff's Response to Motion to Withdraw Filed by Attorney Michelle E. Scott-Bennett. See **Exhibit 6** – Brief only. Said pleading addresses unlawful practices of Bennett. *Thus, by said filing, Newsome **has preserved this issue** for review by the DOJ and the United States Congress*. An issue still alive and pending in the action *sub judice*. A Final Judgment on the Motion has not been entered.

41. It is important to note, that after the Courts refused to appoint Newsome counsel, after timely submittal of motion for such and exhaustion of appeal on the matter, Ms. Newsome retained legal representation on her own. Newsome retained the legal services of Attorney Michelle Ebony Scott-Bennett/Justice For All Law Center, LLC.

42. Bennett did not have the consent of Newsome to withdraw as counsel. The law requires said consent. Bennett failed to abide by the laws governing withdrawal when such request was contested. There is a valid

and legal contract between Newsome and Bennett/Justice for All Law Center, LLC for legal representation. *Thus, Bennett is now subject to the punishment allotted for such unlawful practices.*

43. It may be inferred (and a reasonable mind/person on the street may conclude) from the EDC-LA's granting of unlawful withdrawal, said actions were done in the furtherance of aiding Entergy and it's counsel in this lawsuit. *A reasonable mind/person on the street* may conclude from the Court's unlawful conduct in granting Bennett's unlawful withdrawal, said actions were done to ***intentionally throw*** the case or ***intentionally tip-the-scale*** in favor of Entergy. **CONGRESS** calls it, pitting parties of unequal strengths and resources against each other – House Report No. 92-238.

44. The record evidence will support that Bennett was offered legal assistance in Newsome's lawsuit via *pro bono* services by the Owens Law Firm, PLLC, in Justice For All Law Center's representation of Newsome. However, Bennett turned down the generous offer of the Owens Law Firm. See the Affidavit of Rajita Iyer Moss, staff attorney (now a Partner in the firm) at the Owens Law Firm attached hereto as **Exhibit 9**.

45. The reasons offered by Owens Law Firm, PLLC for not being able to represent Newsome, yet offering their services as stated:

> We could not represent Ms. Newsome because our firm does not specialize in employment discrimination cases. However, we informed Ms. Newsome that we were willing to provide her attorney, Michelle Bennett, with any assistance, pro bono, discovery or research, that she might need with regard to the litigation that she was handling for Ms. Newsome.

See **Exhibit 9** attached hereto.

46. Further support of timely exhaustion of this issue through the courts is evidenced in the Courts' records, see **Exhibit 1** - Notice of Appeal. EDC Record Doc. No. 29, pp 10-1; Rec. Doc. 85; and 10/15/01 EDC-LA Docket Entry. Fifth Circuit Court of Appeals, Case No. 00-31299. Supreme Court Writ of Certiorari Brief in Case No. 01-5882.

47. *Pro Se* Newsome came under scrutiny and attacks by the EDC-LA because she prepared her own pleadings. The EDC-LA subjecting Newsome to such attacks in efforts of justifying denial of counsel. However, said reasons – Newsome preparing own pleadings – is unacceptable as a matter of law:

> *Armstrong v. Snyder*, 103 F.R.D. 96, 105 (1984) – Although as the court has already observed, the Plaintiff has demonstrated a considerable aptitude for and understanding the judicial process, it has no doubt that the complexity of the constitutional and factual issues he has perhaps unwittingly raised in his complaint would be best argued by one schooled in the law . . . Accordingly, the court will appoint an attorney to prosecute this action on the plaintiff's behalf. Because it is hopeful that counsel can be secured readily and *in the interest of ensuring* that the record in this case remains unblemished both procedurally and substantially.

48. In the action *sub judice*, the record evidence will support that EDC-LA's reasons for depriving Newsome legal counsel ***in 2000***, was because she (a) is college educated; (b) prepared 16-page Complaint; (c) is single, (d) has no dependents; and (e) drives a new car. Supporting clear and blatant prejudice by the EDC-LA towards Newsome. Reasons presented by the EDC-LA to deprive Newsome counsel are baseless and holds no merits to support its denial of counsel. Further supporting the bias/prejudice of the EDC-LA towards Newsome.

Congress has made explicit findings that Title VII litigants are presumptively incapable of handling properly the complexities involved in Title VII cases . . . Title VII plaintiffs are usually members of a disadvantaged class and face opponents who command vastly superior resources. *Wilborn v. Escalderon,* 789 F.2d 1328, 1330 (fn. 2)(9th Cir. 1986).

49. The evidence attached as Exhibits hereto will support that Entergy's outside legal counsel combined consist of the following:

    a. Approximately **296 years** combined of practice in the law;

    b. Approximately **970 attorneys** combined; and

    c. Approximately **73 years** of experience combined for attorneys assigned in this lawsuit. Areas of practice is in employment law.

***Thus, supporting a clear disadvantage for pro se Newsome*, yet the EDC-LA refused to allow her legal representation in this lawsuit. Then as soon as Newsome did retain counsel to represent her, the**

EDC-LA sought to aid Bennett's unethical practices and grant the Motion to Withdraw filed by Bennett – without Newsome's consent.

50. The record evidence clearly supports that Newsome in good faith sought to obtain counsel on her own before exhausting original request for appointment of counsel to represent her. Then when she did retain counsel after exhausting said appeal on appoint of attorney issue, the EDC-LA moved quickly to grant an *unlawful* withdrawal of her attorney from the action *sub judice*.

51. *Pro Se* Newsome is an African-American female suing Entergy, an opponent who commands vastly superior resources. Newsome holds a B.S. degree from Florida A&M University. Newsome holds no degree in the legal profession.

52. **Entergy** Corporation is an integrated energy company engaged primarily in electric power production, retail distribution operations, energy marketing and trading, and gas transportation.

Entergy owns and operates power plants with approximately 30,000 megawatts of electric generating capacity, and it **is the second-largest nuclear generator in the United States.**

Entergy delivers electricity to 2.6 million utility customers in Arkansas, Louisiana, Mississippi and Texas.

Entergy **has annual revenues of over $9 billion** and approximately 14,000 employees.

See **Exhibit 11** – information retrieved from Entergy's website - attached hereto.

53. In the action *sub judice* before the EDC-LA, the record evidence will support that Newsome has been pitted against a corporation/opponent with vast legal and financial resources – Entergy Services, Inc. and its legal counsel. Furthermore, the following facts will shed additional light on such disadvantage, yet Newsome (until another attorney is appointed her) has been able to weather the discriminatory/prejudicial treatment in the handling of the action *sub judice* and keep the matter alive so that it could be addressed by the United States Department of Justice and Congress:

Entergy's **In-house** Counsel:

a. Renee Williams Masinter, **Louisiana Bar No. 19831**, Admitted 1989 (approximately **15 yrs.** of experience in the legal profession

as an attorney). See **Exhibit 12,** p. 2 – from martindale.com Lawyer Locator information – attached hereto.

b. Allyson K. Howie, **Louisiana Bar No. 20574,** Admitted 1991 (approximately **13 yrs.** of experience in the legal profession as an attorney). See **Exhibit 12,** p. 3 – from martindale.com Lawyer Locator information– attached hereto.

Entergy's **Outside** Counsel:

c. **Locke, Liddell & Sapp, LLP** ("LLS") – formed on January 1, 1999, from Dallas-based Locke Purnell Rain Harrell which was formed founded in 1891 and Houston-based Liddell, Sapp, Zivley, Hill & LaBoon which was founded in 1916. Approximately **113 yrs.** of practice in the legal profession/field. The combination results in a firm of **over 400 lawyers**. See **Exhibit 13,** pp. 1-3– attached hereto.

i. **Amelia Williams Koch** ("Koch") (Lead Attorney in action *sub judice*); **Louisiana Bar No. 2186**; Admitted 1983 (approximately **21 yrs.** of experience in the legal profession as an attorney); Undergraduate education: University of Georgia, B.A.; Law School: University of Virginia, J.D. See **Exhibit 12,** p. 1 – from martindale.com Lawyer Locator information– attached hereto.

ii. **Phyllis Cancienne** ("Cancienne"); **Louisiana Bar No. (not known at this time)**; Admitted 1989 (approximately **15 yrs.** of experience in the legal profession as an attorney); Undergraduate education: Louisiana State University, B.A.; Law School: Louisiana State University, J.D. See **Exhibit 12,** p. 6 – from martindale.com Lawyer Locator information– attached hereto.

iii. **Steven F. Griffith, Jr.** ("Griffith"); **Louisiana Bar No. 27232**; Admitted 2001 (approximately **3 yrs.** of experience in the legal profession as an attorney); Undergraduate education: Rhodes College, B.A., *cum laude*; Law School: Loyola University, New Orleans, LA, J.D., *magna cum laude*. See **Exhibit 12,** p. 5 – from martindale.com Lawyer Locator information – attached hereto.

d. **Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.** ("Baker Donelson")– Year established: 1888. Approximately **116 yrs.** of practice in the legal profession/field. Was ranked in 2003

as the fastest growing law firm in the United States by The National Law Journal and is one of the 200 largest law firms in the country. Through strategic acquisitions and mergers over the past century, the firm has grown to include **over 370** attorneys and public policy advisors in 10 offices across the southeastern United States. See **Exhibit 13**, pp. 4-13 – attached hereto.

i. Koch, who is presently a shareholder in Baker Donelson. See **Exhibit 12** attached hereto.

ii. Cancienne, who is presently a shareholder in Baker Donelson. See **Exhibit 12** attached hereto.

iii. Griffith, who is presently a member in Baker Donelson. See **Exhibit 12** attached hereto.

NOTE: At this time, it is not known to Newsome when Koch, Cancienne and Griffith joined the law firm of Baker Donelson. However, it is apparent that said change occurred ***only after*** the filing of Newsome's legal briefs exposing the unethical practices of Koch. All three, Koch, Cancienne and Griffith are closely associated in the action *sub judice* and familiar with Newsome's most recent exhaustion of the appeal process. Thus, such actions by attorneys, may lead one to believe the LLS was aware of the unethical practices of Koch, Cancienne and Griffith and elected to terminate its relationships with them. Even if this were the case, LLS did nothing to come forward to address such practices. Now, Koch, Cancienne and Griffith have moved on to Baker Donelson and taken their client, Entergy's business and its financial support, with them. The record evidence will show however, Koch and Cancienne are now ***shareholders*** at Baker Donelson (**Exhibit 12**) – leaving Newsome with concerns as to how Koch and Cancienne went about establishing and obtaining the money to finance such an endeavor. Moreover, whether or not Baker Donelson were made aware of Koch's and Cancienne's unethical/unlawful practices in federal proceedings while employed by LLS. Or, whether

Koch and Cancienne (and perhaps LLS) purposely, knowingly and intentionally withheld/concealed such pertinent information, regarding the allegations in the action *sub judice* relating to their obstructing justice in federal proceedings, from their new employer (Baker Donelson) in order to obtain employment at Baker Donelson and become shareholders in the firm of their new employer. Thus, said actions by Koch and Cancienne, may be taken as their buying their position for job/financial security in light of the allegations that have been raised by Newsome of possible criminal actions on Koch, Cancienne, their client(s) and co-counsels part in the action *sub judice*. **A move by Koch and Cancienne coming in less than a year and/or a few months after Newsome addressed allegations of unethical and unlawful practices in pleadings.**

e. **Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P.** ("Jones Walker")- Year established: 1937. Approximately **67 yrs.** of practice in the legal profession/field. Is a full-service law firm with **over 200** lawyers. See **Exhibit 13** attached hereto.

i. **Jennifer A. Faroldi** ("Faroldi"); **Louisiana Bar No. 25668**; Admitted 1998 (approximately **6 yrs.** of experience in the legal profession as an attorney); Undergraduate education: Louisiana State University, B.A.; Law School: Loyola University, J.D., *cum laude*. See **Exhibit 12,** p. 4 – from martindale.com Lawyer Locator information – attached hereto.

NOTE: However, despite the prejudicial treatment and discriminatory practices by the EDC-LA, Newsome was able to file required pleadings in the action *sub judice* and keep this lawsuit alive and pending before the EDC-LA. It is important to note that the arguments presented here, as to Congress's stance on such issues, are not new and have also been properly preserved as required by law. In fact, the record evidence will support that Newsome timely, properly and adequately raised the appointment of counsel issue and exhausted said issue through the appeal process. It was after the EDC-LA's

testimony of its client's key witness. Neither did any of the other attorneys associated in the action *sub judice*.

56. There is evidence to support Koch has a history and/or has begun a pattern-of-abuse in obstructing the administration of justice. Koch has knowingly provided false and/or frivolous responses/information to federal entities during Entergy's handling of Newsome's legal actions.

57. A reasonable mind may conclude, from information in the lower Courts' records, that Koch has an obsession with Newsome. Koch's obsession is fueled by her bias and prejudice towards Newsome. Moreover, from the evidence in the record, it appears Koch has a one-sided-vendetta (on her behalf) against Newsome.

58. Because of the unethical and unlawful practices of Koch, the record evidence now supports that Koch has an independent personal stake and with the financial assistance of Entergy and/or other client(s) being sued by Newsome - her past/present employer law firms, and co-counsel - Koch knowingly conspired to obstruct the administration of justice in achievement of her goal to deprive Newsome rights secured under the United States Constitution and Civil Rights Act.

59. At no given time in the action *sub judice*, has Entergy, Koch's former and/or present employer, or attorneys come forward to bring to the attention of the Court(s) or governmental agency(s) pursuant to the applicable laws, the unethical and unlawful practices of Koch or themselves. Therefore, it may be concluded that Koch's clients, employer(s) and co-counsel were aware of the unethical and unlawful practices of Koch. Yet, elected to do nothing to correct and/or deter Koch's unlawful behavior. Moreover, through said failure, it may be implied that attorneys and others aided Koch in her advancing the endeavors of Entergy.

60. Koch in legal actions involving Newsome, invited herself into all actions. Neither Koch nor the law firm wherein she is employed was ever counsel for Newsome's former employer(s). However, the record will reflect in legal actions brought by Newsome, Koch voluntarily brings herself, and the law firm wherein she is employed, and any other willing participants into the legal actions involving Newsome. Said participants provide Koch with either the financial means or other support to further enhance her mission in obstructing justice and depriving Newsome rights secured under the Civil Rights Act and the United States Constitution. Actions by Koch may lead a reasonable mind/person to conclude that Koch has a need and/or addiction to compete with Newsome. It is unclear why Koch has taken it upon herself to pursue cases filed by Newsome and obtain permission from Newsome's former employers allowing Koch to enter an

appearance as Counsel on their behalf. [For instance, in the action *sub judice*, Entergy had its own in-house counsel. Nevertheless, about **June 13, 2000**, Koch felt a need to enter herself in this lawsuit. See **Exhibit 1**, Docket Sheet, EDC-LA Rec. Doc. 48. This request coming about the same time she was providing the Equal Employment Opportunity Commission ("EEOC") with false and misleading information in a federal investigation brought by Newsome against Christian Health Ministries ("CHM"). See letter dated **June 16, 2000**, attached hereto as **Exhibit 14**. It is important to note that neither Koch nor her employing law firm are listed as counsel for CHM in documents provided the Internal Revenue Service. CHM shows through documentation that Emmett, Cobb, Waits & Kessenich is counsel. See **Exhibits 15, 16,** and **17** - Schedule A, Part II of this Petition. CHM's IRS documents are for the years 1998, 1999 and 2000.

§1985. - Conspiracy to interfere with civil rights

(2) **Obstructing** justice; intimidating party, witness, or juror

> *. . . or if two or more persons conspire for the purpose of impeding, hindering,* ***obstructing****, or defeating, in any manner, the due course of justice in any State* or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property ***for lawfully enforcing, or attempting to enforce, the right of any person***, or class of persons, **to the equal protection of the laws**;

(3) **Depriving persons of rights or privileges**

> If two or more persons in any State or Territory conspire . . . *or for the* **purpose of preventing or hindering the** ***constituted authorities*** *of any State or Territory* from giving or securing to all persons within such State or Territory the equal protection of the laws; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived **of having and exercising any right or privilege of a citizen of the United States,** *the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.*

§241. - Conspiracy against rights

> If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, . . . in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or . .
>
> They shall be fined under this title or imprisoned not more than ten years, or both; . . .

61. Thus, for the purposes of said statute and record evidence, case law supports Entergy, its attorneys and others conspired for the purposes of impeding, hindering, obstructing and defeating, in any manner, the due course of justice in Louisiana and/or the United States, with the intent to deny Newsome, who is a citizen of the United States, for lawfully enforcing, or attempting to enforce, her right to the equal protection of the laws.

62. Thus, for the purposes of said statute and record evidence, case law supports Entergy, its attorneys and others conspired for the purposes of preventing or hindering the constituted authorities of Louisiana and/or the United States from giving or securing to Newsome within Louisiana and/or the United States the equal protection of the laws; as set forth in § 1985. Entergy, its attorneys and others engaged therein to do, or cause to be done, any act in furtherance of the object of said conspiracy, whereby Newsome has been injured in her person or deprived of having and exercising any right or privilege of as a citizen of the United States. Therefore, Newsome may have an action for recovery of damages occasioned by such injury or deprivation, against conspirators - Entergy, its attorneys and others.

63. Thus, for the purposes of said statute and record evidence, case law supports Entergy, its attorneys and others conspired to injure, oppress, threaten or intimidate Newsome in Louisiana and/or the United States . . . in the free exercise or enjoyment of any right or privilege secured to Newsome by the Constitution or laws of the United States, or because of Newsome having so exercised the same. Therefore, for the purposes of said statute, the record evidence and case law supports, Entergy, its attorneys and others, shall be fined under this title and other applicable laws governing said matters, or imprisoned not more than 10 years, or both. . .

64. Through the unlawful actions of Entergy, its attorneys and others involved in said conspiracy, Newsome has been deprived rights secured under the Civil Rights Act and the United States Constitution.

65. The United States Supreme Court defines deprivation of rights in *Griffin v. Breckenridge,* 403 U.S. 88, 101-102, 91 S.Ct. 1790, 1798, 29 L.Ed.2d 338 (1971) - The language requiring intent to deprive of equal protection, or equal privileges and immunities, mean that there must be some . . . individously discriminatory animus behind the conspirators' actions. *The record evidence in the action sub judice supports same.*

66. Black's Law Dictionary (Sixth Edition) defines "*individious discrimination.*" Term "individious" in context of claim that difference in treatment amounts to "individious" discrimination in violation of the Fourteenth Amendment, means *arbitrary*, irrational and not reasonably related to a legitimate purpose. *The record evidence in the action sub judice supports same.*

67. *Arbitrary* defined - Without fair, solid, and substantial cause; that is without cause based upon the law, *U.S. v. Lotempio*, 58 F.2d 358, 359 (D.C. NY); not governed by any fixed rules or standard. Willful and unreasoning action, without consideration and regard for facts and circumstances presented. *In re West Laramie*, 457 P.2d 498, 502 (WY). Ordinarily "*arbitrary*" **is synonymous** *with bad faith* or *failure to exercise honest judgment* and an arbitrary act would be performed without adequate determination of principle and one not founded in nature of things. *Huey v. Davis,* 556 S.W.2d 860, 865 (Tex. Civ. App. 1977). *The record evidence in the action sub judice supports same.*

68. Under the *Louisiana Rules of Professional Conduct*, Rule 8.4 addresses **Misconduct:**

> It is professional misconduct for a lawyer to:
>
> (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
>
> (b) Commit a criminal act especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
>
> (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
>
> (d) Engage in conduct that is prejudicial in the administration of justice;

(e) State or imply an ability to influence improperly a judge, judicial officer, governmental agency or official . . .

69. From the action/conduct of Koch, it may be inferred and/or implied from said behavior, that Koch has knowingly breached/violated the Rules of Professional Conduct, and has: (a) herself or induced another to do so; (b) committed a federal criminal act that reflects adversely on her honesty, trustworthiness or fitness as a lawyer; (c) engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation; (d) engaged in conduct that is prejudicial in the administration of justice; (e) through her legal skills and/or ties to the legal arena, has displayed and ability to influence and/or manipulate improperly a judge, judicial officer, governmental agency or official. . .

NOTE: For instance, how was Koch able to get the EDC-LA in the action *sub judice* to update her current employment/firm information and not be required to file the appropriate pleading so that such change is in the record of the EDC as a docket entry. Why was Koch not required to notify all parties to this action of the firm/address change information through the filing of the appropriate pleading. Moreover, how has Entergy/Koch and others been able get rulings, contrary to law on the subject matter, from the EDC-LA which clearly goes against the Constitution and other laws governing this lawsuit.

70. Under the Louisiana Rules of Professional Conduct, Rule 3.3 - **Candor Toward the Tribunal:**

(a) A lawyer shall not knowingly;

(1) Make a false statement of material fact or law to a tribunal;

(2) Conceal or knowingly fail to disclose that which he is required by law to reveal; however, if a lawyer discovers that his client has perpetrated a fraud on a tribunal, he shall promptly call on his client to rectify same and, if the

client shall refuse to do so or be unable to do so, the lawyer shall reveal the fraud to the affected person or tribunal;

(3) Fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or

(4) Offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take reasonable remedial measures.

(b) The duties stated in Paragraph (a)(1) and (3) continue to the end of the hearing or proceeding. The duties stated in Paragraph (a)(2) and (4) are unlimited in time and apply, even if compliance requires disclosure of information otherwise protected by Rule 1.6.

(c) A lawyer may refuse to offer evidence that the lawyer reasonably believes is false.

71. The evidence in this instant motion and the lower Courts' records will support that Koch has knowingly: (a) made false statements of material fact or law to tribunal(s); (b) has concealed or knowingly failed to disclose that which she was required by law to reveal; (c) was aware that Entergy has perpetrated a fraud and/or has been deceptive in the action *sub judice*, yet, Koch failed to promptly call on Entergy to rectify same, but instead proceeded to further enhance the unlawful actions of Entergy of her own free will/choice, and in fact, took the initiative to proceed further in the action *sub judice* providing legal advice to Entergy condoning the unlawful and illegal practices before the tribunal(s); failed to disclose to the tribunal(s) legal authority and evidence she knew was available in the controlling jurisdiction to be directly adverse to the positions she was taking on behalf of Entergy and not disclosed by Newsome; and (d) has repeatedly and knowingly relied upon evidence and perjured testimony she knew was falsified for the sole purpose of misleading the tribunal(s), but took no reasonable remedial measures to correct said errors or advise the tribunal(s) of such.

72. Employer(s) of Koch, and co-counsels – Masinter, Howie, Faroldi, Griffith and Cancienne – knew or should have known of the unethical and unlawful practices of Koch and client Entergy. However, to date, has done nothing in the action *sub judice* to deter such practices of Koch; but, according to the law, may have joined in such conspiracy with Koch to obstruct the administration of justice. From said failure of Koch's employer(s) and co-counsel to abide and uphold the Louisiana Rules of Professional Conduct – wherein, as attorneys, they are governed - Newsome has been injured and deprived rights secured under the United States Constitution and Civil Rights Act.

73. Failure of Koch's employer(s) and co-counsel to deter or take the applicable actions to prevent such unethical and unlawful practices by Koch resulted in obstructing the administration of justice known to be committed by Koch, Entergy or oneself. Thus, said failure, may constitute an agreement to engage in the unethical and unlawful conduct to obstruct the administration of justice and involves dishonesty, fraud, deceit and/or misrepresentations upon the tribunal(s)/court(s).

74. Koch's employer(s) and co-counsel engaged in conduct that is prejudicial and discriminative in nature for the purposes of obstructing the administration of justice.

75. A conspiracy under civil rights conspiracy statute [42 U.S.C. §1985] may be implied from the circumstances; a plaintiff need not show that agreement between two or more persons to commit an illegal act was express.

76. Under statutes prohibiting conspiracy to deprive persons of rights or privileges, a corporate entity and its employees constitute a single entity which is incapable of conspiracy with itself; ***however, a possible exception*** *to such doctrine exist where corporate employees act for their own personal purposes.* – 42 U.S.C. § 1985. *Benningfield v. The City of Houston,* 157 F.3d 369 (5th Cir. 1998). **The record evidence will support that parties involved in the action *sub judice* acted for their own personal purposes. Moreover, what began with unlawful employment discrimination and conspiracy between two of Entergy's employees, has turned into a massive conspiracy involving many co-conspirators in the enhancement of Entergy's endeavors.**

77. The one arguable exception to the general rule that a corporation cannot conspire with its own employee in violation . . . occurs in the rare instances in which employees have an independent personal stake in achieving the object of the conspiracy. *Domed Stadium Hotel, Inc. v. Holiday Inns, Inc.,* 732 F.2d 480, 486 (n.5)(5th Cir. 1984) citing, *Poller v. Columbia Broadcasting System, Inc.,* 368 U.S. 464, 470, 82 S.Ct. 486,

489, 7 L.Ed.2d 458 (1962). **The record evidence in the action *sub judice* and other legal actions involving Newsome, will support an independent personal stake of conspirators in achieving the object of the conspiracy.**

78. The "Hartman" court concluded that a conspiracy could only be established if the employees' actions were solely the result of personal bias. *Hartman v. Board of Trustees of Community College Dist. No. 508, Cook County, Ill.*, 4 F.3d 465, 470 (7th Cir. 1993). **The record evidence supports that actions by Entergy's employees and co-conspirators were solely the result of personal bias and prejudice towards Newsome.**

79. Conspiracy in the realm of "Civil" law (not Criminal) pursuant to 42 US.C. §1985 when addressing civil rights violations, "means that co-conspirators must have agreed at least tacitly, to commit acts which will deprive plaintiff of equal protection of laws. *Santiago v. City of Philadelphia,* 435 F.Supp. 136 (E.D. PA 1971). **The record evidence in the action *sub judice* supports a *tacit* agreement amongst the conspirators.**

80. ***Tacitly*** under federal civil law means, "that two person pursue by their acts the same object by the same means, one performing one part of act and the other another, so as to complete it with a view to the attaining of the object they are pursuing, is sufficient to constitute a conspiracy regardless of whether each conspirator know of the details of the conspiracy or of the exact part to be performed by the conspirators, or whether the details were completely worked out in advance. *Picking v. Pennsylvania R. Co.,* 5 F.R.D. 76, 79 (M.D. PA 1946).

LIABILITY/ACCOUNTABILITY:

81. Federal officials can be sued under civil rights conspiracy statute. *Baird v. Haith,* 724 F.Supp. 367 (D.C. Miss. 1988)

82. **§ 1985 – Action For Neglect to Prevent:** *Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured,* or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; *and any number of persons guilty of such* ***wrongful neglect or refusal*** *may be joined* ***as defendants*** *in the action;*

PATTERN-OF-ABUSE (VIOLATION OF RULES OF PROFESSIONAL CONDUCT):

It is important to note that after leaving Entergy, Newsome was approached by Hibernia National Bank to see whether or not she was interested in a position at the bank. A job wherein there was a vacancy and Newsome did apply. However, at the last minute, Hibernia decided to go with another candidate. Who is Hibernia's legal counsel? Locke, Liddell & Sapp, LLP and Jones Walker - based on information on their websites:

> LLS' website information:
> REPRESENTATIVE CLIENTS: A.H. Belo Corporation; Amoco; AT&T; Baxter Healthcare; Caremark, Inc.; Chase Bank of Texas, N.A.; CIGNA Companies; Crescent Real Estate Equities Trust; Crow Family Holdings; El Paso Energy Corporation; Friedkin Companies; Garden Ridge Corporation; **Hibernia Corporation**; . . .

See **Exhibit 13**, p. 2 - information retrieved from martindale.com Lawyer Locator website – attached hereto.

> Walker Jones website information:
> BANKING AND FINANCE: Bank One NA; Enhanced Capital Partners, LLC; First Bank and Trust; **Hibernia National Bank**; Johnson Rice & Company L.L.C.; Legg Mason, Inc.; Whitney National Bank.
>
> REPRESENTATIVE CLIENTS: A.H. Belo Corporation; Amoco; AT&T; Baxter Healthcare; Caremark, Inc.; Chase Bank of Texas, N.A.; CIGNA Companies; Crescent Real Estate Equities Trust; Crow Family Holdings; El Paso Energy Corporation; Friedkin Companies; Garden Ridge Corporation; **Hibernia Corporation**; Houston Chronicle; John Hancock Mutual Life Insurance; Kimberly-Clark Corporation; King Ranch; Lowe's Companies, Inc.; Lumbermen's Investment Corporation; Merrill Lynch; Metropolitan Life Insurance Co.; New York Life Insurance; North Texas Tollway Authority; Phillip Morris; Phillips Petroleum Company; Prudential Life Insurance; SCI/Provident Services; Seton Healthcare Network; Software Spectrum, Inc.; Trammell Crow Company; Wyndham Hotels & Resorts.

See **Exhibit 13**, p. 15 and 16 - information retrieved from martindale.com Lawyer Locator website – attached hereto.

Shortly after, the Hibernia incident, Newsome was contacted by Christian Health Ministries to see if she was interested in a job position there. Newsome had worked for Baptist Community Ministries, an affiliate of Christian Health Ministries, earlier that year. Newsome was later offer full-time employment at Christian Health Ministries. However, like at Entergy, she was also deprived employment with Christian Health Ministries due to Title VII violations. Christian Health Ministries discriminated against Newsome. Based upon the information contained within this Petition, and upon thinking upon circumstances surrounding Newsome's unlawful discharge and Christian Health Ministries relationship with Koch, it is possible that Newsome's employment may have been affected, as well, based upon Entergy's and/or Koch's relationship and the and/or influence upon Christian Health Ministries. In light of the conspiracy allegations and the record evidence supporting same, Newsome believes this is pertinent information thus warranting and/or requiring the United States Department of Justice to intervene/participate in the action *sub judice* as well as investigate the circumstances surrounding the unlawful discharge of Newsome from the employment of Christian Health Ministries ("CHM") and Koch's/LLS's providing of false information to obstruct, hinder and impede the EEOC's investigation to determine whether there exists violations under the laws. In support of such arguments, Newsome states the following:

83. There are common links between Entergy, Jones Walker, Baker Donelson, Hibernia, and Christian Health Ministries – Koch/Locke Liddell & Sapp, LLP. Of two, the record evidence supports Entergy's and Christian Health

Ministries' counsel, Koch/Locke Liddell & Sapp, LLP, is closely associated as legal counsel for these former employers of Newsome.

84. The record evidence will support that Entergy and Christian Health Ministries share the same counsel Locke, Liddell & Sapp, LLP/Koch.

85. The record evidence will support that Newsome filed a lawsuit against Entergy on November 3, 1999.

86. Newsome was offered employment with CHM on or about November, 1999. Newsome began job opportunity with CHM on or about November 22, 1999.

87. On or about **December 3, 1999**, Newsome complained to Supervisor, Dr. Valeria Granger ("Granger) regarding concerns of being required to attend Granger's mandatory devotional services and how it was affecting her job. Granger's mandatory devotional services were not a policy of CHM.

88. On or about **December 6, 1999**, Granger sought to have Newsome terminated.

89. On or about **December 8, 1999**, Newsome discussed Granger's retaliatory actions with Executive, Eugene Huffstatler, and Human Resources Coordinator, Jo Laxton.

90. On or about **December 21, 1999**, CHM advised Newsome that **December 24, 1999**, would be her last day of employment.

91. Newsome filed a Charge of Discrimination based on Religion against CHM with the EEOC on or about **January 11, 2000**.

92. On or about **June 13, 2000**, Entergy filed Motion to substitute Koch as counsel in the action *sub judice*. See **Exhibit 1** – Rec. Doc. No. 48.

93. On or about **June 16, 2000**, *approximately three (3) days later*, on behalf of CHM, Koch/Locke Liddell & Sapp, LLP provided a response to the EEOC regarding Newsome's Charge. See **Exhibit 14** attached hereto. **Koch having full knowledge that information contained in her response, on behalf of CHM, to the EEOC was false and misleading. Thus, supporting a *conspiracy to interfere with protected rights of Newsome through the obstruction of justice.***

94. It is indisputable, based on the evidence provided in this Petition and lower Courts' record, that Christian Health Ministries (CHM) is not a church. CHM is not exempt from Title VII actions. However, Koch ***(on***

***behalf* of herself, employer law firm, BCM[4], CHM, etc.)** knowingly provided false and misleading information during a federal investigation to the EEOC. In another action brought by Newsome (*Newsome v. Christian Health Ministries*) before the EEOC, Koch knowingly provides a false statement noting, *"Title VII's prohibition against discrimination in employment does not apply to employees of religious organizations, and such, CHM is exempt from liability pursuant to Title VII of the Civil Rights Act of 1964, as amended."* See **Exhibit 14** attached hereto.

95. Koch **(*on behalf* of herself, employer law firm, BCM, CHM, etc.)** falsified information provided the EEOC denying her client, CHM, discriminated against Newsome with knowledge that her client indeed discriminated against Newsome. In aiding her client she states, "CHM emphatically denies that it discriminated against Ms. Newsome on the basis of her religion, or in any way. Even if, however, there were merit to Ms. Newsome's Charge of Discrimination, she could not recover against a religious organization, such as CHM, under Title VII. Additionally, *because CHM is a religious organization*, the Equal Employment Opportunity Commission (EEOC) and the Louisiana Commission on Human Rights (LPRH) are deprived of jurisdiction to investigate Ms. Newsome's Charge of Discrimination." **Exhibit 14** – attached hereto. Koch was fully aware and/or having access to information/documentation to support that CHM was not a religious organization immuned from Title VII actions. See **Exhibits 15, 16** and **17** - Schedule A, Part IV – Reasons for Non-Private Foundation Status.

96. The jurisdiction argument used by Koch is a *commonly used* frivolous argument entered by her on behalf of her client(s). Although the Fifth Circuit was properly, timely and adequately notified of Koch's pattern-of-abuse of the judicial process, it did nothing to assure that Newsome's rights would be protected from such unlawful practices of Koch. For instance:

> **About September 16, 2002,** Newsome placed the Fifth Circuit on notice and requested that sanctions be issued against Entergy for frivolous pleadings presented the Court during appeal. To no avail. The Fifth Circuit as the EDC-LA allowed the Entergy (through counsel) to come before it and practice in a manner unbecoming to a member of the bar. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official.*
>
> **About September 19, 2002,** Entergy through its attorney, filed a frivolous Motion to Dismiss the appeal alleging that Newsome's Notice of Appeal was untimely. Such

[4] Baptist Community Ministries.

assertion is unsubstantiated by the evidence in the record in the action *sub judice*. See EDC Docket Sheet **Exhibit 1** of this Petition. Moreover, Entergy's pleadings ***did not*** *have any legal conclusions to support it that could not be defeated by a more favorable ruling on the subject matter. Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official.*

About September 27, 2002, Newsome timely filed Appellant Brief. Newsome believes the Entergy's frivolous September 19, 2002, filing was done to throw her off and prevent her from submitting a timely brief. However, such efforts by Entergy also failed.

About September 30, 2002, Newsome timely filed her rebuttal to Entergy's frivolous Motion to Dismiss. About the same time, Newsome submitted her Motion to Strike Entergy's Motion to Dismiss. To no avail.

About January 15, 2003, Fifth Circuit entered order granting Entergy's frivolous and unsubstantiated Motion to Dismiss. Fifth Circuit alleging it lacked jurisdiction in this action/appeal. The ruling by the Fifth Circuit contained **no** legal conclusions, evidence, etc. to support its findings as the law requires. *The Fifth Circuit ruling is not in compliance with the Federal Rules governing said actions and is contrary to law. Said ruling can be defeated by a more favorable ruling on the subject matter. Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official.*

About January 28, 2003, Newsome timely filed a Petition for Rehearing.

About February 25, 2003, Fifth Circuit denied Newsome's Petition for Rehearing. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official.*

97. Koch **(*on behalf* of herself, employer law firm, BCM, CHM, etc.)** states, "Title VII reads in pertinent part, 'This subchapter shall not apply . . . to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.' Additionally, the United States Supreme Court acknowledged that

'[s]ection 702 of the Civil Rights Act of 1964, 78 Stat. 255, as amended, 42 U.S.C. §2000e-1, exempts religious organizations from Title VII's prohibition against discrimination in employment on the basis of religion." Knowingly misapplying the United States Supreme Court's decision in *Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. Amos.* Evidence further supporting Koch's skills in twisting and misapplying the laws to mislead and/or obstruct justice in a federal matter. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official.* ***Koch being an attorney with many years of practice in the legal profession and having knowledge that her actions were unethical and unlawful.*** **Exhibit 14** attached hereto.

98. Koch **(*on behalf* of herself, employer law firm, BCM, CHM, etc.)** knowingly provides false information in misapplying the decision of the Fifth Circuit Court of Appeals in *Equal Employment Opportunity Commission v. Mississippi College,* stating, "Furthermore, the Fifth Circuit instructs that when 'a religious institution of the kind described in §702 presents convincing evidence that the challenged employment practice resulted from discrimination on the basis of religion, §702 deprives the EEOC of jurisdiction to investigate further . . '" **Exhibit 14** attached hereto. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official. Koch being an attorney with many years of practice in the legal profession* ***(employment law)*** *and having knowledge that her actions were unethical and unlawful.*

99. Koch **(*on behalf* of herself, employer law firm, BCM, CHM, etc.)** states, "Thus, in order to be exempt, the complaint must be 1) religious discrimination and 2) brought against a religious organization, as provided by section 2000e-1 of Title VII. In her Charge of Discrimination, Ms. Newsome alleges that she was discriminated against because of her religion, non-denominational. Thus, Ms. Newsome's complaint if one of religious discrimination." **Exhibit 14** attached hereto. Information Koch knew to be false and is not applicable to CHM. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official. Koch being an attorney with many years of practice in the legal profession* ***(employment law)*** *and having knowledge that her actions were unethical and unlawful.*

100. Koch **(*on behalf* of herself, employer law firm, BCM, CHM, etc.)** states, "Additionally, CHM qualifies as a 'religious corporation, association, educational institution, or society' exempt from liability under Title VII for religious discrimination. CHM is a Louisiana not-for-profit corporation, exempt from Federal income tax under sectin 501(c)(3) of the Internal Revenue Code." **Exhibit 14** attached hereto. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental*

agency or official. Koch being an attorney with many years of practice in the legal profession ***(employment law)*** *and having knowledge that her actions were unethical and unlawful.*

101. See **Exhibit 18** (dated 7/2/96). Information clearly in the possession of Koch, employer law firm, BCM and CHM, and/or she having access to her client's file wherein she could have retrieved this information. Newsome is not an attorney and was able to obtain this information.

> It is indisputable that CHM is not a church. CHM was "an organization exempt from federal income tax under section 501(c)(3) of the Code and **is not** a private foundation because it is an organization described in section 509(a)(1) of the Code and 170(b)(1)(A)(iii) of the Income Tax Regulations" which states:
>
> > 170(b)(1)(A)(iii) - "an organization the ***principal purpose or functions*** of which are the providing of *medical* or *hospital care* or *medical research* . . .
>
> It is indisputable that the 990 Tax Returns of CHM received by the Internal Revenue Service on or about **May 11, 1999** shows under Part IV - "Reason for Non-Private Status," Box No. 6 "X'ed" - indicating "**A school.** Section 170(b)(1)(A(ii). (Also complete Part V, page 4)" which states:
>
> > Advertisement of the nondiscriminatory policy is published in local newspaper. Also nondiscriminatory policy tagline printed on brochures, applications and appears on Webpage."
>
> It is indisputable that the 990 Tax Returns of CHM received by the Internal Revenue Service on or about **May 22, 2000**, shows under Part IV - "Reason for Non-Private Status," Box No. 6 "X'ed" - indicating "**A school.** Section 170(b)(1)(A(ii). (Also complete Part V, page 4)" which states:
>
> > Advertisement of the nondiscriminatory policy is published in local

> newspaper. Also nondiscriminatory policy tagline printed on brochures, applications and appears on Webpage."

It is indisputable that the 990 Tax Returns of CHM received by the Internal Revenue Service on or about **August 20, 2001**, shows under Part IV - "Reason for Non-Private Status," Box No. 6 "X'ed" - indicating "**A school**. Section 170(b)(1)(A(ii). (Also complete Part V, page 4)" which states:

> Advertisement of the nondiscriminatory policy is published in local newspaper. Also nondiscriminatory policy tagline printed on brochures, applications and appears on Webpage."

It is indisputable that the 990 Tax Returns of CHM received by the Internal Revenue Service on or about **July 18, 2002**, shows under Part IV - "Reason for Non-Private Status," Box No. 6 "X'ed" - indicating "**A school.** Section 170(b)(1)(A(ii). (Also complete Part V, page 4)" which states:

> Advertisement of the nondiscriminatory policy is published in local newspaper. Also nondiscriminatory policy tagline printed on brochures, applications and appears on Webpage."

102. It is indisputable from evidenced provided in **Exhibits 15, 16** and **17**, that CHM does not claim exemption reason for Non-Private Foundation status as a Church, Convention of Churches or Association of Churches under Section 170(b)(1)(A)(i).

103. It is indisputable, like Entergy had its own counsel (in-house), CHM also has its own counsel, Emmett, Cobb, Waits & Kessenich. See Exhibits **Exhibits 15, 16** and **17**, Part II of Schedule A. Nevertheless, evidence in the record of the federal entities handling matter(s) will find that Koch voluntarily appearing as counsel or requesting entry to appear as counsel.

104. ***Pattern-of-abuse and breach of the Rules of Professional Conduct*** in the federal sector is evidenced in Koch's 3/17/00 letter to the EEOC wherein she ask for extra time to respond to Newsome's Charge of Discrimination noting, "***My firm*** represents Baptist Community Ministries ("BCM") in connection with the above-referenced Charge of Discrimination brought by Ms. Vogel Newsome. While BCM has received notice of Ms. Newsome's charge, it has not yet received a signed charge of employment discrimination. As a result, BCM has been unable to furnish your office with a comprehensive position statement. . . . So that BCM may respond fully and properly to Ms. Newsome's complaint, we request that you extend the deadline for our response until two weeks following our receipt of her signed charge. If we do not hear otherwise, we will assume that your office has agreed to this extension. Meanwhile, because my firm represents BCM in this matter, please direct all future materials pertaining to Ms. Vogel's charge to me at the above address." Supporting BCM was brought into this matter with Koch, her employer law firm, and any other willing participant, for the purposes of obstructing justice and depriving Newsome rights secured under the Civil Rights Act and United States Constitution. Under federal law, said actions constitutes a ***civil conspiracy***. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official.*

105. Koch is not a rookie in the legal profession. Koch has been in the legal profession for approximately 21 years, was admitted to the bar in Louisiana in 1983 and thus, is bound by the Rules of Professional Conduct. See **Exhibit 12**.

106. From the evidence Newsome has found, it appears that Koch married into a prominent family ("Koch") perhaps known and very well established in the legal community in the state of Louisiana. See **Exhibit 19**. ***Furthermore, pertinent evidence to support the influence and financial ties Koch has to the community and the legal system.***

107. Koch has held prominent positions as a member of the bar and her legal experience further supports her strength and ties to the legal community (Federal & State). In New Orleans - Treasurer; Louisiana - Chair. In Federal Bar Association - New Orleans Chapter President, etc. See **Exhibit 12**. Moreover, her new employer, Baker Donelson has many ties to present and/or former government officials:

> Current and former Baker Donelson attorneys and public policy advisors include, among many other highly distinguished individuals, people who have served as Chief of Staff to the President of the United States; the U.S. Senate Majority Leader; the U.S. Secretary of State; a member of the United

States Congress; the Federal Aviation Administrator; Chief of Staff at the Supreme Court of the United States and Administrative Assistant to the Chief Justice of the United States; the Deputy Under Secretary for International Trade for the U.S. Department of Commerce; the Ambassador to Turkey; the Ambassador to the Sultanate of Oman; Chief Operating Officer and Commissioner of Finance and Administration for the State of Tennessee; the Deputy Governor and Chief of Staff for the Governor of Tennessee, the Governor of Mississippi, and the Chairman of the Alabama Securities Commission.

See **Exhibit 13**, pp. 4 - 5 - information retrieved from martindale.com Lawyer Locator website – attached hereto.

108. Koch is a white female with a profession in the legal field. She is an attorney. One skilled and schooled in the laws of this country. Specializing in employment law. Thus, familiar with the laws governing conduct of attorneys and ethical practices required of members of the bar.

109. The evidence in the lower Courts' records will support that Newsome has been held to strict and stringent rules of the Courts and laws of this Country, while Koch, her client(s) and co-counsel are held to less stringent rules of the Courts and laws of this Country. Furthermore, the Courts are lenient/lax when dealing with Koch, her client(s) and co-counsel. Moreover, the evidence in the record will support that the Court's are more abrupt and abusive and geared more to unlawfully sanctioning Newsome while allowing Koch, her client(s) and co-counsel to practice before the Court(s) in an unethical and unlawful manner. Yet the Court(s) have repeatedly failed to sanction Koch for such. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official.*

110. Newsome is subjected to bias, prejudicial and discriminatory treatment by the lower Courts because she is an African-American; while Koch is allowed to practice before the Court's in an unlawful manner because she is a white female professional schooled in the law. Moreover, Koch has been extended special privileges and given better treatment in the handling of this lawsuit than Newsome because of her race and because she represents a client who is majority-owned and operated by members of a race other than Newsome. Moreover, a client with vast financial resources and other ties to the community, than that of Newsome.

REQUEST FOR DISQUALIFICATION OF JUDGE/MAGISTRATE
REQUEST FOR REASSIGNMENT OF CASE IN ACTION *SUB JUDICE*

Based on the information contained in the lower courts' record and this instant Petition, Newsome petitions the United States Department of Justice to intervene/participate in the action *sub judice* and file the applicable pleadings in said action, or a separate action, addressing the errors and wrongs rendered her by the Judge(s)/Magistrate(s) assigned her actions. Newsome seeks the disqualification of said Judge(s) and Magistrate(s) if permissible by law. Newsome request that in the action *sub judice*, that it be reassigned to Judge/Magistrate that has not, and will not, exhibit discriminatory, retaliatory and/or prejudicial treatment towards her, but will decide the issues brought before it in Newsome's motions and Amended Complaint based on the applicable laws and the evidence contained therein that governs said lawsuits. **Moreover, it is Newsome's preference, if at all possible, that this matter be taken out of the hands of the EDC-LA and assigned to another Court – if Congress and the law permits such request(s).** Newsome believes given the magnitude of prejudice, hostility and discriminatory treatment exhibited her by the EDC-LA, Entergy and others, such request for removal (*if applicable*) is appropriate – given the facts of this case and the handling thereof. In support thereof, Newsome states:

111. Objections to the Order and Reasons and notification of errors in said ruling in the action *sub judice* was timely, properly and adequately presented to the EDC-LA. Therefore, only if Newsome had failed to call District Court Judge Porteous' attention to any errors in proposed findings of fact and conclusion of law, would preclude Newsome from attempting to object to it on appeal or now before the DOJ or Congress. *Pendleton v. Rumsfeld,* 682 F.2d 102, 202 U.S. App. D.C. 102 (1980).

112. If Newsome felt that Court rulings were objectionable on the ground that they contained allegedly prejudicial comments, Newsome should have

called such matters to the court's attention to give the EDC-LA opportunity to take corrective action. *Albee Homes, Inc. v. Lutman,* 274 F.Supp. 875 (D.C. PA 1967). Thus, the record evidence will support that Newsome, indeed, in post motions addressed the EDC-LA's prejudicial comments and treatment of the action *sub judice*. See **Exhibit 3**, pp. 11 – 20; and **Exhibit 4**, pp. 7 –8.

113. The lower Courts' record will support that it was Entergy's legal counsel, Koch, who provided information about Newsome in other unrelated matters to prejudice the EDC-LA against Newsome. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official.* Moreover, what was the reason for Koch providing information regarding other legal actions by Newsome, if it were not for prejudicial reasons.

114. Case law precludes such discriminatory treatment of Newsome because of the EDC-LA's knowledge of past or present lawsuits by Newsome. Each case is to be decided on its own merits.

115. It should never be presumed without considering the facts – as the EDC-LA has done in the action *sub judice* – and the evidence provided by Newsome that she will never bring a meritorious claim – as Newsome has brought a meritorious claim in the action *sub judice*. Nor should the EDC-LA lose site on the important role *in forma pauperis/pro se* claims have played in shaping constitutional doctrine. *Gideon v. Wainwright,* 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963).

116. Justice Brennan warned, "if . . . continue on the course we chart today, we will end by closing the doors to a litigant with a meritorious claim." *In Re McDonald*, supra, 489 U.S. 180, 187, 109 S.Ct. 993, 998:

> It is rare, but it does happen that the Supreme Court grant review and even decide in favor of a litigant who has *previously presented* ***multiple unsuccessful*** *petitions on the same issue.* See, e.g., *Chessman v. Teets*, 354 U.S. 156, 77 S.Ct. 1127, 1 L.Ed.2d 1253 (1957); see *id.*, at 173-177, 77 S.Ct. at 1136-1138.

117. The record evidence will support that Koch's eagerness to come forth and address Newsome's legal matters, clearly blinded her against the many lawsuits that have been brought against her client Entergy for discrimination. Cases in which Entergy settled – ***Walker v. Entergy LA Inc, et al,*** Eastern District, Civil Action No. 97-736; and ***Hassan, et al. v. Entergy Corp. et al.***, Civil Action No. 89-2794. Said discriminatory actions of others against Entergy are in the record the lower Courts.

Moreover, Koch thinking she was opening up a can of worms on Newsome resulted in exposure of other lawsuits against Entergy for discrimination and Entergy's settling thereof, as well as, the conspiracy actions on behalf herself and co-conspirators.

118. The due process clause of the Fourteenth Amendment was intended to prevent the government from abusing its power, or employing it as an instrument of oppression. *Collins v. City of Harker Heights,* 112 S.Ct. 1061 (1992). **Yet the Judge(s)/Magistrate(s)in the action *sub judice*, infringed upon Newsome's Constitutional and Civil Rights and abused their power or employed such power for purpose of oppressing Newsome and depriving her equal protection of the laws and due process of laws.**

119. Court of Appeals has found, party is entitled to a trial before a judge who is not biased against him at any point of the trial. . . *United States v. Thompson,* 483 F.2d 527, 529 (3rd Cir. 1973).The Fifth Circuit Court of Appeals, "held that trial judge displayed such bias and prejudice as to require new trial before different judge." *United States v. Holland*, 655 F.2d 244 (5th Cir. 1981). **The record evidence in the action *sub judice*, will support EDC-LA's bias and prejudice towards Newsome which warrants disqualification of Judge(s)/Magistrate(s) associated with this lawsuit; thus warranting issuance of removal of case to a different court and venue outside the Fifth Circuit Court of Appeals jurisdiction.**

120. The record evidence supports the EDC-LA bias and prejudice towards Newsome because of its knowledge of past and/or pending litigation brought by her, as well as other unlawful underlying factors. The EDC-LA's knowledge of and addressing other lawsuits by Newsome, violates Newsome's Constitutional and Civil Rights, in that the EDC-LA used said information for the purposes of depriving Newsome rights secured under the United States Constitution and Civil Rights Act. Thus, sufficient evidence to support it has rendered the Judges assigned Newsome's lawsuit(s) inability to remain impartial and decide matters brought before it in a fair, just and honest manner and inability to apply and uphold the applicable laws governing her lawsuit(s). Thus, warranting disqualification of Judge(s)/Magistrate(s) that are bias and prejudice against Newsome.

121. The record evidence will support that Newsome repeatedly made it known to the lower Courts concerns of prejudicial/discriminatory treatment in the handling of her lawsuit. Yet the Judges/Justices did nothing to recuse themselves. The record evidence will support when Newsome questioned the unlawful behavior of Magistrate Sally Shushan in the action *sub judice*, she requested information from Shushan. See **Exhibit 1**, Rec.

Doc. 28. Moreover, Newsome filed a Motion to have Shushan disqualified because of belief of bias and prejudice on her part. The EDC-LA set this matter to *be hard before judge at 9:15 7/19/00*. See **Exhibit 1**, Rec. Doc. 55. However, upon review of the record evidence, it will be found that no such hearing or findings on Newsome's Motion was ever held and the action *sub judice*.

122. The EDC-LA frivolous and unlawful efforts to dispose of this lawsuit in the action *sub judice*, is an infringement upon Newsome's Seventh Amendment and Fourteenth Amendment under the United States Constitution.

123. Federal law makes provisions which addresses disqualification in matters pursuant to 28 U.S.C. §455 which states: **(a)** Any justice, judge or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. **(b)** He shall also disqualify himself in the following circumstances: (1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings;[11] . . .

124. A Judge faced with a potential ground for disqualification ought to **consider *how his participation in a given case looks to the average person on the street***; use of the word "might" in this section was intended to indicate that disqualification should follow if reasonable man, were he to know all the circumstances, would harbor, doubts about judges impartiality. §455. *Postashnick v. Port City Const. Co.*, 609 F.2d 1101 (5th Cir. 1980).

> **Fact:** Given the nature of the case, evidence presented in the record of the Courts, an average person on the street may conclude that Judges/Courts are bias and prejudice towards Newsome and have subjected her to discriminatory practices in the handling of her charge. *Moreover, it appears that justice is tainted.*

125. General rule is that bias sufficient to disqualify judge must stem from extrajudicial sources but there is exception where such pervasive bias and prejudice is shown by otherwise judicial conduct as would constitute bias against party. *Whitehurst v. Wright*, 592 F.2d 834 (5th Cir. 1979). **The**

[11]**Fact:** The impartiality of the Judges' handling of this lawsuit, might reasonably be questioned. Such questionability is supported by the unlawful behavior, conduct and unsubstantiated rulings of the Courts. Behavior which is unbecoming for a member of the bench. The Judges that have been assigned the pleadings in Ms. Newsome's lawsuit have developed a personal bias and prejudice towards her resulting in her being subjected to additional discriminatory practices on top of those addressed in the lawsuit before the Courts

record evidence in the action *sub judice* supports disqualification of Judge(s)/Magistrate(s).

126. Negative bias or prejudice that requires disqualification of judge exists only if it is attitude or state of mind that belies aversion of hostility of kind or degree that fair-minded person could not entirely set aside when judging certain persons or causes. §455(b)(1). *U. S. v. Professional Air Traffic Controllers Organization (PATCO)*, 527 F.Supp. 1344 [n.19], 1360 (N.D. IL 1981).[12] **The record evidence and legal conclusion in the action *sub judice* and this instant Petition supports disqualification of Judge(s)/Magistrate(s). In regards to the Judge(s)/Magistrate(s) of the EDC-LA, this case has been dormant for over/approximately two (2) years without an Amended Order and Reasons being entered or a Final Judgment. Furthermore, Newsome believes given the instant Petition, and the requests to correct the wrong contained therein, she finds it highly impossible – given the Judge(s)/Magistrate(s) attitude towards her for exposing their unlawful practices – that with Justices attitude and state of mind, it would be difficult for them to set aside these facts and issues presented here and when judging certain issues, persons or causes, judge it fairly and honestly without bias, prejudice and or discriminatory intent towards her.**

127. Personal bias or prejudice refers to some sort of antagonism or animosity toward party arising from sources or events outside scope of particular proceeding. 28 U.S.C. §144. *U.S. v. Professional Air Traffic.* [n. 14]. **The record evidence will support that Judge(s)/Magistrate(s) in the action *sub judice* have a personal bias and prejudices towards Newsome. Moreover, said bias and prejudices are antagonistic and there is animosity toward Newsome as a result of her filing post motions and the EDC-LA's knowledge of matters involving Newsome that are outside the realm of the action *sub judice*.**

128. **Even if no bias or prejudice of judge may actually exist, it is enough to disqualify that there be mere appearance of partiality.** *Limeco, Inc. v. Division of Lime*, 571 F.Supp. 710 [n. 1] (N.D. MS 1983). To say that one has no present recollection falls short of meeting the acid test required of a judge whose impartiality may be reasonably drawn into question. It is

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[12]**FACT:** Judges handling of Ms. Newsome's lawsuit have formed a bias and prejudice towards her because of her pursuit of justice in several other lawsuits (past or present) totally unrelated to this matter. Acknowledgment of any other lawsuit are in the record of the Court(s). Therefore, it may be concluded from the behavior and/or conduct of Judges "attitude" and/or "state of mind" belies aversion of hostility towards Ms. Newsome. Information Judges may have obtained (whether true or false) has affected their ability to remain impartial and inability to remain fair and just in deciding this matter. Thus, affecting the outcome of this lawsuit and Appellant being deprived justice. *In further support of this argument, the prejudicial and discriminatory treatment is evidenced by the lack of and/or acknowledgment of any prior lawsuits filed in this Court or any other Court against Entergy for employment discrimination.*

well settled by all legal authorities that even if no bias or prejudice of a judge may actually exist, it is enough to disqualify that there be the mere appearance of partiality. **Judicial ethics "exact more than virtuous behavior; they command impeccable appearance. Purity of heart is not enough. Judges' robes must be as spotless as their actual conduct**." *Limeco* citing *Hall v. Small Business Administration*, 695 F.2d 175, 176 (5th Cir. 1983). Every justice, judge and magistrate is required to disqualify himself in any proceeding in which his impartiality might reasonably be questioned. *Hall.* **The record evidence supports disqualification of Judge(s)/Magistrate(s) in the action *sub judice* because its partiality for Entergy and its co-conspirators. The bias and prejudice exhibited by the Judge(s)/Magistrate(s) in this lawsuit is not merely speculation, but is fact. Said bias and prejudice by Justices are fueled by the fact that Newsome *is an African-American* who is college-educated, single, has no dependents, has typed and prepared the majority of her own pleadings (except that presented by Bennett) in this lawsuit, and drives a nice car. Justices in this lawsuit cannot take the fact that Newsome, an *indigent pro se African-American* – who is not schooled in the law – has managed to maintain the action *sub judice* against a Defendant (Entergy), whose legal defense counsel are the white majority with superior credentials – yet has failed to successfully defend this lawsuit against an *African-American*. The record evidence will support that the reasons for Entergy's success in this lawsuit, thus far, is due to the fact opposing counsel, Koch, and her co-counsel(s) are *white* with vast legal and financial resources. Newsome believes that had she been white, this matter would have long been resolved in her favor based upon the evidence presented in this lawsuit.**

129. Court of Appeals has found, party is entitled to a trial before a judge who is not biased against him at any point of the trial. . . *United States v. Thompson,* 483 F.2d 527, 529 (3rd Cir. 1973). The Fifth Circuit Court of Appeals, "held that trial judge displayed such bias and prejudice as to require **new trial before different judge.**" *United States v. Holland*, 655 F.2d 244 (5th Cir. 1981). **Based upon the record evidence and conduct of Judge(s)/Magistrate in the action *sub judice*, Newsome is entitled to a trial before a Jury and Judge who is not biased against her at any point in the trial. Thus, Newsome does not believe that any EDC-LA Judge or Fifth Circuit Court of Appeals Judge – based on the factual evidence involved in this lawsuit and their relationship with each other and Entergy and its counsel – can remain unbias, fair and just in litigating this lawsuit and/or any in which Newsome is a party.**

130. The EDC-LA's handling of the action *sub judice* is discriminatory, prejudicial. Said unlawful actions by the EDC-LA have adversely affected Newsome.

CONGRESS'S JURISDICTION OVER THE LOWER FEDERAL COURTS

For informational purposes, through the filing of this instant Petition, Newsome provides the United States Department of Justice with statutes and legal conclusions to support the jurisdiction of the United States Congress to intervene in the action *sub judice* because of the Constitutional violations and deprivation of equal protection of the laws and due process of laws rendered Newsome. Because of the EDC-LA's unlawful actions towards Newsome regarding appointment of counsel for Newsome and said Court's unlawful granting of Newsome's attorney, Bennett's, withdrawal and other abuses launched against her, Newsome is requesting that the DOJ intervene/participate in the preparation and submittal of the required pleading/complaint required to bring the matters addressed within this Petition and the action *sub judice* before the United States Congress. In support thereof, Newsome states:

JURISDICTION:

§ 3526 Congressional Control of Lower Federal Court Jurisdiction:[5]

> Congress has considerable discretion in dealing with the jurisdiction of the lower federal courts. It can provide that a particular court hear certain questions and deny all other courts the power to consider the questions referred to that court.[6]
>
> > Simply stated, Congress may impart as much or as little of the judicial power as it deems appropriate and the Judiciary may not thereafter on its own motion recur to the Article III storehouse for additional jurisdiction. When it comes to jurisdiction of the federal courts, truly, to

[5] *Wright, Miller & Cooper, Federal Practice and Procedure:* Jurisdiction 2d § 3526.

[6] Lockerty v. Phillips, 63 S.Ct. 1019, 319 U.S. 182, 87 L.Ed. 1339.

paraphrase the scripture, the Congress giveth, the Congress taketh away.[7]

[8]Finally, however, no more than is true of the commerce power or any other power of Congress, does any of this imply an absence of constitutional limitations lying outside the exceptions clause but still fully applicable to its every use. Without doubt, the Bill of Rights applies as do the several limitations flowing from article I, section 9. . . An exception to the scope of review applicable only in cases where the defendant availed himself of his right to trial by jury, but not when he agreed to a bench trial, moreover, might be held to offend the sixth or fourteenth amendments' protections of the right to trial by jury.[9] Perhaps the simplest illustration would be an "exception" of cases based upon the appellant's race: an exception certain to be held offensive to the fifth amendment's dimension of equal protection.[10] Expanding upon this example, one may plausibly argue that *whatever* basis of classification for excepting certain cases from the Court's appellate jurisdiction Congress may have used, it is necessarily subject to review to determine whether the class thus described is "arbitrary" or "invidious" in the sense condemned by whatever standards of equal protection appropriately applies to the subject matter.[11]

CASE LAW:

Lockerty v. Phillips, 1943, 63 S.Ct. 1019, 319 U.S. 182, 87 L.Ed. 1339 – (n.5) Congress had authority to require that a plaintiff seeking equitable relief against enforcement of . . .Act, or of regulations promulgated under it, resort to the Emergency Court of Appeals only after first pursuing prescribed administrative procedure. *Id.* 1020.

Article III left Congress free to establish inferior federal courts or not as it though appropriate. It could have declined to create any such courts, leaving suitor to the remedies afforded by state courts, with appellate review by this Court as Congress might prescribe. *Kline v. Burke*

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[7] Judge Sirica – 366 F.Supp. at 55. (D.C.D.C. 1973). Wright, Miller & Cooper, Federal Practice and Procedure: Jurisdiction 2d § 3526, p 241

[8] 15 Ariz. L.Rev. 229, 263 – Van Alstyne, A critical Guide to Ex Parte.

[9] *See* Comment, *Removal of Supreme Court Appellate Jurisdiction: A Weapon Against Obscenity?*, 1969 Duke L.J. 291; cf. *United States v. Jackson*, 390 U.s. 570 (1968).

[10] This intriguing possibility I first heard suggested years ago by Mr. Lawrence Wallace (formerly of the Duke faculty and currently with the Office of Solicitor General).

[11] *See generally* Goodpaster, *The Constitution and Fundamental Rights,* 15 Ariz. L.Rev. 479 (1973).

Construction Co., 260 U.S. 226, 234, 43 S.Ct. 79, 82, 67 L.Ed. 226, 24 A.L.R. 1077, *and cases cited. Lockerty v. Phillips*, 1943, 63 S.Ct. 1019, 319 U.S. 182, 87 L.Ed. 1339 – (n.3) The congressional power to "ordain and establish" inferior courts includes the power of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which Congress may seem proper for public good. U.S.C.A. Const. Art. 3, § 1. *Cary v. Curtis*, 3 How. 236, 245, 11 L.Ed 576; *Lauf v. E. G. Shinner & Co.*, 303 U.S. 323, 330, 58 S.Ct. 578, 582, 82 L.Ed. 872.

Decision with respect to inferior federal courts, as well as task of defining their jurisdiction, was left by Judiciary Article to discretion of Congress. U.S.C.A. Const. Art. 3, § 1 et seq. *Palmore v. U. S.*, 93 S.Ct. 1670, 411 U.S. 389, 36 L.Ed.2d 342.

Federal courts are courts of limited jurisdiction and only Congress may retract or expand the limits of federal judicial power. U.S.C.A. Const. art 3, § 1 et seq., *United Gas Pipe Line Co. v. Whitman,* 595 F.2d 323 (1979)

Congress has power to define jurisdiction of federal courts. *Morgan v. Melchar*, 442 F.2d 1082, vacated 92 S.Ct. 1280, 405 U.S. 1014, 31 L.Ed.2d 477, on remand 467 F.2d 133.

Congress has the power to limit the jurisdiction of the federal courts in whatever extent it deems fit, with the sole possible limitation on that power which may be opposed by the requirements of due process. *Government Emp. Ins. Co. v. Le Bleu*, 272 F.Supp. 421 (1967).

Congress has constitutional authority to define jurisdiction of lower federal courts. *Keene Corp. v. U.S.*, 113 S.Ct. 2035, 508 U.S. 200, 124 L.Ed.2d 118

UNITED STATES CONSTITUTION:

Section 1. *Judicial Power, Tenure and Compensation*

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may form time to time ordain and establish . . .

RELIEF SOUGHT/DESIRED FROM FILING OF PETITION

Newsome prays that upon review of the Eastern District Court's record involving *Vogel Denise Newsome v. Entergy Services, Inc.*; in the United States District Court, Eastern District of Louisiana; Civil Action No. 99-3109; other federal actions brought by Newsome and the evidence contained within this instant Petition - which supports the allegations brought - that the following relief and any other relief that the United States Department of Justice and/or United States Congress has knowledge of to correct the injustice/wrongs complained of, be hereby granted to correct the wrongs/injuries sustained by Newsome – from Entergy and Co-Conspirators - as a direct and proximate result of her exercising rights protected under the United States Constitution and Civil Rights Act:

131. that the United States Department of Justice and/or Congress retain jurisdiction in the action *sub judice* and see that Newsome is provided legal representation/counsel for the duration of this lawsuit;

132. that pursuant to the Seventh Amendment of the United States Constitution, that this lawsuit be allowed to proceed to trial;

133. that this lawsuit be assigned to another Judge, Court and venue that can decide the issues in a legal, lawful, fair and just manner without any bias and prejudice towards Newsome because of its knowledge of other lawsuits by her;

134. that the United States Department of Justice prepare and submit the applicable pleadings for the disqualification of the following Judge(s)/Magistrate(s):

    a. Honorable G. Thomas Porteous, Jr. (District Court Judge)
    b. Honorable Morey L. Sear (District Judge)
    c. Magistrate Judge Sally Shushan

135. that the United States Department of Justice, on behalf of Newsome, file the applicable Criminal lawsuits or actions (if warranted) for Obstructing

Justice, conspiracy, fraud, etc. – *under the applicable laws governing said violations or the likes* - against any or all of the following:

a. Honorable G. Thomas Porteous, Jr. (District Court Judge)
b. Honorable Morey L. Sear (District Judge)
c. Magistrate Judge Sally Shushan

136. that the United States Department of Justice intervene/participate in the action *sub judice* and prepare the appropriate pleading on behalf of Newsome to correct the wrongs/injustice complained and rendered her in her pursuit for justice;

137. Request, if the law permits, that the following corporations, businesses and person(s) release to the United States Department of Justice their financial statements:

a. Entergy Services, Inc.
b. Locke, Liddell & Sapp, LLP
c. Justice For All Law Center, LLC
d. Jones, Walker, Waechter, Poitevent, Carrère & Denègre, LLP
e. Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
f. Christian Health Ministries
g. Baptist Community Ministries
h. Michelle Ebony Scott-Bennett
i. Renee Williams Masinter
j. Allyson K. Howie
k. Amelia Williams Koch
l. Steven F. Griffith, Jr.
m. Phyllis Cancienne
n. Jennifer A. Faroldi

138. That the United States Department of Justice, on behalf of Newsome, file the applicable Criminal lawsuits (if warranted) for Obstructing Justice, conspiracy, fraud, etc. – *under the applicable laws governing said violations or the likes* - against any or all of the following:

a. Entergy Services, Inc.
b. Locke, Liddell & Sapp, LLP
c. Justice For All Law Center, LLC
d. Jones, Walker, Waechter, Poitevent, Carrère & Denègre, LLP
e. Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
f. Christian Health Ministries
g. Baptist Community Ministries
h. Michelle Ebony Scott-Bennett
i. Renee Williams Masinter
j. Allyson K. Howie

k. Amelia Williams Koch
l. Steven F. Griffith, Jr.
m. Phyllis Cancienne
n. Jennifer A. Faroldi

139. That the United States Department of Justice, on behalf of Newsome, file the applicable Civil lawsuit(s) (if warranted) for Obstructing Justice, conspiracy, fraud, etc. – *under the applicable laws governing said violations or the likes* - against any or all of the following:

a. Entergy Services, Inc.
b. Locke, Liddell & Sapp, LLP
c. Justice For All Law Center, LLC
d. Jones, Walker, Waechter, Poitevent, Carrère & Denègre, LLP
e. Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
f. Christian Health Ministries
g. Baptist Community Ministries
h. Michelle Ebony Scott-Bennett
i. Renee Williams Masinter
j. Allyson K. Howie
k. Amelia Williams Koch
l. Steven F. Griffith, Jr.
m. Phyllis Cancienne
n. Jennifer A. Faroldi

140. That the United States Department of Justice, on behalf of Newsome, file the applicable pleadings (if warranted) for sanctions for Obstructing Justice, conspiracy, fraud, etc. – *under the applicable laws governing said violations or the likes* - against any or all of the following:

a. Entergy Services, Inc.
b. Locke, Liddell & Sapp, LLP
c. Justice For All Law Center, LLC
d. Jones, Walker, Waechter, Poitevent, Carrère & Denègre, LLP
e. Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
f. Christian Health Ministries
g. Baptist Community Ministries
h. Michelle Ebony Scott-Bennett
i. Renee Williams Masinter
j. Allyson K. Howie
k. Amelia Williams Koch
l. Steven F. Griffith, Jr.
m. Phyllis Cancienne
n. Jennifer A. Faroldi

141. That the United States Department of Justice, on behalf of Newsome, file the applicable pleadings/documents (if warranted) for disbarment for Obstructing Justice, conspiracy, fraud, etc. – *under the applicable laws governing said violations or the likes* - against any or all of the following:

a. Locke, Liddell & Sapp, LLP
b. Justice For All Law Center, LLC
c. Jones, Walker, Waechter, Poitevent, Carrère & Denègre, LLP
d. Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
e. Michelle Ebony Scott-Bennett - **Louisiana Bar No. 25342**
f. Renee Williams Masinter- **Louisiana Bar No. 19831**
g. Allyson K. Howie - **Louisiana Bar No. 20574**
h. Amelia Williams Koch - **Louisiana Bar No. 2186**
i. Steven F. Griffith, Jr. - **Louisiana Bar No. 27232**
j. Phyllis Cancienne - **Louisiana Bar No. (not known at this time)**
k. Jennifer A. Faroldi - **Louisiana Bar No. 25668**

142. Grant Newsome a permanent injunction enjoining Entergy, its agents, employees, successors, assigns and all persons in concert or participation with it in its conspiracy against Newsome, from conspiring against her in violation of her Constitutional and Civil Rights pursuant to any and all applicable laws governing conspiracy issues.

143. Grant Vogel D. Newsome the relief sought in her Amended Complaint which is as follows:

a. Grant Plaintiff a permanent injunction enjoining Defendant, its agents, employees, successors, assigns and all persons in concert or participation with it, from discriminating against her in violation of the Civil Rights Act of 1991, 42 U.S.C. § 1981, and the Louisiana Commission on Human Rights Act of 1997;

b. Grant plaintiff a declaratory judgment declaring defendant's practices complained of herein to be in violation of 42 U.S.C. § 2000e, et seq., 42 U.S.C. § 1981, and LSA-R.S. 51:2231;

c. Grant plaintiff compensatory and punitive damages and any other necessary equitable and legal relief on account of said violation in an amount exceeding this court's minimum jurisdictional limits;

d. Grant attorney fees appropriately recoverable , and costs of Court.

e. Grant such other and further relief, at law or in equity, as the Court deems necessary and proper.

See **Exhibit 2**, attached hereto at page 16.

Respectfully submitted,

Vogel Newsome 9/17/04

Vogel Newsome
Post Office Box 31265
Jackson, Mississippi 39286
(601) 885-9536 or 362-4910

CERTIFICATE OF SERVICE

A copy of the above-referenced document was sent to the following persons on September 17, 2004.

FIRST CLASS MAIL

United States District Court
Honorable G. Thomas Porteous, Jr.
United States District Judge
c/o Pro Se Unit Division
500 Camp Street
New Orleans, LA 70130

Justice For All Law Center, LLC
Michelle E. Scott-Bennett
1500 Lafayette Street, Suite 140-A
Gretna, LA 70053

Rutledge C. Clement, Jr.,
Amelia Williams Koch
Locke Liddell & Sapp LLP
601 Poydras Street, Suite 2400
New Orleans, Louisiana 70130-6036

Roy C. Cheatwood
Amelia Williams Koch
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
201 St. Charles Avenue, Suite 3600
New Orleans, Louisiana 70170-1000

Robert B. Acomb, Jr.,
Jennifer A. Faroldi
Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P.
201 St. Charles Avenue
New Orleans, Louisiana 70170-5100

Vogel Newsome 9-17-04
VOGEL D. NEWSOME

State Supreme Court Clerks

- Jonathan Geisen, Alabama Supreme Court, Honorable Harold F. See
- Steven Griffith Jr., Louisiana Supreme Court, Honorable Pascal Calogero, Chief Justice
- Mary Ann Jackson, Arkansas Supreme Court, Honorable Robert Brown
- George Lewis, Tennessee Supreme Court, Honorable Frank Drowota
- Stacy Thomas, Mississippi Supreme Court, Honorable Dan M. Lee
- Wendy Thompson, Fifth Circuit Court of Appeals, Honorable Rhesa H. Barksdale
- Michael F. Weiner, Louisiana Supreme Court, Honorable James L. Dennis
- Anne Winter, Mississippi Supreme Court, Honorable Neville Patterson
- Adam Zuckerman, Louisiana Supreme Court, Honorable Pascal Calgero, Chief Justice

Federal Court Clerks

- Gerardo R. Barrios, Ninth Circuit Court of Appeals, Judge Robert R. Beezer
- Amy Champagne, Fifth Circuit Court of Appeals, Honorable W. Eugene Davis
- Bradley Clanton, Sixth Circuit Court of Appeals Appellate Clerk, Honorable David A. Nelson
- Spencer Clift, U.S. Bankruptcy Court, Western District of Tennessee, Honorable David S. Kennedy
- Angie Davis, First Court of Appeals, Houston, Texas, Honorable Sam Nuchia
- James Delanis, Sixth Circuit Court, Davidson County, Tennessee, Honorable James M. Swiggart
- William Fones, Court of Appeals for Federal Circuit, Honorable Marion T. Bennett
- Jonathan Green, Court of appeals for Eleventh Circuit
- W. Patton Hahn, U.S. Court of Federal Claims, Honorable Eric G. Bruggink
- Thomas Helton, Sixth Circuit Court of Appeals, Honorable Paul C. Wieck, Chief Judge
- Aubrey "Copper" Hirsch, U.S. District Court, Eastern District of Louisiana, Chief Judge Frederick Heebe
- Steven W. King, Tennessee Court of Criminal Appeals, Judge Wedemeyer
- Lynn Landau, Eleventh Circuit Court of Appeals, Honorable James C. Hill
- Ronald Range, Fourth Circuit Court of Appeals, Honorable H. Emory Widener Jr.
- William Reed, Fifth Circuit Court of Appeals, Honorable Elbert P. Tuttle
- Sandi S. Varnado, Fifth Circuit Court of Appeals, Honorable James L. Dennis

State Court of Appeals Clerks

- Allisa J. Allison, U.S. District Court, Northern District of Mississippi, Judge L.T. Senter
- Brian M. Ballay, U.S. District Court, Eastern District of Louisiana, Judge Carl J. Barbier
- Sam Blair, Tennessee Court of Appeals, Western Section, Honorable W. Frank Crawford
- John Burns, Tennessee Court of Appeals Staff Attorney
- Laurie Clark, U.S. District Court, Eastern District of Louisiana, Judge Morey L. Sear and U.S. District Court, Middle District of North Carolina, Judge P. Trevor Sharp
- Jay Ebelhar, Tennessee Court of Appeals, Honorable Holly M. Kirby
- Doreen Edelman, Circuit Court of Prince Georges County, Maryland, Honorable William Mccullough, Chief Judge
- Desiree Franklin, Tennessee Court of Appeals, Honorable Charles E. Nearn
- Russell Gray, U.S. District Court, Eastern District of Tennessee, Honorable Allan Edgar
- Russell Headrick, U.S. District Court, Western District of Tennessee, Honorable Harry W. Wellford
- John Hicks, Tennessee Chancery Court, Shelby County, Honorable George T. Lewis Jr.
- Cameron Hill, U.S. District Court, Eastern District of Tennessee, Honorable Curtis L. Collier
- J. Forrest Hinton, U.S. District Court, Southern District of Alabama, Honorable Virgil Pittman
- Aubrey "Copper" Hirsch, Louisiana Third Circuit Court of Appeals, Appellate Clerk, Judge William A. Culpepper
- Frank James, U.S. District Court, Southern District of Alabama, Honorable Virgil Pittman
- Brandon Jolly, United States District Judge for the Southern District of Mississippi, Judge William H. Barbour Jr.
- Stephen Kennedy, U.S. District Court, Southern District of Mississippi, Honorable Tom S. Lee, Chief Judge
- Kenneth Klemm, U.S. District Court, Eastern District of Louisiana, Judge George Arceneaux Jr.
- William Lawrence, U.S. District Court, Northern District of Alabama, Honorable Robert B. Propst, (also sitting by designation on Eleventh Circuit)
- C. Lee Lott, U.S. District Court, Northern District of Mississippi, Honorable Glen H. Davison
- Randal Mashburn, Tennessee Court of Appeals, Honorable Lewis H. Conner Jr.
- Brett McCall, Mississippi Court of Appeals, Honorable David Ishee
- Carla Peacher-Ryan, Tennessee Court of Appeals, Honorable Charles E. Nearn
- Kathlyn Perez, U.S. District Court, Eastern District of Louisiana, Honorable Henry A. Mentz Jr.

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- Paul Peyronnin, U.S. District Court, Eastern District of Louisiana, Honorable Henry A. Mentz Jr.
- Andrew Potts, U.S. Bankruptcy Court, Southern District of Alabama, Honorable Gordon B. Kahn, Chief Judge
- Joshua Powers, Shelby County, Tennessee Circuit Court, Honorable Janice Holder
- Fredrick N. Salvo, III, U.S. District Court, Southern District of Mississippi, Honorable John M. Roper, Chief U.S. Magistrate
- Carolyn Schott, Second Judicial Circuit Court, Berrien County Michigan, Honorable Ronald J. Taylor & Honorable Casper O. Grathwohl
- Gary Shockley, Tennessee Court of Appeals
- Alan Lee Smith, Mississippi Court of Appeals
- D. Nathan Smith, Mississippi Court of Appeals, Honorable Donna Barnes
- Eric Thiessen, U.S. District Court, Western District of Virginia, Honorable Cynthia D. Kinser, Magistrate (currently Justice, Supreme Court of Virginia)
- Susan Wagner, U.S. District Court, Northern District of Alabama, Honorable Sam C. Pointer Jr.
- William West, Tennessee Court of Appeals, Honorable Kirby Matherne

1 of 1 DOCUMENT

ISAIAH'S WINGS, LLC. Plaintiffs-Appellees -vs- DIANA R. MCCOURT, ET AL Defendants-Appellants

Case No. 2005-CA-39

COURT OF APPEALS OF OHIO, FIFTH APPELLATE DISTRICT, KNOX COUNTY

2006 Ohio 3573; 2006 Ohio App. LEXIS 3512

July 7, 2006, Date of Judgment Entry

SUBSEQUENT HISTORY: Appeal after remand at Isaiah's Wings, LLC v. Siberian Tiger Conservation Ass'n, 2008 Ohio 2147, 2008 Ohio App. LEXIS 1831 (Ohio Ct. App., Knox County, Apr. 28, 2008)

PRIOR HISTORY: [1]** CHARACTER OF PROCEEDING: Civil appeal from the Mount Vernon Municipal Court, Case No. 05CVG928.

DISPOSITION: Vacated and Remanded.

CASE SUMMARY:

PROCEDURAL POSTURE: Appellee landlord brought a forcible entry and detainer (FED) action against appellant tenants. The tenants counterclaimed and brought a third party complaint against the principals of the landlord, which was a limited liability company. The Municipal Court of Mount Vernon, Knox County (Ohio), bifurcated the action and evicted the tenants. The tenants appealed.

OVERVIEW: The third-party complaint against the principals exceeded the jurisdictional amount of the trial court, so the balance of the case was transferred to the common pleas court. The appellate court found that the trial court did not automatically lose jurisdiction over the entire case due to the counterclaim and third party complaint. However, the third-party complaint alleged that the principals intentionally and fraudulently induced the tenants to enter into the lease, knowing that they could not pay the rent, and orally agreed to reduce the rent until the tenants' financial situation improved. In reality, the tenants argued, the principals intended to enforce the written lease so they could evict the tenants and assume operation of their conservation association and take possession of animals living on the property. The appellate court found that the counterclaim and third party complaint were so intertwined with the FED action that the trial court should not have bifurcated the matter. In the event tenants prevailed in common pleas court, their monetary remedy may have been inadequate if they had already lost possession of the property, their option to buy it, and the animals.

OUTCOME: The judgment was reversed. The order of eviction was vacated, and the matter was remanded to the trial court with instructions to transfer the matter to common pleas court.

CORE TERMS: municipal, forcible entry and detainer, counterclaim, common pleas, rent, eviction, lease, monetary, vacated, animals, transferred, exceeding, hear, lease agreement, assignment of error, arbitration, bifurcated

LexisNexis(R) Headnotes

Governments > Courts > Rule Application & Interpretation
Real Property Law > Landlord & Tenant > Landlord's Remedies & Rights > Eviction Actions > General Overview
[HN1] Ohio R. Civ. P. 1(C) makes forcible entry and detainer actions specifically exempt from the civil rules to the extent

EXHIBIT 36

the rules would by their nature be clearly inapplicable.

Civil Procedure > Jurisdiction > Subject Matter Jurisdiction > Jurisdiction Over Actions > General Overview
Civil Procedure > Jurisdiction > Subject Matter Jurisdiction > Jurisdiction Over Actions > Concurrent Jurisdiction
Real Property Law > Landlord & Tenant > Landlord's Remedies & Rights > Eviction Actions > General Overview
Real Property Law > Landlord & Tenant > Landlord's Remedies & Rights > Eviction Actions > Forcible Entry & Detainer
[HN2] Municipal courts and common pleas courts have concurrent jurisdiction to hear forcible entry and detainer actions.

COUNSEL: For Plaintiff-Appellant: WILLIAM J. KEPKO, Mount Vernon, OH; ROBERT C. PAXTON II., Columbus, OH.

For Defendant-Appellee: ROBERT B. WESTON, Mount Vernon, OH.

JUDGES: Hon John W. Wise, P.J., Hon W. Scott Gwin, J., Hon Sheila G. Farmer, J.

OPINION BY: Gwin

OPINION

Gwin, J.

[*P1] Defendant-appellants Diana McCourt and the Siberian Tiger Conservation Association appeal a judgment of the Municipal Court of Mount Vernon, Knox County, Ohio. Appellee Isaiah's Wings had brought a complaint for forcible entry and detainer, and damages against appellants. Appellants counterclaimed and also made a third-party complaint against the principals of Isaiah's Wings, which exceeded the jurisdictional amount of the municipal court. The municipal court bifurcated the action and ruled on the forcible entry and detainer action, evicting the appellants from the property. The municipal court transferred the balance of the case the Knox County Court of Common Pleas. Appellants assign two errors to the trial court:

[*P2] "I. WHEN, IN A FORCIBLE ENTRY AND DETAINER CASE, THE DEFENDANT **[**2]** FILES A COUNTERCLAIM WHICH EXCEEDS THE JURISDICTION OF THE MUNICIPAL COURT, DOES A MUNICIPAL COURT CONTINUE TO HAVE JURISDICTION OVER THE FORCIBLE ENTRY AND DETAINER ACTION WHEN THE ISSUES INVOLVED IN THE CASE ARE DIRECTLY RELATED TO THE UNDERLYING EVICTION CASE?

[*P3] "II. WHEN A FORCIBLE ENTRY AND DETAINER CASE IS COMMENCED IN MUNICIPAL COURT AND A COUNTERCLAIM IS FILED EXCEEDING THE JURISDICTION OF THE MUNICIPAL COURT, MAY THE MUNICIPAL COURT HEAR THE FORCIBLE ENTRY AND DETAINER ACTION WHEN THE LEASE AGREEMENT REQUIRES ALL DISPUTES; UNDER THE AGREEMENT TO BE RESOLVED UNDER THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN BAR ASSOCIATION?"

& II

[*P4] Appellants first argue Civ. R. 13 (J) requires a municipal court to certify the entire proceedings in a case to the court of common pleas if a counterclaim, cross-claim, or third-party claim exceeds the jurisdiction of the court. The parties both cite us to our case of *Lyons v. Link,* Knox App. No. 03CA000006, 2003 Ohio 2706, wherein this court reviewed a forcible entry and detainer action with a counterclaim exceeding the municipal court's monetary jurisdiction. In *Lyons,* this **[**3]** court noted [HN1] Civ. R. 1 (C) makes forcible entry and detainer actions specifically exempt from the Civil Rules to the extent the Rules would by their nature be clearly inapplicable. In *Lyons,* we found [HN2] municipal courts and common pleas courts have concurrent jurisdiction to hear forcible entry and detainer actions. Appellants are incorrect in asserting the municipal court automatically lost jurisdiction over the entire matter because of the counterclaim and third party complaint.

[*P5] In *Lyons,* the tenant's counterclaim alleged fraud, arguing the premises were not habitable. We found these claims were severable. Although the appellant's non-payment of rent might have been excused by the landlord's failure to live up to the duties mandated by R.C. 5321.04, the appropriate remedy created by the legislature is in R.C. 5321.07. In the *Lyons* case, the appellant conceded he had neither paid the entire rent nor availed himself of the R.C. 5321.07 remedy. Thus, any claims the appellant had were for monetary damages only, and could be severed from the eviction proceedings and transferred to the Common Pleas Court. In addition, the appellant had vacated **[**4]** the property, rendering the forcible entry and detainer action moot, *Lyons*, *citing Haney v. Roberts* (1998), 130 Ohio App.3d 293, 720 N.E.2d 101.

[*P6] In some circumstances, if the municipal court retains forcible entry and detainer portion of the case and transfers the damages portion to common pleas court, the municipal court can rule on the eviction without affecting the other claims of the

parties. In some circumstances, however, the counterclaim and/or third party complaint is so interrelated as to require the issues all be heard together. In certain cases an award of damages may be an inadequate remedy if the lessee has been evicted from the premises.

[*P7] In the case at bar, the complaint for forcible detainer alleged appellants and appellee had entered into a written lease which required appellants to pay $ 1,700 per month. The complaint alleged appellants had paid only $ 850.00 of the rent due on October 1, 2005. Appellee's second claim prayed for damages in the amount of unpaid rent and damages and costs.

[*P8] Appellee attached a copy of the lease to their complaint, which provides, inter alia, the appellants shall have the right to purchase **[**5]** the property within 90 days of the expiration date of the lease.

[*P9] Appellants' answer and counterclaim denied they were in default of the lease and alleged the parties had entered into a contemporaneous oral agreement requiring appellants to pay only $ 700.00 per month as rent, plus $ 150.00 per month towards a veterinarian bill. The counterclaim alleged appellee's principals, Christian and Donnalynn Laver, were members of the board of directors of appellant Siberian Tiger Conservation Association and had agreed appellee would pay the balance of the rent.

[*P10] Appellants' third-party complaint joined the Lavers as defendants, and alleged they intentionally and fraudulently induced appellants to enter into the lease agreement. Knowing appellants could not afford the $ 1700 rent, the Lavers orally agreed to reduce the rent until appellants' financial situation improved. In reality, appellants argue, the Lavers intended to enforce the written lease, so they could evict appellant McCourt, and assume operation of the Siberian Tiger Conservation Association themselves.

[*P11] At the hearing on the eviction, the appellee indicated to the court the eviction was "unique", **[**6]** because the animals belonging to the Association would not be moved. Instead, appellee informed the court it would be able to take care of the animals once they regained possession of the property.

[*P12] We find the issues in the counterclaim and third party complaint are so intertwined with the forcible entry and detainer action that the municipal court should not have bifurcated the matter. In the event appellants prevail in common pleas court, their monetary remedy may be inadequate if they have already lost possession of the property, their option to purchase it, and the animals.

[*P13] Accordingly, the first assignment of error is sustained. The second assignment of error relating to arbitration is premature, because the common pleas court must address the matter.

[*P14] For the foregoing reasons, the judgment of the Municipal Court of Mount Vernon, Knox County, Ohio, is reversed. The order of eviction is vacated, and the matter is remanded to the municipal court with instructions to transfer the matter to common pleas court.

By Gwin, J.,

Wise, P.J., and

Farmer, J., concur

JUDGMENT ENTRY

For the reasons stated in our accompanying Memorandum-Opinion, **[**7]** the judgment of the Municipal Court of Mount Vernon, Knox County, Ohio, is vacated, and the cause is remanded to the municipal court with instructions to transfer the matter to common pleas court. Costs to appellees.

JUDGE W. SCOTT GWIN

JUDGE JOHN W. WISE

JUDGE SHEILA G. FARMER

AFFIDAVIT

Rajita Iyer Moss, states under penalty of perjury that:

1. My name is Rajita Iyer Moss and my address is 770 North West Street, Jackson, Mississippi 39205.

2. I am currently employed by Owens Law Firm, PLLC, as a staff attorney. I started working for Owens Law Firm in June of 1997 and have held my current position since.

3. Vogel Denise Newsome is employed as a legal assistant at our law firm. We could not represent Ms. Newsome because our firm does not specialize in employment discrimination cases. However, we informed Ms. Newsome that we were willing to provide her attorney, Michelle Bennett, with any assistance, pro bono, discovery or research, that she might need with regard to the litigation that she was handling for Ms. Newsome.

Rajita Iyer Moss
RAJITA IYER MOSS

VERIFICATION

I state under penalty of perjury that the foregoing Affidavit is true and correct.

This the 8TH day of May, 2002.

Rajita Iyer Moss
RAJITA IYER MOSS

EXHIBIT 37

EMERGENCY
COMPLAINT AND REQUEST FOR LEGISLATURE/CONGRESS INTERVENTION;
ALSO REQUEST FOR INVESTIGATIONS, HEARINGS AND FINDINGS[1]

COMES NOW Vogel Denise Newsome before the United States Legislature and United States Congress ("Legislature/Congress") and submit to it this, her, *Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Findings* ("instant Complaint") pursuant to her rights secured/guaranteed under the United States Constitution, Civil Rights Act and/or other statutes/laws governing said matters. This instant Complaint is supported by Exhibits. Some of said exhibits may be pleadings and/or documents referencing supporting materials; however, for recordkeeping purposes and to keep the volume of this instant Complaint a minimum, the pleadings and/or documents only are provided in that I believe there is sufficient evidence to provide the Legislature/Congress with information as to where additional information may be retrieved. While this is not the standard form I rely upon in filing complaints, due to the nature of the supporting documents being in the proper format, I hope that the form used in this instant Complaint is sufficient. In support of this instant Complaint I state the following:

JURISDICTION

The jurisdiction of the Legislature/Congress over the matters addressed herein and the parties addressed is established and/or can be maintained under the United States Constitution and/or any and all supporting statutes/laws supporting the relief sought herein.

This instant Complaint is being sought in good faith and the exercising of my rights secured under the United States Constitution, Civil Rights laws and/or any and all applicable statutes/laws governing said matters.

INTRODUCTION

My name is Vogel Denise Newsome and I am an African-American female, college educated – a graduate of Florida A&M University, with a B.S. degree. I am presently employed with a law firm (which has been in practice for over 50 years) in Ohio as a Legal Assistant. I am a citizen of the United States and I currently reside in the State of Kentucky.

Why am I contacting you? Because it is ***imperative*** and of an utmost **URGENT** NATURE that the Legislature/Congress make an ***EMERGENCY*** *INTERVENTION* in matters that I am dealing with that has not only affected my life, but those of other African-Americans and/or persons of color. The racial and judicial injustices addressed herein are ***crucial*** and should not be overlooked and/or ignored. I request that the Legislature/Congress do not get discouraged by the length of this correspondence or its volume because the information contained herein is RELEVENT/PERTINENT and is CRUCIAL/CRITICAL in nature to aid in

[1] Boldface, italics, underline, etc. used for special emphasis.

CHANGE THAT WORKS FOR YOU!!

EXHIBIT 38

the initiation of **INVESTIGATIONS** and **HEARINGS** to be held on the matters addressed herein. **PLEASE DO NOT ADVISE THAT THE LEGISLATURE/CONGRESS CANNOT GET INVOLVED – THE SATUTES/LAWS OF THE UNITED STATES ADVISE OTHERWISE!**[2]



CHANGE:
THAT WORKS FOR YOU!!



My concern is that the Legislature/Congress may be suffering from the "Ostrich" syndrome (leaving its head stuck in the sand) and perhaps knowingly ignoring the racial injustices of our ***judicial*** system as well as the government agencies/entities designed to deter such unlawful/illegal and unethical practices addressed herein. This being the reason I am contacting you. **Please be advised that prior to bringing this matter to you, an investigation will yield I sought to bring matters to the attention of the proper government entities to no avail.** Moreover, that it has now gotten to the point that to continue to contact the proper authorities would prove to be *futile* because this situation has gotten way out of control and the racial/discriminatory treatment has *escalated* and ***infiltrated*** the courts/judicial system and government agencies. Moreover, has resulted in needless increase of expenses/litigation for purposes of financial devastation to me.

The continued violation of my Constitutional Rights, Civil Rights and other protected rights secured/guaranteed under the governing statutes/laws created, is clearly unacceptable and **is not** to be tolerated. The Legislature/Congress may agree that African-Americans and/or people of color have suffered way too long from the racial injustices by judicial officials, government officials and others. While their complaints and voices go out, they are repeatedly

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[2] *Berry v. American Express Pub., Corp.*, 381 F.Supp.2d 1118 (2005) - Where source of legal authority is statutory and not constitutional, Congress retains ability to create and direct law, so long as it is consistent with constitutional principles, and it is particularly important for court to follow that directive.

Overlie v. Owatonna Independent School Dist. No. 761, 341 F.Supp.2d 1081 (2004) - Once Congress addresses a subject, the lawmaking authority of federal courts is greatly diminished.

Bruner v. U.S., 340 F.Supp.2d 1204 (2004) - Congress is invested with a wide discretion, and its action, unless purely arbitrary, must be accepted and given full effect by the courts.

Page v. Shelby, 995 F.Supp. 23 (1998) - ***Vindication*** *of public interest* in governmental observance of Constitution and law is function of Congress and President, not judiciary.

Henrietta D. v. Giuliani, 21 A.D.D. 329 (1996) - District court may enjoin executive or legislative action if that action is unconstitutional or violates statutes or regulations.

Northwest Airlines, Inc. v. Transport Workers Union of America, AFL-CIO, 101 S.Ct. 1571 (1981) - Federal lawmaking power is vested in the legislative, not the judicial, branch of government and, therefore the federal common law is subject to the paramount authority of Congress.

Doe v. McMillan, 93 S.Ct. 2018 (1973) - A **court *has no authority*** to oversee judgment of a congressional committee in regard to what matter to include in reports prepared within the legislative sphere or to impose liability on its members if the court disagrees with their legislative judgment. U.S.C.A.Const. art. 1, § 6, cl. 1.

subjected to racial injustices by the very government entities they are led to believe are there to provide equal protection of the laws and due process of the laws under the United States Constitution and other statutes/laws of this country. While there is a slogan, ***"don't take the law into your own hands, take them to court;"*** from the evidence contained herein, I believe the Legislature/Congress will find that the very courts and/or government agencies to which one is to go for justice and legal recourse appear to have *employees who are* **CORRUPT** *and* **TAINTED!**

I believe it would be *futile* to contact the Senators and Representatives for the States involved here because from my research their states rank in the **top** *five (5)* as the **MOST CORRUPT** *states* for corrupt public officials. Therefore, I have very serious concerns that they would do anything in that they may want to assure they keep their "*bread buttered on the right side*" – it being to their and others advantage to cover-up such legal wrongs/injustices and to allow such corruption and unlawful/illegal actions against African-Americans and/or people of color to continue. (See **EXHIBIT "1"** - *"Article Louisiana Corrupt State in the Nation, **Mississippi** Second . . .,"* attached hereto and incorporated by reference. Also for Legislature/Congress review is a June **1, 2006** letter I received from Senator Thad Cochran which provides:

> This appears to be a private, legal matter. However, in an effort to be of assistance, I have contacted the proper Office of the Attorney General officials on your behalf. As soon as I receive a report from them, I will get back in touch with you.

See **EXHIBIT "2"** attached hereto and incorporated by reference.

NOTE: Unless Cochran's follow-up correspondence was misplaced, to date I have not heard anything from him or the Attorney General's Office. Moreover, there are statutes/laws in place to support that the Legislature/Congress may get involved. Leaving me with very serious and valid concerns as to what ties/relationships Cochran may have with the parties involved in the conspiracy leveled against me.

Therefore, I am contacting the Legislature/Congress to request **Investigations**[3] into the

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[3] *McGrain v. Daugherty,* 47 S.Ct. 319 (U.S.**Ohio**,1927) - Power of inquiry is essential and appropriate auxiliary to legislative function. . . . Congress may inquire into private affairs and compel disclosures only in so far as to make express powers effective.

Watkins v. U.S., 77 S.Ct. 1173 (1957) - Power of Congress to conduct investigations is inherent in the legislative process, and is 'broad. . . . . Congress, through its committees, may obtain any information it needs for proper fulfillment of its role, and is free to determine the kinds of data that should be collected; it is only investigations conducted by use of compulsory process that give rise to the need to protect rights of individuals against illegal encroachment. 2 U.S.C.A. § 192.

Clark v. Board of Ed. of Shelbyville, Ky., 350 F.Supp. 149 (1972) - Courts **may not** invade the domain of the legislature; where a plaintiff is asking for legislative relief or relief which would encroach on the legislative process the courts are without power to act.

Adams Express Co. v. Young, 211 S.W. 407 (1919) - In view of Const. §§ 27, 28, delegating to the legislative department the power to legislate, it is the duty of the court to interpret and not make laws.

Ashland Oil, Inc. v. F. T. C., 409 F.Supp. 297 (1976) - Although the **investigatory** power of Congress is penetrating and far reaching in scope, it is not unlimited. U.S.C.A.Const. art. I, § 1 et seq.

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matters presented herein, that **Hearings** be held and **Findings** be recorded. Moreover, that the necessary laws be created, enacted and amended (if necessary) to correct the wrongs complained of herein.

As for me, the racial and judicial injustices have plagued my family for approximately 112 years or more. Moreover, such injustices have plagued African-Americans and/or people of color for quite some time. **IF** the Legislature/Congress has its head stuck in the sand, I ask that it remove it, look around, and deal with the ever pending problems facing African-Americans and/or people of color while they consistently strive/hope for and demand ***equal*** protection of the laws and ***due*** **process** of laws as guaranteed by the United States Constitution and/or other governing statutes/laws. *That the depiction of the blindfold on the* ***Statue of Justice*** *is honored and justice rendered accordingly.* Through this instant correspondence, I am requesting the Legislature/Congress **Investigate,** *gather evidence*, hold **Hearings** and render its **Findings** on the criminal and civil wrongs rendered against me that affected my Constitutional and Civil Rights addressed herein as well as in the record of the courts, government entities, former employers and others. Moreover, Investigate, *gather evidence* and hold Hearings and render their Findings on the unlawful/illegal and unethical practices of **certain** *Whites* (in that it would be probably unfair to say **"White America"** in that this is commonly used term when addressing issues as those set forth herein) *to use officers/employees of the judicial system and/or the government to aid in the* ***oppression*** *of African-Americans* and/or people of color and to deprive them equal protection of the laws and due process of laws – rights secured/guaranteed under the U.S Constitution. ***I believe a reasonable mind would conclude how DIFFICULT it is for one to***

Nixon v. Administrator of General Services, 408 F.Supp. 321 (1976) - Congressional power to **investigate,** although limited to areas in which Congress possesses legislative authority, is both broad and integral to the legislative process.

McGrain v. Daugherty, 47 S.Ct. 319 (U.S.Ohio,1927) - Congress may inquire into **private** affairs and compel disclosures only in so far as to make express powers effective

American Federation of Government Employees, AFL-CIO v. U.S., 330 F.3d 513 (2003) - Incident to its lawmaking authority, Congress has the authority to decide whether to conduct **investigations** and *hold* ***hearings*** to gather information.

McDonnell Douglas Corp. v. U.S., 754 F.2d 365 (1985) - Congress has implied as well as express powers incident to its duty to legislate wisely, including power to investigate.

U.S. v. McDonnell Douglas Corp., 751 F.2d 220 (1984) - Power to **investigate** is necessarily incident to Congress' power to legislate.

Watkins v. U.S., 77 S.Ct. 1173 (1957) - Power of Congress to conduct investigations is inherent in the legislative process, and is broad.

Watkins v. U.S., 77 S.Ct. 1173 (1957) - Congressional power of investigation is not unlimited and there is no general authority to expose the private affairs of individuals without justification in terms of the functions of Congress.

Braden v. U.S., 272 F.2d 653 (1959) - Investigations can be made by Congress only as to matters which are proper subjects for legislation by it, and there is no congressional power to expose for the sake of exposure.

Marcello v. U.S., 196 F.2d 437 (1952) - A congressional inquiry may **be as broad** as the legislative purpose requires.

Raney v. Stovall, 361 S.W.2d 518 (1962) - That legislature may make wrong decision is no reason for invasion by judiciary of exclusive domain of legislature; ?and court must assume that Senate **will not** *knowingly* ***permit violations of constitutional*** *provisions.*

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obtain the evidence and testimony produced in the records of the courts/government agencies to support the civil and criminal wrongs addressed herein and/or in the courts', government entities' records and former employers' record.

I believe because of the attacks that have been leveled against me by **certain** *Whites* and their co-conspirators, to slander my name and character in efforts of destroying my life, it is necessary to provide you with facts/evidence/feedback I have received from others that I have worked with and are familiar with my work ethics and character:

A. ***Beginning first with test results to support my computer skills and the ability to effectively and efficiently use software applications of employer – skills required in the performance of my job duties/responsibilities***:

Alphanumeric – 8844 kph / 2% error rate
Typing – 60 wpm / 1% error rate
Word 97 – 100 overall (100 on basic, intermediate & advanced)
Excel 97 – 100 overall (100 on basic, intermediate & advanced)

See **EXHIBIT "3"** attached hereto and incorporated by reference.

B. ***References obtained from those who have had an opportunity to work with me***:

This letter is to confirm and recommend Ms. Vogel Newsome to a position of Executive Assistant, Administrative Assistant or greater. While working with Lash Marine, she performed the duties of Executive Assistant with skill and energy. Her spirit and motivation acted as a beacon of light to others. Her leadership and training of others was a great service. Always willing to share; she possess a unique ability to teach complex skills to the beginner and bring them quickly up to speed. In addition, being a caring and concerned citizen she put aside her time to train and work with Training, Inc. employees to develop their office skills for a better future.

She is an asset and will be sorely missed at Lash Marine. -- ROBERT K. LANSDEN (**VICE PRESIDENT**)

I have been very, very pleased with Vogel, not only in terms of her work product, but also in terms of her attitude and personality. I would rate her as one of the best legal secretaries with whom I have ever worked. I would highly recommend her to any one who is looking for a full-time legal secretary. If my previous secretary were not rejoining me, I would want Vogel to be my new permanent secretary.

If any one would care to discuss Vogel with me, please do not hesitate to give them my name and number. I will be more than happy to talk with them.

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I am not certain of the exact day when my previous secretary will rejoin me. It could be immediately, or, it could be a couple of weeks. In light of that, we would like to request that we be allowed to continue to work with Vogel until further notice. However, the last thing I want to do is have Vogel miss another good opportunity that might lead to permanent employment. Therefore, if she must be reassigned, I will understand, but grudgingly so.. . . . - - RALPH B. GERMANY, JR. (**ATTORNEY**)

I was first introduced to Ms. Newsome over five (5) years ago. Since that time, she has been a Woman of integrity and intelligence. Ms. Newsome always has presented herself in a professional manner and has always addressed me and others with the uttermost of respect. Ms. Newsome outgoing personality and personal strengths would make her an excellent additional to anyone's staff. I have had the opportunity to work with Ms. Newsome and she has demonstrated flexibility in working outside of her field of endeavor and doing an excellent job is a strong indicator of how well she will do in her chosen field of endeavor. Ms. Newsome demonstrated a willingness to perform any task assigned to her promptly and correctly with little supervision. Ms. Newsome is a very pleasant person to associate with, works as a team player, and would truly be an ASSET to your organization because she is the best one for the job. - - LISA J. WASHINGTON (**COORDINATOR**)

See **EXHIBIT "4"** attached hereto and incorporated by reference.

I believe you will find from the evidence contained herein (as well as from Investigations initiated by the Legislature/Congress regarding the matters brought to its attention), that before bringing this matter to the Legislature/Congress' attention, I have in ***good faith*** sought justice through several/various avenues, to no avail. Thus, leaving me to bring these matters before the Legislature/Congress – back to the ***doorsteps*** of the lawmakers and/or those whose duties it is to see that such racial injustices and judicial abuses, etc. are addressed and the applicable laws created and/or applied to correct such wrongs are enforced. *Moreover, the Legislature/Congress' **intervention** and exercise of **jurisdictional** powers to direct and enforce the laws enacted and/or created by it. I **sincerely** request that you do not falsify a response to me and advise that the Legislature/Congress cannot get involved because this is a **"private"** matter and/or there is* **"pending" litigation,** *because I have researched and continue to do so and find **that the Legislature/Congress may intervene**.* Moreover, from the hearings that are held and played in the media clearly reveals the jurisdiction and authority the Legislature/Congress has to intervene and require investigations and hearings on matters that affect citizens/public and to make such express powers effective – as in my situation and others.

To understand my present and past struggles/challenge, I believe the following facts are pertinent:

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I. REV. MILLIGAN NEWSOME

Milligan Newsome ("Milligan") is my great grandfather whose life was unjustly taken by a ***prominent*** *white* man in his community. Milligan was a very special young minister in his time, that through the strength of empowerment for himself and for God's people, it became embedded in his heart, thoughts and actions. Who knew that when his life would be unjustly taken, he said "I will stand tall like a giant for my God." While I did not have the pleasure of meeting my great grandfather I realize the Holy Spirit within him works within me today. As told in my Aunt's book, *"Naomi's Story: You Don't Have to Be Broken,"* my great grandfather's life was unjustly taken as told as follows:

> I learned that Rev. Milligan Newsome, her husband and my grandfather, was a special kind of person who took God's work very seriously. He was a preacher, educator, teacher, and one who felt that it was his duty to look out for all those who lived in Spindle Bottom. Everyone loved and depended on him. All of this land around our houses, church, and school once belonged to him. He, along with one deacon, built Clark Creek Church and school. He was supported by two very powerful men of God, Rev. Charles Harrison Mason and Rev. Charles Price Jones.
>
> "When the ***white*** community *saw the* ***progress*** *that your grandpa was making*, they tried to force him to sell all of his land. He refused to even discuss it with them. He then bean to advise others not to sell their land."
>
> . . ."Naomi, your grandfather was a wonderful, stubborn, black Indian, God fearing preacher who did not fear what man could do to him.
>
> "Within a year the head of a prominent ***white*** family came to him and let him know that if he did not sell his land, he would be killed. Your grandfather, looked him straight in the eye and said, 'If I don't sell, you're going to kill me. If I sell, you're still going to kill me. Therefore, I'm going to die standing like a giant for my God.'
>
> " Shortly after this encounter, your grandfather went down to the covered bridge to cut firewood. Your papa, who was only seventeen years of age and very devoted, went with him. The man who had voiced the threat came by the house and asked me where had that **nigger** gone. He was carrying a rifle and a baseball bat. He stated the he only wanted to talk to that stubborn boy. I made the mistake of letting him know where they had gone.
>
> "As the ***white*** man walked away from me, I knew within my heart that your grandfather would be killed. When he found your grandfather and shot him, your papa stood and watched. Your papa helped his dad to climb into the wagon. Your grandpa always carried the Holy Bible with him. He took the Bible from the wagon and stumbled into the house to let me know that he had

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been shot. Your papa and I put him in the bed. He asked me to place the Bible under his pillow, but he could hardly speak as he said, ***'My love, teach our five children not to hate anyone.' He then gasped for breath and fell asleep."***

. . . "To this day, I feel so guilty. I knew that your papa would never be the same. He seemed to be falling apart. He was truly a broken young man."

. . . "Within a year after this, the man who murdered your grandpa took all of the land. He went around bragging about how he had killed that **nigger** Indian and then took his land. There was no law in Mississippi that would help the family. They were left at the mercy of the murderer.

"About two years later, the murderer offered to give back ***part*** of the land. Your grandma refused to accept the offer. She said that ***she wanted all*** or none. None is what she received. Within this same year, the murderer entered the hospital in Vicksburg, Mississippi. He was suffering and dying from cancer that had consumed his whole body, including his brain. The word got around that as he was dying, he continued to scream these words, "I'm sorry that I killed that nigger Indian preacher for nothing.' Still the law did nothing about it."

Excerpt from Naomi Brookins' book, "*Naomi's Story – You Don't Have To be Broken* "at pp. 8-10. (See **EXHIBIT "5"** attached hereto and incorporated by reference)

Such a tragedy witnessed by my grandfather (Carrence Newsome), who is my father's dad, at such an early age which impacted not only my grandfather's life but those of his children. Who would have known that three (3) generations **later** such racial injustices would continue to plague our family and **certain** *Whites* would continue to use their ties, relationships and prominent connections to **deprive me of not only my property and possessions** but ***EQUAL protection*** of the laws and ***DUE PROCESS*** of laws – rights guaranteed/secured under the Constitution, Civil Rights Act and other governing laws. For me, my situation (the unlawful/illegal taking of my property/residence) happened on **February 14, 2006**, in Jackson, Mississippi where I was unlawfully/illegally removed from my property and it taken over my peaceful objections and right to defend (under the Constitution) against such actions. *However, in regards to the racial injustices against me, it has been well over 20 years.*

While my Aunt writes in her book, "There was no law in Mississippi, that would help the family," and while there was a death-bed confession from my great grandfather's murderer, my Aunt continues on and writes, "Still the law did nothing about it." As I believe you will find from the evidence presented herein, such practices continues today. *However, I believe there were laws then that perhaps they were not aware of (surely the **Constitution**), as now, that are to be applied and such wrongs corrected and the property illegally taken from my great grandparents returned to my family.*

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THEREFORE, I am requesting an investigation into the murder of my great grandfather and, that if it is found that his land was illegally/unlawfully taken through criminal wrongs, that said land is returned to my family.

II. JENA 6

I mention this case, because it is a classic example of how the courts do not equally apply the laws when parties are *Whites opposing African-Americans. Moreover, how courts use their powers to render African-Americans harsher punishment as well as fabricate the facts to cause such injustices. Statistics has provided such proof.*

I have further concerns that the unlawful/illegal and unethical acts of the Courts mentioned in this correspondence as well as other documents in its possession, will further demonstrate the *bias/prejudicial* treatment and/or handling of cases by **"certain"** *Whites* and in keeping with concerns of how *Whites* in **"prominent"** positions, wealth, authority, etc., abuse the judicial process to render special favors for other **white** parties in litigation involving African-Americans and/or people of color; or use their position, powers, resources, wealth, etc. to intimidate, threaten and coerce African-Americans and/or people of color to participate in civil/criminal wrongs through the fear of losing their jobs. Wherein when the courts mentioned herein were in the position to deter such unlawful/illegal practices and uphold the Constitution, Civil Rights and other governing laws, they clearly elected to abandon such responsibilities to render injustices to African-Americans and/or people of color. Take for example the comment made by the District Attorney as to what he can do simply with a *"stroke of a pen,"* that made the news in the Jena 6 matter which resulted in some of the feedback as follows:

> **THE CASE OF THE JENA SIX: BLACK HIGH SCHOOL STUDENTS CHARGED WITH ATTEMPTED MURDER FOR SCHOOLYARD FIGHT AFTER NOOSES ARE HUNG FROM TREE:**
>
> MICHELLE ROGERS: The kids didn't say anything. They were listening. The kids were quiet. And so, District Attorney Reed Walters, you know, proceeded to tell those kids that "*I could end your lives* with the stroke of a pen." And the kids were just—it was like in awe that the district—you know, Reed Walters would tell these kids that. He held a pen in his hand and told those kids that, *"See this pen in my hand? I can end your lives with the stroke of a pen."*

(Cut and pasted from: http://www.democracynow.org/2007/7/10/the_case_of_the_jena_six)
JENA 6: A TEAM OF LAWYERS TAKE ON MYCHAL BELL'S APPEAL:

> **Quick summary of the Jena Six case:** In Jena, Louisiana, a black student challenged the de facto segregation of his high school by *asking* ***permission*** to sit under the "**white** tree." School

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officials told him to sit where he liked. The next day three nooses hung from the tree, which triggered an impromptu protest by the black students of Jena High. LaSalle Parish District Attorney Reed Walters, flanked by the police, informed the black students at an assembly later that day that he could end their lives "with the stroke of a pen." Racial tensions grew, the school's academic wing was burned, and Robert Bailey, a *black* student, *was **attacked*** by a group of whites at a party. One person was charged with a misdemeanor for that beating. The next day Bailey and two friends were ***threatened with a shotgun*** at a convenience store by a *white* man **who had been present** at the beating. They wrestled the gun away from him and *ran to **report** the incident to the police*, who *charged **them*** with robbery of the shotgun. Finally at school two days later, a group of white students, including the noose hangers, taunted Bailey and other students, calling them **"niggers."** A *white* student was beaten by a group of black students, taken to the hospital and released within three hours. He *attended* a school function ***that** night*. Six black students were charged with second degree attempted murder for the fight. The first to be tried was Mychal Bell, whose **public** defender put on no case, called no witnesses, and permitted a friend of the DA, the mother of a prosecution witness, and a good friend of the victim's mother, to be empaneled on the six person jury. Bell was **quickly** found guilty. Robert Bailey, Theodore Shaw, Carwin Jones, and Bryant Purvis are still waiting to be tried. The sixth of the Jena Six is in the juvenile justice system.

(Cut and pasted from: http://pursuingholiness.com/2007/07/29/jena-6-a-team-of-lawyers-take-on-mychal-bells-appeal/). It is interesting to note how the incident was **turned around**. I *believe had the white man shot them (these young men)*, it may have been said *he was **defending*** his property, etc. and justification for such shooting based upon that. Furthermore, look at how the ***deck was stacked*** against these young men.

WITH THE STROKE OF A PEN

The events in Jena highlight the urgent need to significantly restrain *prosecutorial* discretion.

Tensions escalated: **An assault** on five black teens by a white man *was resolved with probation and a mere wrist-slap for the perpetrator*, and in a vaguely Mafioso speech seemingly directed at the black students in particular, the district attorney warned that he could end students' lives "with the stroke of a pen." Finally, on December 4, 2006, the eponymous six black students beat up one white student, who had allegedly mocked the injuries of one of black teens injured in the preceding month's assault.

CHANGE THAT MIND FOR YOU!!

(Cut and pasted from: http://www.hippolytic.com/0112/with_the_stroke_of_a_pen.html)

> "Black students protested the ***light*** *sentence given to the* ***white*** *students* and were promptly threatened by the county's district attorney who said "See this pen? I can end your lives with the stroke of a pen."
>
> That's a powerful statement. Its a frightening one. It stands for so much of what can go wrong with our justice system. The widely acknowledged racial biases in sentencing. The fact that lives are literally flushed down the toilet needlessly out of some misguided sense of judicial revenge. The power gap between the accused and the system that can crush them completely.

(Cut and pasted from: http://fitnessfortheoccasion.wordpress.com/2007/09/20/i-can-end-your-lives-with-the-stroke-of-a-pen/)

While Jena 6 occurred in *Louisiana*, it is **No. 1** on the report released on October 8, 2007, by the National Press with **Mississippi** (who was **No. 1** on **prior** report) as **No. 2**, *Kentucky* **No. 3**, and *Ohio* rounding out at **No. 5**. Moreover, I believe a reasonable mind given the facts, evidence and legal conclusions presented herein, in the records of the Court, Government Agency and others, will support an Investigation and Hearings sought through this Complaint. However, on a prior report, Mississippi ranked No. 1. See **EXHIBIT "6"** attached hereto and incorporated by reference.

I must admit that when the News of Jena 6 came out, I was shocked to hear of the "**white**" ***tree***. Why, because there was a label for such a tree where I went to High School – Utica High School (which has since been closed). To hear that such a labeling of a tree still existed over 20 years later, I found appalling and a disgrace. Confirming nothing has changed in the South. Leaving me to conclude why there is a breakdown in the rearing of some of our children and how some parents are teaching and encouraging such racial division. Moreover, why the youth seem to have no regard and/or respect for the laws – and their lack of trust in the justice system

III. CARL BRANDON ("BRANDON")

Mr. Brandon is an African-American male. Brandon alleges he was set up for *political* reasons in that *Whites* wanted his job and a person of their choosing in the position, so they concocted and/or fabricated false charges of sexual harassment against him. Brandon asserted that the sexual harassment charges were false and apparently exhausted the legal process to the best of his knowledge. To no avail.

According to Brandon and/or sources who know him, *he was being* ***stalked*** *by those who were determined to* ***destroy his life***. However it does not appear that this is not information those in

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the media were willing to investigate – to find out the true motive for Mr. Brandon's shooting spree. However, stories were shared such as:

> Ed Blackmon Jr., attorney for the former Claiborne County road manager, said while the defense "won't dispute the facts as laid out by the state," psychiatrists and psychologist will be called to testify Brandon was not capable of controlling his actions. Pent-up emotions stemming from a sexual harassment accusation nine years before the 30-minute spree in 2006 were too strong to resist, Blackmon said. . . .
>
> "The evidence will show the man was mad," said Scott Johnson of the Attorney General's Office, who is joining Claiborne County District Attorney Alexander Martin and Crystal Springs attorney Marty Arrington in presenting the case. "There's a big difference between being mad and being insane." . . .
>
> Burrell, Miller and Porter all had roles in the 1997 dismissal of Brandon, who for years said he had been wrongly accused in order for political change to be made in county employment.
>
> His wrongful termination case made it to the Mississippi Supreme Court, which refused to hear the matter in 2002, which had the effect of upholding the firing. . .
>
> Burrell, who was 54, had practiced law in Port Gibson for 30 years and was attorney for Claiborne supervisors for 26 years. He also held a position on the **professional responsibility** committee of the **STATE BAR** association.[4]

See **EXHIBIT "7"** 05/31/07 Vicksburg Post Article regarding Carl Bandon. It appears that other persons were aware of the unlawful/illegal actions against Brandon, as such stalking him from job-to-job is mentioned.

While others may want to see Burrell as a victim of Brandon's shooting spree, and Burrell's story as a tragedy, one may wonder if the true facts and information which lead up to the shooting by Brandon were told, would Burrell be seen as a victim at all or a predator. *Moreover, did Burrell aid and/or contribute in the bringing about of his own death through committing and/or **participating in criminal/civil wrongs** against Brandon – wherein there were those who sought to destroy Brandon's life.* From information provided, it appears there were those who were following Brandon from job-to-job and informing employer(s) of the sexual harassment charges brought against him. (EMPHASIS ADDED). **No, it was not enough that Brandon had lost his job due to such accusations; because it appears there were certain people determined to keep Brandon oppressed and to keep him from working – actions deliberately done to affect his livelihood, pursuit of happiness, liberties, etc.**. Persons (apparently associated with wealth, power, ties to government entities and/or holding positions

[4] **A position I find very interesting in that I believe it may lead a reasonable mind to conclude that *Burrell may have used his position, relationships and ties to affect* the outcome of agency/court actions and/or hearings brought by Burrell to clear his name.**

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with the said entities) not satisfied until they completely ruined Brandon's life – **at whatever cost**. Apparently Brandon was aware that Burrell and others were in on such criminal/civil wrongs against him – it is not like Port Gibson is a large mega (*metropolitan*) city or anything. *Those participating in such criminal/civil wrongs against Brandon knew and/or should have known what consequences may have resulted **as a direct and proximate result** of their unlawful/illegal actions*. However, they probably thought it was funny in destroying and playing with an African-American man's life in the manner in which they were. Such unlawful/illegal acts which after years of such wrongs, Brandon simply had enough. Brandon may have experienced how money and power could buy decisions and the entities in which he contacted to address what he believe were wrongs rendered him, were **CORRUPT** and/or **TAINTED**. While Brandon may have pulled the trigger on the gun "**placed in his hands**" at the direction and/or as a direct and proximate result of such civil/criminal wrongs that were executed against him through such stalking, predator behavior and harassment from job-to-job, those who participated in the conspiracy to destroy Brandon should be held accountable for their roles in the unlawful/illegal stalking of him and contacts made to his employer(s) which resulted in Brandon's firings/terminations. **Interfering with Brandon's life, liberties, pursuit of happiness, etc.** It appears that government officials were aware of the civil/criminal wrongs leveled against Brandon and may have participated in the carrying out of such unlawful/illegal actions and continuing in their "CORRUPT" practices until they achieved the goal/object pursued – destruction of Brandon's life and to see another African-American male in jail/prison, mental institution, etc. (Known acts to be deliberately done to destroy the African-American family – lock up the head (male) of the family and watch what happens). So it would be reasonable to determine what role (if any) Burrell played in the conspiracy leveled against Brandon to see that employers knew of the charges made against him. It is **IMPORTANT TO NOTE,** Burrell was employed as **County** Attorney (government job) for Claiborne County, Mississippi and also held a position on the professional responsibility committee (what a hypocrite if he was engaging in the civil/criminal wrongs to keep Brandon unemployed) of the State Bar Association. Pertinent information in that it goes to show the powers and influences Burrell and others may have relied upon in the unlawful/illegal and unethical practices Brandon and/or others were asserting were being taken against Brandon. Moreover, *Burrell's position(s) may have played a role in the outcome of the judicial/legal process in which Brandon pursued to clear his name.*

Brandon's situation may also warrant an investigation by the Legislature/Congress as to whether such wrongs were committed against him and, if so, that said persons be held accountable for their acts in bringing about and/or aiding in Brandon's reaching such a violent outcome. ***One may conclude that Brandon's life, liberty and pursuit of happiness, etc. was ruined as a direct and proximate result of the stalking, predator behavior and harassment that has been alleged of others to destroy his life.*** While Brandon repeatedly asserted his innocence through the appropriate judicial processes, he may not have been aware of the Mississippi's reputation of having ***CORRUPT*** OFFICIALS – where special favors are known to exist. [**SUCH PRACTICES WHICH "CERTAIN" WHITES HAVE USED AGAINST ME TO DESTROY MY LIFE, MAY HAVE ALSO BEEN USED TO DESTROY BRANDON'S**]. Did such willful and malicious acts cause Brandon personal injury/harm to his character, reputation, property (loss, etc.) and whether there was evidence to support the sexual harassment charges brought against Brandon. Moreover, the relationships and/or interest of all involved (what did they get out of it) that brought and alleged

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these charges against Brandon.

> **If the laws/statutes permit, I would request that the Legislature/ Congress initiate an investigation into this matter to determine whether such stalking of Brandon occurred. Acts which clearly violated Brandon's Constitutional and Civil Rights. That if there are any violations found, that the perpetrators be also brought to justice for their role the played.**

A. STALKING/HARASSMENT:

While I know that there are states that have enacted stalking laws, I have not had the opportunity research whether there are federal laws. However, from the story of Carl Brandon (and I am sure there are many others) and that of myself, as evidenced provided in this instant Complaint and in the record of the Courts and Agencies addressed herein, I am requesting the Legislature/Congress initiate Investigations and hold hearings and render their findings regarding the stalking, predator behavior, and harassment of me by ***certain*** Whites and other co-conspirators who have resorted to the same civil/criminal wrongs similar to that of Carl Brandon to subject me to such unlawful/illegal and unethical practices in efforts of destroying my life as they did to him. Acts which clearly affects the ***PUBLIC at LARGE*** – therefore requiring the Legislature/Congress' intervention to enact, create (if none exist) laws and direct and enforce compliance of same to deter similar tragedies as Burrell and hold such perpetrators (and their accomplices) accountable/liable for the roles they played.

While there have been numerous shootings as that of Carl Brandon (who just could not take the stalking and harassment of those who were following him from job-to-job and providing his employer with negative remarks/comments as it related to him), those committing such unlawful practices should be punished within the confines of the laws and prosecuted for their roles they played in destroying his life. Moreover, what evidence did the government agencies/court(s) have to sustain their findings of sexual harassment, *"was it **mere** words"* and did the fact finder(s) have *"**factual** evidence"* upon which to reach their conclusion – or was ruling based on **special** favors owed to Burrell and/or others.

The Courts in my situation, have **repeatedly** allowed opposing parties and/or their counsel to present information regarding me that is clearly unrelated to the lawsuits I have filed in the United States District Court – Southern District of Mississippi (Jackson, MS) ("USDC-MS"). Moreover, have allowed **certain** Whites, their counsel and others to attempt to paint/portray me as a *serial litigator* – the record evidence will support that such attacks have been launched by those who have been stalking and/or conspired with those who have been stalking me from job-to-job, attorney-to-attorney, city-to-city, etc. as I have tried to move on. However, **"certain"** whites have not been satisfied with this and have launched an all out conspiracy to destroy my life and to prevent me from obtaining employment elsewhere. While the laws are clear that such acts are unlawful, this has not stopped **certain** Whites from committing such criminal/civil wrongs against me. *What is so sad, these conspirators and their*

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*co-conspirators have **engaged** not only Judges, Magistrates, government officials, but employers and their employees to participate in such civil/criminal attacks leveled against me.*

In pending actions in the USDC-MS, evidence has not only surfaced by my former employer (Page Kruger & Holland) as well as other counsel in the matters before said court to support their unlawful actions, but how they have somehow **managed to get the Judges and Magistrates to engage and participate in such unlawful/illegal and unethical practices.** While I have been more than patient, courteous, etc., and followed the appropriate avenues required to obtain redress of such criminal/civil wrongs, ***what else does a citizen need to do to obtain justice***?

B. CLARK MONROE:

Monroe is ***one of several*** White attorneys representing clients in civil actions I have filed (or has been filed on my behalf) in the USDC-MS. Upon receipt of the record in this action, Legislature/Congress will see not only how Monroe has personal contacts with the Judges/Magistrates, but launches attacks against me as well as my attorney through his pleadings filed on behalf of his clients or through correspondence to my attorney as well as Judges/Magistrate. While they have attempted to paint me as a *serial* litigator (the unwarranted and unsubstantiated labeling repeatedly used by **certain** *Whites* in their masking of the unlawful/illegal and unethical practices they have engaged in to destroy my life), my **March 12, 2007**, addresses my opposition to such labeling as well as my concerns regarding Mr. Monroe's **constant** *stalking, predator behavior* and *harassment* of me. *Moreover, provides sufficient evidence of how **"certain"** whites use their influence, power, wealth, etc. to smear/slander me and the use of the judicial process to portray me as **"the boy who cried wolf,"** when they are fully aware of the civil/criminal wrongs rendered me.* It appears Monroe (as well as others) has attempted to paint me as a *serial* litigator wherein such labeling is uncalled for and neither is it appropriate. I believe the Legislature/Congress upon the facts, evidence and legal conclusions presented will agree that such labeling of me as well as the stalking, predator behavior, harassment, etc. by this attorney and others is clearly prohibited by the U.S. Constitution, Civil Rights Act, statutes and laws of the United States. Nevertheless, that I have *had to **suffer and endure years*** of such unlawful/illegal attacks from those in such legal prominent positions, authority, wealth, etc., as they sought to destroy my life. See one of my March 12, 2007 letter responding to Monroe's correspondence (See **EXHIBIT "8"** attached hereto and incorporated by reference), and also in my responsive pleading (one of two filed in each of the cases before said court is attached at **EXHIBIT "9"** and incorporated by reference) to his motion filed. Monroe filed a Motion with the court requesting an "**in court hearing**." However, I knew such filing was done in bad faith for ill purposes – to shield and mask his fetishes/obsession with me. Monroe was not satisfied with his efforts in having me forced to leave Mississippi to obtain employment elsewhere in order to survive, he now attempts to use the courts and others to aid him in such wrongs against me. **WHEN DOES IT STOP – WHEN ARE SUCH PERSONS COMMITTING SUCH UNLAWFUL/ILLEGAL WRONGS AGAINST AFRICAN-AMERICANS (AND/OR CITIZENS) GOING TO BE HELD LIABLE FOR THE CIVIL/CRIMINAL ACTS RENDERED AGAINST AFRICAN-AMERICANS (FOR THE RACIAL INJUSTICES SPEARHEADED AND/OR THEY ENGAGE IN)**?

CHANGE IS COMING FOR YOU!!

Furthermore, the record evidence will support Monroe's communications and attacks on my attorney, Wanda Abioto, unbeknownst to me – my having to receive copies of such communications through pleadings filed by him on behalf of his clients. His outrage towards me is evidenced because he failed to obtain the ***unlawful*** withdrawal of my complaint he sought through my attorney. Abioto has been licensed to practice law for over 20 years. While Abioto ignored my calls and correspondence to her, I continued to file the required responsive pleadings in the lawsuit she is representing me in, in a timely manner. From the documentation, you will find how it appears Monroe and Abioto (and who knows what other people were involved) were working on her withdrawing from representing me – **behind my back** and/or *unbeknownst to me*. An unlawful/illegal and unethical tactic to deprive me of legal representation. Abioto, deliberately failed to have the Summons and Complaint served on one of the defendants in the lawsuit she was representing me in. Based upon documentation received from Monroe, I believe a reasonable mind may conclude that Abioto deliberately did so in efforts of ***throwing this case***. *The record evidence will reveal how upset Monroe became when his efforts failed in that upon my being* ***abandoned*** *by Abioto, I continued to see that the proper pleadings were filed in the lawsuit to preserve my rights*. Monroe proceeded to harass me as well as the court to get them to disregard the pleadings filed by me in the lawsuit Abioto was representing me in. However, such efforts failed. I provided the facts, evidence and legal conclusions to support my right to file such pleadings – especially when the record yields he and Abioto were working behind the scenes to throw the case. *Abioto fulfilling her end of the bargain with Monroe – it appears in not serving his client, and is now attempting to seek an unlawful withdrawal which I am contesting.* See **EXHIBIT "10"** attached hereto and incorporated by reference. However, to their disappointment, I handled service of process on the other defendants (which included another one of Monroe's clients, Melody Crews) through the use of a Process Server that I retained. Through his fetish and/or obsession with me, Monroe now has voluntarily entered his second client (who Abioto failed to serve) through joining and entering of a pleading filed on behalf of his first client, Crews (who I had served by the Process Server), that was properly served with the one Abioto failed to serve; thus, waiving service of process on second client and now second client has been properly joined in lawsuit due to the joint filing by Monroe – correcting the **egregious** acts of he and Abioto (in withholding service of Summons and Complaint). Therefore, waiving any such defects and/or deliberate acts on the part of Abioto to aid him. The court record will support that the required pleadings containing such facts, evidence and legal conclusions has been timely submitted. Monroe also knew that Abioto could not withdraw from representing me without my consent. ***It is unlawful/illegal and unethical to harass, coerce, etc. a person's attorney as Monroe and/or others have done in efforts of forcing her to abandon representation of me. Nevertheless, Monroe has engaged in such practices.***

I believe the Legislature/Congress may conclude from the evidence how "certain" whites resorted to unlawful/illegal and unethical practices against me to obtain withdrawal of attorneys I retained to represent me; however, upon contact from the opposing side (who were always represented by large law firms, corporations, insurance companies, etc.) they abruptly sought to end their representation of me. Leaving me to have to proceed pro se in efforts of preserving my rights secured/guaranteed under the Constitution, Civil Rights Act and other governing statutes/laws.

CHANGE OF VENUE REQUESTED!!

Monroe, wanted an "**in court hearing,**" so hopefully he will be happy to subject to hearings before the Legislature/Congress and ***answer their questions*** and produce documents to aid in the Investigation(s) by it, ***as to his role*** *in the conspiracy he has engaged in*, in causing me serious injury/harm as a direct and proximate result of his knowledge of my participation in protected activities and/or my pursuit for justice. I am hoping that Monroe is just as *eager* to participate and provide the Legislature/Congress with the information needed to support his *unlawful/illegal* **stalking, predator behavior** and **harassment** of me as well as my attorneys. Moreover, his (and/or others) actions in contacting my employer(s) and notifying them of my participation and/or engagement in protected activities (i.e. lawsuits, etc.). I *seek* the **disbarment** of Monroe and his co-conspirators who are lawyers and/or members of the Bar in their respective states that they are allowed to practice; as well as he and conspirators/co-conspirators being subject to the **appropriate *fines* and/or *imprisonment*** for the civil/criminal wrongs committed against me. I believe that the Investigation requested by the Legislature/Congress will yield that Monroe (who received such honor as magna cum laude[5]) knew and/or should have known that his ***stalking, predator behavior*** and ***harassment*** of the me was in violation of the laws, Constitution, Civil Rights Act and other governing laws. (See Bio for Monroe at **EXHIBIT "11"** attached hereto and incorporated by reference). Nevertheless, he proceed on with much *zeal* and *tenaciousness* in that his ***fetish/obsession*** with me consumed his life – he took it upon himself to stop at nothing to see that my life was ruined as **well as solicited the help of others and USDC-MS Judges/Magistrates/ Officials to engage in such practices as he looked to them for "special" favors.**

> **MISSISSIPPI CODE OF 1972**
> **SEC. 97-3-107. Stalking.**
>
> (1) Any person who willfully, maliciously and repeatedly follows or harasses another person, or who makes a credible threat, with the intent to place that person in reasonable fear of death or great bodily injury is guilty of the crime of stalking, and upon conviction thereof shall be punished by imprisonment in the county jail for not more than one (1) year or by a fine of not more than One Thousand Dollars ($1,000.00), or by both such fine and imprisonment.
>
> (4) For the purposes of this section, "harasses" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, or harasses the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the person. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short,

[5] A title perhaps **purchased/bought** in that the record evidence will clearly support no qualification/evidence of earning of such honorary title. It appears that the only thing he learned in law school was how to practice law through corruption and deceit. **Moreover, how to mastermind conspiracies and induce/influence others to participate in his criminal acts which he knew and/or should have known to be unlawful/illegal and unethical.**

CHANGE THE WORLD FOR YOU!!

evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

(5) For the purposes of this section, "a credible threat" means a threat made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety.

SOURCES: Laws, 1992, ch. 532, Sec. 1; 1996, ch. 326, Sec. 1, eff from and after passage (approved March 17, 1996) Amended by Laws 2000, Ch. 553, Sec. 1, HB565, eff. July 1, 2000.

CUT & PASTED FROM: http://www.mscode.com/free/statutes/97/003/0107.htm. See **EXHIBIT "12"** attached hereto and incorporated by reference.

Monroe has committed civil/criminal wrongs – acts prohibited by statutes/laws of the United States – spearheaded and/or providing his participation in any such conspiracies against me. He has engaged in activity which includes stalking me from job-to-job, attorney-to-attorney, court-to-court, etc. Actions deliberately, willfully and maliciously done to get me fired (termination of employment), to get my attorneys to withdraw their representations, to get my complaints dismissed, etc. **ACTS *CLEARLY PROHIBITED BY STATUTES/LAWS.***

The record evidence will support that Monroe wanted his opportunity to be on stage – requesting an "**in court hearing**." Therefore, I am hoping his request to perform (before the fact-finders) is heard before the Legislature/Congress and he is as ***cheerful***, ***elated*** and ***forthcoming*** with his admissions of his participation of the criminal and civil wrongs rendered against me by him and others. The USDC-MS, defendants in that action and their counsel, were timely, properly and adequately notified of the LIABILITY that Monroe attracts and the casualty and/or destruction caused by him as a direct and proximate result of his civil/criminal wrongs. To no avail, they continued to aid and encourage Monroe's behavior. The record of the USDC-MS further evidences, Monroe's actions in harassing and threatening attorney(s) I retained to represent me. Such acts which are criminal in nature and clearly warrants punishment which I will seek through the bringing of this action before the Legislature/Congress.

Title 42, U.S.C., Section 3631
Criminal Interference with Right to Fair Housing

This statute makes it unlawful for any individual(s), by the use of force or threatened use of force, to injure, intimidate, or interfere with (or attempt to injure, intimidate, or interfere with), any person's housing rights because of that person's race, color, religion, sex, handicap, familial status or national origin. Among those housing rights enumerated in the statute are:

- The sale, purchase, or renting of a dwelling;
- the occupation of a dwelling;

CHANGE. STAY WOKE. FOR YOU!!

- the financing of a dwelling;
- contracting or negotiating for any of the rights enumerated above.
- applying for or participating in any service, organization, or facility relating to the sale or rental of dwellings.

This statute also makes it unlawful by the ***use of force or threatened use of force, to injure, intimidate***, or interfere with any person who is assisting an individual or class of persons in the exercise of their housing rights.

Punishment varies from a fine of up to $1,000 or imprisonment of up to one year, or both, and if bodily injury results, shall be fined up to $10,000 or imprisoned up to ten years, or both, and if death results, shall be subject to imprisonment for any term of years or for life.

CUT & PASTE: http://www.**fbi.**gov/hq/cid/civilrights/statutes.htm. See **EXHIBIT "13"** attached hereto and incorporated by reference. It is important to note, that said information is already in the record of this Court.

Nevertheless, the record evidence will support how Monroe and others conspired to get my attorney(s) to withdraw to obtain an undue/unfair advantage in the legal actions brought by me. Furthermore, how **"certain"** whites and others have *repeatedly* used the legal process to destroy my life and/or those of African-Americans.

I believe that the record evidence will support the threats and acts taken against me by the Monroe and others for my exercising of protected rights. Moreover, that the unlawful/illegal actions of the Monroe and others, resulted in my being unlawfully/illegally forced out of my residence and said residence unlawfully/illegally seized. Moreover, that such acts by Monroe and others also has forced me to have to abandon the state in which I lived for my safety, survival and to obtain employment; in that they **aggressively** and **maliciously** sought to blacklist me and to prevent me from obtaining employment as well as destroy my life and reputation in the work community. Thus, subjecting me to further injury/harm.

MISSISSIPPI CODE OF 1972

SEC. 97-3-87. Threats and intimidation; whitecapping.

Any person or persons who shall, by placards, or other writing, or verbally, attempt by threats, direct or implied, of injury to the person or property of another, to intimidate such other person into an abandonment or change of home or employment, shall, upon conviction, be fined not exceeding five hundred dollars, or imprisoned in the county jail not exceeding six months, or in the

CHANGE THAT WORKS FOR YOU!!

penitentiary not exceeding five years, as the court, in its discretion may determine.

SOURCES: Codes, 1906, Sec. 1398; Hemingway's 1917, Sec. 1141; 1930, Sec. 1173; 1942, Sec. 2416.

CUT & PASTED FROM: http://www.mscode.com/free/statutes/97/003/0087.htm. See **EXHIBIT "14"** attached hereto and incorporated by reference.

Whitecapping: The criminal act of threatening a person – usu. a member of a minority group – with violence in an effort to compel the person to either move away or to stop engaging in a certain business or occupation. • Whitecapping statutes were originally enacted to curtail the ***activities*** of the Ku Klux Klan. – Black's Law Dictionary (Second Pocket Edition)

I knew that with my education, years of work experience and skills, that it should not be difficult for me to obtain employment; however, seeing the conspiracy leveled against me and the evidence that has surfaced, there was no alternative left for me but to move away for my livelihood, liberties, pursuit of happiness, etc.

IV. REPUBLIC OF NEW AFRICA ("RNA")

From my brief research, this organization appeared to be organized and/or assembled by Gaidi Obadele and Imari Abubakari Obadele. Their AIM: (a) To **free** black people in the United States from ***oppression***; (b) To promote the personal dignity and integrity of the individual and to protect his natural rights; and (c) To support co-operative economics and community self-sufficiency. This group wanted to discuss the creation of a black nation within the United States (identifying Louisiana, Mississippi, Alabama, Georgia and South Carolina). They provided their citizens with: food, housing, clothing, education, medical treatment, and defense.

The **Federal Bureau of Investigations** ("FBI") *immediately* targeted the RNA and began raiding their meetings.

In August 1971, the FBI and the Jackson Police Department, without warning, attacked the RNA government residence with arms, tear gas, and a tank. **One** Jackson police officer, William Skinner, was killed, one patrolmen and an FBI agent were wounded but there were no RNA casualties . . . The RNA protested the arrests and verdicts, pointing out that the RNA 11 part of a ***"long pattern"*** of violence and injustice against Blacks in Mississippi.

See **EXHIBIT "15"** information on RNA - attached hereto and incorporated by reference.

CHANGE: THAT WORKS FOR YOU!!

While it is not clear to me why the raid on the RNA by the FBI was necessary, I however think such tactics used by the FBI may have been bogus and merely hatched to seek the results it obtained – breaking down and further **oppressing** African-Americans and those who sought the **unity, healing** and **improvement** of the African-American people and their communities. It is apparent that the FBI's action was merely tactics to keep African-American communities from coming together. Moreover, their use of such excessive force to send a message of their dominance and oppression.

While I do not have access to the entire record surrounding this incident (between RNA and FBI), I find it disturbing in that it appears that those who were not present were prosecuted. Moreover, concerns as to whether or not Officer Skinner was actually killed by an RNA member or *was he killed by* **"friendly fire"** – that of an FBI agent of Jackson Police Officer – and the FBI for all these years have lead the public to believe he was killed by an RNA members bullet. Such concerns I believe is valid in that the record evidence in my case will reveal that the FBI was provided with a typewritten complaint by me on June 26, 2006 (See **EXHBIT "16"** attached hereto and incorporated by reference), and did nothing to deter and/or punish those committing such legal wrongs against me. Moreover, to date, the FBI has failed to provide me with its findings on **all** of the issues raised in my Complaint. From the information I obtained from the FBI website, it is evident they handle the types of complaints I have filed and have moved to prosecute others in the past (in other matters brought to their attention); however, when I brought my complaint – as with other government agencies and courts – they **took a far departure** from the laws and refused to perform the duties owed to me. Thus, leaving a reasonable mind to conclude that there is something Judge Skinner and/or others may be holding over the FBI's head that they may not want coming out. It is clear that Judge Skinner has positioned himself in the courts and that he uses his judgeship to reek havoc on African-Americans and uses his **special** relationship with the FBI and others to commit such civil/criminal injustices against African-Americans (as that committed against me). Furthermore, **the FBI has *condoned* and/or encouraged the *unlawful/illegal and unethical actions* of Judge Skinner and others.** *Therefore, the Legislature/Congress' intervention and request for Investigation and Hearings is being requested to render its findings on the issues presented to correct the Constitutional and Civil Rights violations rendered me.*

I believe a reasonable mind may conclude that the FBI abused its power and/or authority in the RNA matter and that said matter should have been handled in a more peaceful and lawful manner. However, they probably had a **headstrong** leader looking for fame at the helm of things; and the FBI elected to exercise unnecessary force which resulted and/or contributed to the death of Officer Skinner. Were any of the FBI agents held accountable for Officer Skinner's death or an investigation initiated into its handling of this matter? It appears what is so obvious that the FBI motive for such invasion was for the purposes of keeping African-Americans from coming together for a positive cause – the FBI's goal being to break up the RNA to keep it from thriving and uniting the African-American culture. This group was not such a threat that such excessive force and/or violence against them was necessary. However, I am sure the FBI made sure this group was projected in such a light to Whites to place fear in them. Placing seeds of hatred and animosity in **certain** Whites as that displayed by Judge Skinner regarding the RNA. RELYING ON THE ***FEAR*** *FACTOR!*

CHANGE IT OR YOU WILL BE CHANGED!!

Approximately a year later (1972), following such raid, my father retired from the United States Army and returned his family to Utica, Mississippi to live. Utica is approximately 21 miles outside of Jackson, Mississippi where the raid on the RNA occurred. While I was just a child and unaware of this incident taking place the previous year, I definitely enjoyed the "*Black Power*" movement and our song/slogan, "*Say it loud, I'm Black and I'm proud,*" as well as the Afro (hairstyle) age. The adjustment to Mississippi living was interesting in that we were taken from one way of life (military where we were surrounded by diversity of cultures) and then **thrown into such a *hostile* and *racially* motivated environment in Mississippi**. I recall our having to walk down the dirt road and wait for the school bus to pick us (siblings and I) up. While waiting we would observe a bus passing by loaded with all white children and some of those children from time-to-time yelling out racial slurs/remarks on their way to **Rebel** Academy (school they attended). Of course this was new to my siblings and I, leaving us often wondering why our father, out of the choices he had, chose to return to Mississippi to raise his family. I found the military life to be beneficial to me and the fact that my parents did not teach us to hate other races as that displayed by the children on the private school bus. **Such racial slurs/remarks** made me even *happier* to be an African-American (realizing that I had to be special and such a member of an elite race), moreover, more determined to continue my education beyond high school at an African-American University. *For I felt it is not where you get your education, but what you do with it once you get it. Therefore, I did just that; starting out a Mississippi Valley State University and completing my education at Florida A&M University.*

Considering the racial injustices I, Carl Brandon, Jena 6 victims and other African-Americans have had to repeatedly endure, was the RNA wrong for their ideas and pursuit to remedy the injustices of African-Americans and their cries for equal protection of the laws, due process of laws (JUSTICE), etc.? *Was this group wrong for wanting to make a better life for their people that the Legislature/Congress has repeatedly pretended and/or may have stuck their heads in the sand because they did not want to deal with it*? **What has our government done to assure African-Americans are rendered *equal* protection of the laws and *due process* of laws? Merely the passing of laws and not enforcing them clearly is a sham/farce in that it places false hope within citizens who want to believe the laws and the legal processes are in place to assure justice.** Moreover, deter the unlawful/illegal and unethical practices of ***certain*** Whites as evidenced herein and in the records referenced herein (that can be obtained through Investigations by the Legislature/Congress). It is clear that African-Americans are heavily underrepresented when it comes to privately-owned businesses; while we are represented in government (federal and state – depending on where you live I'm finding) jobs, **this is only where you will find many of African-Americans because of such policies which require hiring**. However, in looking at the other side in the ***private*** sector, you will find that African-Americans and/or people of color ***are not*** fairly and adequately represented with private employers – in some places with such employers the work force is **entirely** white (with no African-American and/or person of color). The only reason why you may see African-Americans and/or people of color at some predominantly owned businesses is because such businesses may have obtained some government contract (for appearance purposes only). However, there are many, many, . . . white privately owned businesses where they are certain not to hire African-Americans and/or people of color. While I look at the fight against "AFFIRMATIVE ACTION," I believe such fights are mainly lead by **"certain"** whites which

may have strong ties to racist organizations (such as the KKK). **"Certain"** whites who know goodness well that without the applicable laws in place African-Americans and/or people of color would not have some of the jobs they have today. While ***"concentrated"*** to government jobs in which African-Americans are employed, these may only be for monitoring/regulating purposes and given to certain African-Americans while their stringent "screening" process is used to deprive certain African-Americans job opportunities as well. *Clearly, the United States has a long way to go*.

*As with Carl Brandon, **"certain"** whites use the system to incarcerate the African-American male, providing him with a criminal record thus precluding him from finding gainful employment upon release – all a part of a system to continue to oppress the African-American race and/or the person one may expect to be the head of the household/family. Research will show how funding is being requested to build more prisons/cages in preparation of future incarceration of our African-American males. It appears the present focus is on the African-American youth (as in the Jena 6 situation).*

V. JUDGE WILLIAM L. SKINNER, II

This is a ***White*** judge presently serving in the Hinds County Court in Jackson, Mississippi. He is the son of the deceased Officer William Skinner – who was shot and killed during the 1971 FBI raid on the RNA (EMPHASIS ADDED). Prior to this position, Judge Skinner was a judge in the Hinds County Justice Court where I first had an opportunity to meet him under unpleasant circumstances and as a direct and proximate result of violations to rights secured/guaranteed under the United States Constitution, Civil Rights Act, Landlord & Tenant Act and other statutes/laws; in which my landlord was attempting to unlawfully and illegally obtain my property. The record evidence contained herein will support that Judge Skinner uses his judgeship to abuse the laws and knowingly commit civil and criminal wrongs against African-Americans; moreover, uses his position in an unlawful/illegal and unethical manner to ***shield/mask*** his retaliation and ***vengeance-seeking practices*** **to *vindicate* his father's death** – in which I have been subjected to. I have had the opportunity to experience first-hand Judge Skinner's ***hatred, racism and discriminatory*** application of the laws to African-Americans **(especially if they are educated)**. *THIS IS A JUDGE NOT FIT TO PRESIDE IN THE JUDICIAL SYSTEM AND **IS TO BE REMOVED IMMEDIATELY** THROUGH THE APPROPRIATE LEGAL PROCESS.*

Such outrage is evidenced in an article (as there were many surrounding this incident) where he makes statements such as, "*This man is a terrorist*" and *"He ran a terrorist organization, and there is no difference between him an Osama bin Laden*," as he refers to Imari Obadele who was invited to speak at an event honoring Black History Month. Judge Skinner going to on to say, "I'm mad as hell, and I'm not going to take this crap" as according to reporter. (See **EXHIBIT "17"** attached hereto). Neither was Obadele present at the shootout/raid, according to reports, when Officer Skinner was shot. Such needless outrage by Judge Skinner apparently against a man (Obadele) who was not present at the shootout that eventually led to the death of his father.

CHANGE THAT WORKS FOR YOU!!

In an article, a statement was made by a person by the name of Chokwe Lumumba which reads, "***white*** supremacy is still alive in law enforcement *as it was in the 1970's*. Referring to the Hinds County **Sheriff Malcolm McMillin's** (one of the key defendants in a lawsuit I have filed in the USDC-MS and one in which said records will support the **voluminous** lawsuits (See **EXHIBIT "18"** attached hereto and incorporated by reference) filed by other citizens against him) stance against Obadele's visit, he said *white* supremacy is alive today, but different." From the article, one may see just how **prevalent** the *racial* divide and *racial injustices* are, and the **bitterness** that flows from such behavior.

However, my personal experience and the evidence contained herein will only support and/or echo such ***truthful*** statements. Whether, such "**white** *supremacy*" is "different," **BASED ON MY PERSONAL EXPERIENCE, I WOULD SAY NOT.** To me it is all the same, **alive and widely encouraged by the Klu Klux Klan and the likes of such groups masquerading themselves in positions such as judges, lawyers and others wherein they have strategically sought employment in positions where they can manipulate the judicial/legal process as well as further the agenda of the KKK and/or other racist organizations created to destroy the lives of African-Americans and/or people of color,** merely done to further *oppress* me and other African-Americans and/or people of color. Such groups' reliance on their network connections and relationships with people in key prominent positions (such as judges) to fulfill their end of the agreement reached between them. Not only that, the evidence contained with this correspondence will clearly support *Judge Skinner's arrogance and other* ***certain*** *whites' abuse of the laws and the judicial and/or governmental process to obtain unlawful/illegal and undue advantage over African-Americans such as myself. Moreover, how they place themselves above the law and believe they cannot be reached and/or the laws do not apply to them.* How **certain** whites rely upon their ***special*** *relationships/alliances* to judges such as Judge Skinner and others to inflict, oppress and destroy the lives of African-Americans (as they did with me). From my observation of Judge Skinner (and this is before I knew what had happened to his father) I discerned from Judge Skinner's demeanor in court and countenance he was *racist, prejudice*, etc. and he is using his position to subject African-Americans to unjust/unlawful rulings to ***aid*** *whites* and/or *members of his race*. No from my experience with Judge Skinner his prejudice was so obvious and radiated from the bench. After my incident and obtaining additional information regarding Judge Skinner, it was clear that he was using his father's murder to exact revenge on African-Americans. Not being able to let go and move on after his father's death and not being happy people had served time in prison (for a crime they probably did not commit and may have been defending their property against an unlawful/illegal raid by the FBI – a right secured under the Constitution).

No, that was not enough as displayed by his remark(s), *"I'm mad as hell, and I'm not going to take this crap."* This is a judge who has run amuck and is clearly out of control. Approximately 33 years later (from his father's death) when this story was taken, and he still harbors such animosity. Clearly Judge Skinner has not healed, and neither has he let go to move on with his life. His disappointment in failing in such efforts to keep Obadele from speaking is clear. ***Apparently his father did not instill in him the importance of forgiveness and letting the laws handle such wrongs – instead he learned to harbor resentment, hatred and anger towards African-Americans and wanted a job in which he could take out his frustrations and revenge.***

CHANGE IS NEEDED FOR YOU!

While I am not aware of any evidence to support the conviction of Obadele, what is clear, Obadele served his time on what appears to be charges of conspiracy so Judge Skinner needs to move on. Instead he continues to rely on special favors from his relationships with the FBI and make ***public outburst of rage*** *as displayed in articles.*

Judge Skinner is one of the defendants I have filed a lawsuit against in the USDC-MS. Judge Skinner authorized the unlawful/illegal removal/eviction and taking of my residence and property. Judge Skinner doing so with ***knowledge*** that he had **no** jurisdiction of the matter brought before him. Therefore, as a matter of statutes/laws, Judge Skinner is not immuned from lawsuits. The evidence in this correspondence will support Skinner's knowledge of landlord/tenant laws, so he knew and/or should have known that he was committing civil/criminal wrongs against me. Nevertheless, he proceeded with total disregard to my protected rights (as **certain** Whites do in ***scoff*** thereof). Furthermore a NEXUS can be established between Judge Skinner relationship with the FBI and others. **Information to sustain the *conflict of interest* of the FBI and its agents and the agency's blatant refusal to uphold the laws and its allowances of Judge Skinner's and others criminal behavior against African-Americans, such as myself**: No clearly the FBI is not going to do anything and attempt to force me to bring legal actions through the judicial process rather than them prosecuting in that they are aware that due to the conspiracy leveled against me and participation on their part in furtherance of said conspiracy that they want it to appear that I am suffering from the "boy who cried wolf" syndrome. Attempting to play games and make it seem that I do not have valid claims and/or actions which fall under their jurisdiction as evidenced in their correspondence to me – wherein they are refusing to perform the ministerial duties owed me and force me through waste my time in the judicial process; wherein they are fully aware the *deck has been stacked.* See **EXHIBIT "19"** attached hereto and incorporated by reference.

SOME OF PROFESSIONAL ORGANIZATIONS JUDGE SKINNER IS ASSOCIATED WITH:

Mississippi Justice Court Judges Association – **President** (2005-2006 and 2006-2007)

The National Judges Association

Mississippi Center for Police and Sheriffs – **President** and **Chairman**

POST GRADUATE EDUCATION:

Landlord/Tenant – 2006 Lorman Education Services

Landlord/Tenant – 2005 Lorman Education Services

Evictions and **Landlord/Tenant** Law in Mississippi – May 2003 National Business Institute

Landlord/Tenant Update Seminar – 2001 Continuing Education

CHANGE: THAT WE CAN BELIEVE IN!

SPECIAL SCHOOLS:

SWAT Training - **FBI**

Crisis Management - **FBI**

FBI Defensive Tactic Instructor Certification

Semi-Automatic Weapon – FBI/JPTA

Pistol Transition for Instructors - **FBI**

AWARDS:

Former Board of Directors State SWAT Association

See **EXHIBIT "20"** – Resume attached hereto and incorporated by reference.

A. JUDGE SKINNER FATHER'S INFO:

Shot during the 1971 FBI unannounced raid on the RNA (Republic of New Africa): Note – **Only** *fatally* of this raid (?). While I have not viewed the record, I am left with doubts and/or wondering whether or not Officer Skinner was shot by friendly fire (from another police officer or an FBI agent) and the FBI covered up such information. Moreover, Officer Skinner's son, Judge Skinner's, ***using his father's death as a ransom over the head of the FBI and relying upon the FBI's guilt for Officer Skinner's death to obtain special favors from the FBI***. Surely the record will support that the FBI is required to handle investigations into the civil/criminal wrongs rendered me; however, they failed to do so. So the question would need to be answered through an Investigation and Hearings why the FBI has taken such a far departure from the laws and has elected to deprive me equal protection of the laws and/or due process of laws in the handling of the complaint I filed with its agency. **THEREFORE, I seek the findings of all issues raised in the FBI Complaint I filed**.

The Jackson, Mississippi Police Academy is named after him (*William L. Skinner Training Academy*). See **EXHIBIT "22"** attached hereto and incorporated by reference.

> Lieutenant William Skinner was shot and killed during a standoff with a group of militants who were barricaded in a house. Lieutenant Skinner was standing beneath a tree when he was struck in the head by a single round that had been fired from underneath the house.
>
> The ***Black Liberation Army***[6] was a violent, radical group that

[6]**It appears the RNA's name was changed to the "Black Liberation Army" (what was the correct name) – apparently a name used by the media to portray the RNA in a negative light.**

CHANGE: PEACE WORKS FOR YOU!!

> attempted to fight for independence from the United States government in the late 1960's and early 1970's. The BLA was responsible for the murders of more than 10 police officers around the country. They were also responsible for violent attacks around the country that left many police officers wounded.

One may question, whether or not Officer Skinner was standing beneath a tree, or was he in his car? See **EXHBIT "21"** attached hereto and incorporated by reference. There are conflicting stories as to where he was when he was shot. Therefore, raising some serious and reasonable doubts surrounding the shooting of Officer Skinner.

B. THE ARREST:

In January 2006, there was a matter brought before Judge Skinner by my landlord. My landlord using unlawful/illegal tactics it has repeatedly relied upon to have African-Americans and/or people of color unlawfully/illegally removed from its property. In that I was told I had to be in court, I went. Judge Skinner attempted to get me to argue the merits of the landlord's case. I refused and advised I was there to confirm the improper service of process. During the process (upon reviewing the paperwork), Judge Skinner asked whether or not I was an attorney and I advised him no; and neither did I provide him with information that I worked for a law firm. I believed that justice should be applied to the laws whether one is an attorney or not. *I came away with the impression that if I were an attorney, Judge Skinner would not have acted in the unlawful/illegal and unethical manner in which he did.* When Judge Skinner insisted that I defend against the landlord's claims, I simply refused, **turned and walked out of his court**. I was not required to be there and I found the acts of Judge Skinner to be ***atrocious***. *Clearly Judge Skinner was making a **MOCKERY** of the judicial process – to his amusement.* In **retaliation** of my leaving his courtroom, Judge Skinner took it upon himself to date and sign a "REMOVAL" document as my attorney in which he was not. (See **EXHIBIT "23"** attached hereto and incorporated by reference).

The record evidence will support the felonious actions of **"certain"** Whites and others against me.

> **Felonious:** 2) Constituting or having the character of a felony. 3) Proceeding from an evil heart or purpose; malicious; villainous. 4) Wrongful; (of an act) done without excuse or color of right. – Black's Law Dictionary (Second Pocket Edition)

The record evidence will support that "felonious restraints" I was subjected to.

> **Felonious Restraint:** 1) The offense of knowingly and unlawfully restraining a person under circumstances that expose the person to serious bodily harm. Model Penal Code § 212.2(a). 2) The offense of holding a person in involuntary servitude. Model Penal Code § 212.2(b). – Black's Law Dictionary (Second Pocket Edition)

CHANGE. THANK YOU FOR YOU!!

VI. CONSTABLE JON LEWIS

Constable Jon C. Lewis (and ***real good friend*** of Judge Skinner) ***is the "government" official*** who subjected me to an *unlawful/illegal* arrest and had me detained against my will while that went through my residence, destroyed evidence, stole property, etc. *During the February 14, 2006 incident,* ***I had my microcassette recorder on me recording what was going on***. Why the recording, because it has been projected that we (African-Americans) are expected not to be too bright and **prone to violence**. Moreover, the known abuse by public officials (police officers, etc.) during arrests. While I was outside the apartment (being requested to step out by the Lewis), Lewis appeared to be upset because I would not leave. I advised *I had the right to be there and they were in violation of said rights*. So that they could continue their unlawful/illegal acts (destroy evidence to cover-up their illegal wrongs and theft of my property, etc.), Lewis placed me under arrest. He searched my pockets and found the tape recorder and removed it. ***He did not turn it in at the Hinds County Detention Center where I was taken, and neither did he return the property to me.*** While I requested that Lewis return my property, he failed to do so. Taking my property and destroying the evidence contained thereon. See **EXHIBIT "24"** March 17, 2006 Request for Arrest Report & Return of Personal Property Retrieved by Constable Jon C. Lewis. . ."

A. OTHER CORRUPT INFORMATION THAT SURFACED ON CONSTABLE LEWIS:

The record evidence will support that Lewis, Crews, representatives Dial Equities, Inc., representatives of Spring Lake Apartments and others resorted and/or relied upon the carrying out of criminal acts in which they: 1) invaded the my privacy; 2) unlawfully seized, stole and/or allowed to be stolen my property or damage of property; 3) destruction of evidence in that they were notified by the me that would be used in legal actions against them, 4) personal injury/harm to me, etc.. *Lewis has* ***welcomed*** *an investigation into his practices*. **Therefore, I hope that Lewis is just as *zealous*, *forthcoming* and *willing* to aid the Legislature/Congress in the Investigation I bring before this body**. Moreover, that he is willing to accept whatever punishment as a direct and proximate result for his unlawful/illegal and unethical practices (if found). As the record will reflect that Constable Lewis conducts business in his official capacity that appears to be criminal in nature and *clearly affects the* ***public at large***:

> WLBT Channel 3 TOP STORY – 04/19/06 – **Supervisors Looking Into Constable's Methods:**
>
> The Hinds County Board of Supervisor's is looking into the methods used by the county's constable. At issue, is how he collects his fees. The constable says he has done nothing wrong.
>
> In a letter to the county administrator, Justice Court Clerk Patricia Woods accused Constable John Lewis of using questionable tactics.

CHANGE THAT WORK IS ON!

"There is absolutely nothing criminal here, nothing wrong," said Constable Jon Lewis.

The clerk said Friday, April 7th, several defendants appeared at justice court to pay fines, but a judge wasn't present. A **Utica** man received a letter telling him to appear, but the man had already paid his speeding ticket in January.

After learning that, the clerk told her staff not to collect any fees from defendants who did not have outstanding warrants.

"I refuse to be a part of his collection process," said Woods in her letter to County Administrator Anthony Brister. "*I cannot imagine how many letters were mailed or payments **received** at his **home** address*."

"**I am *welcoming* an investigation from the auditor's office. I would like it to be looked into *very* thoroughly**," said Lewis.

Constable Lewis says the letter to the defendant about the speeding ticket was a mistake on his part,[7] but he makes not apologies for using tough methods.

See **EXHIBIT "25"** attached hereto and incorporated by reference. THROUGH THIS SUBMITTAL TO THE LEGISLATURE/CONGRESS, I REQUEST THAT Lewis' request to be investigated be granted and ***thorough investigation(s) be initiated.*** Moreover, the evidence will show that I filed a formal written complaint with the Hinds County Board of Supervisors on or about August 11, 2006 (See **EXHIBIT "26"** attached hereto and incorporated by reference) as well as placed the County on notice of my intent to sue. However, said Board elected to do nothing and to date I have not been provided with a ruling from the Board regarding my official complaint filed against Constable Lewis. Therefore, a reasonable mind may conclude that the Board knew and/or should have known of the unlawful actions of Constable Lewis and allowed him to continue to conduct business on their behalf with knowledge that he was performing said duties in a criminal and unlawful/illegal manner.

A reasonable mind may conclude from the facts, evidence and legal conclusions presented in the record, that perhaps Constable Lewis' eagerness for an investigation was due to the fact he thought the "ball would remain in desired **court(s),**" *ballpark* and/or with the Board of Supervisors – **who would all seek to protect him and render him *special* favors as they endorsed his corrupt practices**. *For to expose him would expose them also*; I believe it would be hard for Constable Lewis to be willing to take the fall alone for the criminal acts of his co-

[7] Only because he has probably been practicing in such unlawful/illegal ways for so long and never expected to be exposed or that they would find out that he was having payments coming directly to him at home – were these payments reported? Hopefully, an investigation by the Legislature/Congress will yield this information. **Providing Constable Lewis with the *investigation* he is requesting.**

CHANGE THAT WORKS FOR YOU!!

conspirators after perhaps obtaining assurance from them that he would be alright – to *"stick with them."* However, to Constable Lewis' and others disappointment, **I am requesting that the Legislature/Congress initiate an Investigations and hold Hearings** regarding this instant Complaint.

The record evidence will support that Constable Lewis unlawfully/illegally removed personal property from my person during his unlawful arrest of me and destroyed and/or tampered with said evidence in that he knew that I would use it in a lawsuit against him. Although I requested the return of my property – See **EXHIBIT "24"** attached hereto and incorporated by reference. To date, Constable Lewis has failed to return my property; moreover, his attorneys have engaged and/or endorsed such criminal acts. *Moreover, **the FBI is aware of such unlawful/illegal and unethical practices** of Constable Lewis and **also failed** to do anything to correct such injustices.*

CUT & PASTED: http://www.michie.com/mississippi/lpext.dll?f=templates&fn=main-h.htm&cp=mscode

§ 97-9-125. Tampering with physical evidence.

(1) A person commits the crime of tampering with physical evidence if, believing that an official proceeding is pending or may be instituted, and acting without legal right or authority, he:

(a) Intentionally destroys, mutilates, conceals, removes or alters physical evidence with intent to impair its use, verity or availability in the pending or prospective official proceeding;

(b) Knowingly makes, presents or offers any false physical evidence with intent that it be introduced in the pending or prospective official proceeding; or

(c) Intentionally prevents the production of physical evidence by an act of force, intimidation or deception against any person.

(2) Tampering with physical evidence is a **Class 2 felony**.

Sources: Laws, 2006, ch. 387, § 13, eff from and after July 1, 2006.

§ 97-9-129. Sentencing

(1) A person who has been convicted of any Class 1 felony under this article shall be sentenced to imprisonment for a term of not more than five (5) years or fined not more than Five Thousand Dollars ($5,000.00), or both.

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(2) A person who has been convicted of any Class 2 felony under this article shall be sentenced to imprisonment for a term of not more than two (2) years or fined not more than Three Thousand Dollars ($3,000.00), ***or both***.

(3) A person who has been convicted of any misdemeanor under this article shall be sentenced to confinement in the county jail for a term of not more than one (1) year or fined not more than One Thousand Dollars ($1,000.00), or both.

Sources: Laws, 2006, ch. 387, § 15, eff from and after July 1, 2006.

See **EXHIBIT "27"** attached hereto and incorporated by reference. Furthermore, the record evidence will support that instead of filing an answer to the lawsuit filed by me in the USDC-MS against Constable Lewis; he elected to bring malicious charges against me and waived any such defense and/or failed to defend against the claims filed in the lawsuit brought by me in the court. NOW HE AND HIS ATTORNEYS ARE RELYING UPON **"SPECIAL"** FAVORS FROM THE JUDGES/MAGISTRATE TO AID THEM IN THE FURTHERANCE OF THE CONSPIRACY LEVELED AGAINST ME AND TO DEPRIVE ME **"EQUAL"** PROTECTION OF THE LAWS AND **"DUE PROCESS"** OF LAWS – ***ATTEMPTING TO HAVE THE LAWSUIT FILED AGAINST HIM UNLAWFULLY/ILLEGALLY DISMISSED!***

In the taking of my microcassette (and who knows what else Constable Lewis helped himself to of my property when he returned and/or upon leaving me at the Hinds County Detention Center), Lewis failed to turn in such evidence at the Hinds County Detention Center at the time of my admission. Instead, Constable Lewis knowingly, deliberately and with forethought kept the microcassette in that ***I advised him that I would be bringing legal action against him and the others***. Therefore, *Constable Lewis intentionally, deliberately concealed, removed and/or destroyed evidence with the intent to impair and/or prohibit its use in the lawsuit he was advised would be brought against him.*

I believe the record evidence will support the civil/criminal wrongs of Constable Lewis, Crews, representatives of Spring Lake Apartments, representatives of Dial Equities Inc. and others in the unlawful/illegal posting of notices and/or **tampering** with said notices for purposes of depriving me equal protection of the laws, due process of laws, and efforts to obtain an undue and/or unlawful advantage over me. Moreover, *that the actions by said persons being done to threaten, incite fear and intimidation in me to force me to give up my residence*. When I refused to do so and legally took a stand on my protected rights, said persons proceeded to have my residence and property unlawfully seized and participated in the unlawful act arising out of such practices.

MISSISSIPPI CODE OF 1972

SEC. 97-3-85. Threats and intimidation; by letter or notice.

If any person shall post, mail, deliver, or drop a threatening letter or notice to another, whether such other be named or indicated

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therein or not, with intent to terrorize or to intimidate such other, he shall, upon conviction, be punished by imprisonment in the county jail not more than six months, or by fine not more than five hundred dollars, or both.

SOURCES: Codes, 1892, Sec. 1303; 1906, Sec. 1377; Hemingway's 1917, Sec. 1117; 1930, Sec. 1147; 1942, Sec. 2384.

CUT & PASTED FROM: http://www.mscode.com/free/statutes/97/003/0085.htm. See **EXHIBIT "28"** attached hereto and incorporated by reference.

I believe that the record evidence will support a pattern-of-practice by the **"certain"** Whites and others. Moreover, their use of government entities/resources and said entities' authority to commit civil/criminal wrongs against me. Moreover, that such pattern-of-practice, resulted in my being subjected to excessive force, discriminatory harassment, false arrest, unlawful seizure of property and residence, unlawful arrest, forced out of my residence and having to move away, etc.

Title 42, U.S.C., Section 14141
Pattern and Practice

This civil statute was a provision within the Crime Control Act of 1994 and makes it unlawful for any governmental authority, or agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration . . . justice or the incarceration . . . that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

Whenever the Attorney General has reasonable cause to believe that a violation has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.

Types of misconduct covered include, among other things:

1. Excessive Force
2. Discriminatory Harassment
3. False Arrest
4. Coercive Sexual Conduct
5. Unlawful Stops, Searches, or Arrests

CUT & PASTED FROM: http://www.**fbi**.gov/hq/cid/civilrights/statutes.htm. See **EXHIBIT "13"** It is important to note, that said information is already in the record of this Court.

I believe that the record will support that government officials (Judges/Magistrates, government officials, agents, constable, etc.) acting under color of law, statute, ordinance, regulations, did willingly, knowingly, deliberately with malicious intent deprive or cause me to be deprived of rights, privileges, etc. secured or protected by the Constitution, Civil Rights Act and other statutes/laws of the United States.

Title 18, U.S.C., Section 242
Deprivation of Rights Under Color of Law

This statute makes it *a **crime*** for **any person acting under color of law, statute, ordinance, regulation,** or custom to ***willfully*** *deprive* or ***cause*** *to be deprived f*rom any person those rights, privileges, or immunities secured or protected by the Constitution and laws of the U.S.

This law *further **prohibits** a person **acting under color of law, statute, ordinance, regulation or custom** to willfully subject or cause to be subjected any person to **different** punishments, pains, or penalties, than those prescribed for punishment of citizens on account of such person being an alien or **by reason of his/her color or race**.*

Acts under "color of any law" include acts not only done by federal, state, or local officials within the bounds or limits of their lawful authority, but also acts done without and beyond the bounds of their lawful authority; provided that, *in order for unlawful acts of any official to be done under "color of any law,"* the unlawful acts **must be done** *while such official **is purporting** or **pretending to act** in the performance of his/her **official** duties*. This definition includes, in addition to law enforcement officials, individuals such as Mayors, Council persons, **Judges**, Nursing Home Proprietors, Security Guards, etc., persons who are bound by laws, statutes ordinances, or customs.

Punishment varies from a fine or imprisonment of up to one year, or both, **and if bodily injury results** or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire shall be fined or imprisoned **up to ten years or both**, and if death results, or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

CUT & PASTED: http://www.**fbi**.gov/hq/cid/civilrights/statutes.htm. See **EXHIBIT "13"** attached hereto and incorporated by reference.

I seek the intervention of the Legislature/Congress and request Investigations and Hearings to address the ongoing conspiracy and to enact and direct the enforcement of the laws which deter such unlawful/illegal actions rendered me by the **"certain"** Whites, their counsel, government entities (their officials/employees) and others. Conspiracy actions orchestrated and/or initiated by *certain* "Whites" against me for purposes of injuring, oppression, threats and intimidation to prevent me from exercising ***protected*** *rights secured under the Constitution as well as other statutes/laws.*

Title 18, U.S.C., Section 241
Conspiracy Against Rights

> This statute **makes it *unlawful*** for two or more persons to *conspire to injure, oppress, threaten, or intimidate any person of any state, territory or district in the free exercise or enjoyment of any right or privilege secured* to him/her by the Constitution or the laws of the United States, **(or because of his/her having exercised the same)**.
>
> It further makes it unlawful for two or more persons to go in disguise on the highway or on the premises of another with the intent to prevent or hinder his/her free exercise or enjoyment of any rights so secured.
>
> Punishment varies from a fine or imprisonment of **up to ten years**, or both; and if death results, or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title or imprisoned for any term of years, or for life, or may be sentenced to death.

CUT & PASTED FROM: http://www.**fbi**.gov/hq/cid/civilrights/statutes.htm. See **EXHIBIT "13"** attached hereto and incorporated by reference.

I further seek the Legislature/Congress' intervention and request Investigations, Hearings and render findings in that I believe the record will support the felonious acts that **"certain"** Whites and others have taken against me; in which I will seek indictments against those found guilty (if any) of such criminal/civil wrongs alleged against me.

MISSISSIPPI CODE OF 1972

SEC. 97-1-3. Accessories before the fact.

> Every person who shall be an accessory to any felony, before the fact, shall be deemed and considered a principal, and shall be

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indicted and punished as such; and this whether the principal have been previously convicted or not.

SOURCES: Codes, Hutchinson's 1848, ch. 64, art. 12, Title 8 (6); 1857, ch. 64, art. 2; 1871, Sec. 2484; 1880, Sec. 2698; 1892, Sec. 950; 1906, Sec. 1026; Hemingway's 1917, Sec. 751; 1930, Sec. 769; 1942, Sec. 1995.

CUT & PASTED FROM: http://www.mscode.com/free/statutes/97/001/0003.htm. See **EXHIBIT "29"** attached hereto and incorporated by reference as if set forth in full herein.

VII. HINDS COUNTY

I believe Investigations will yield information as to the role Hinds County Officials played in the conspiracy and their knowledge of the civil/criminal acts of Hinds County employees (such as Judge Skinner, Constable Lewis and others); however, elected to do nothing because of its knowledge of my participation in protected activities. Thinking that such knowledge of my participation in protected activities, licensed them to commit civil/criminal wrongs against me and assuming that should legal action be brought against it, it would attempt to build a defense around its knowledge of my participation in other protected activities.

On or about August 11, 2006, I submitted an Official Complaint against Constable Jon C. Lewis. To date, I have heard nothing of this Complaint.

On or about August 11, 2006, I also notified Hinds County of my "*Intent to File Lawsuit.*"
See **EXHIBIT "26"** attached hereto and incorporated by reference.

On or about July 11, 2007 (deadline to file Answer to complaint), rather than file an Answer to my civil lawsuit filed against him, Constable Lewis filed (on July 16, 2007) an **untimely** "*Motion to Dismiss/Motion to Quash*" – which was met by a **timely** Motion to Strike . . . by me. Constable Lewis instead of filing a timely Answer to the complaint I filed in USDC-MS, moved in the Hinds County Justice Court (where his friend Judge Skinner worked) to bring malicious charges against me alleging "*Resisting Arrest*" and "*Disorderly Conduct Failure to Comple (sic) With Law Enforcement.*" See **EXHIBIT "30"** attached hereto and incorporated by reference. These charges were dismissed. See **EXHIBIT "31"** attached hereto and incorporated by reference. The malicious charges brought against me by Constable Lewis was unlawful/illegal and merely brought as a dilatory tactic to provide a defense to the civil lawsuit I had filed against him in the USDC-MS – Case No. 3:07-cv-00099. Constable Lewis brought such malicious charges against me well over a year (approximately 16 months later – after his arrest of me). **Constable Lewis was aware as early as February 14, 2006, that he would be sued.** I believe a reasonable mind may conclude that based upon the evidence, one may conclude that the actions by Constable Lewis in the filing of said malicious charges against me, were done under the advisement of his counsel of the law firm of Page Kruger & Holland (my

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former employer who terminated my employment upon learning of my engagement in protected activities – filing of lawsuit(s))

VIII. CONSPIRACY

I believe the record evidence will support the conspiracy acts of **"certain"** Whites and others against me. Therefore, I seek the intervention of the Legislature/Congress to enact and/or direct said laws that prohibit such acts and render the appropriate punishment permissible by statutes/laws.

MISSISSIPPI CODE OF 1972

SEC. 97-1-1. Conspiracy.

If two (2) or more persons conspire either:

(a) ***To commit a crime***; or

(b) **Falsely and maliciously** to indict another for a crime, or to ***procure*** to be complained of or ***arrested*** for a crime; or

(c) *Falsely to institute or maintain an action or suit of any kind*; or

(d) To **cheat** and **defraud** ***another out of property*** *by any means which are in themselves criminal,* or which, **if** *executed,* would amount to a cheat, or to **obtain** *money* or any other *property* or *thing* by **false** *pretense*; or

(e) To prevent another from exercising a lawful trade or calling, or doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements, or property belonging to or used by another, or with the use of employment thereof; or

(f) To commit any act injurious to the public health, to public morals, trade or commerce, or for the perversion or obstruction of justice, or of the due administration of the laws; or

(g) To overthrow or violate the laws of this state through force, violence, threats, intimidation, or otherwise; or

(h) ***To accomplish any unlawful purpose***, or a lawful purpose by any unlawful means; such persons, and each of them, **shall be guilty of a felony** and upon conviction may be punished by a fine of not more than five thousand dollars ($5,000.00) or by imprisonment for **not more than five (5) years**, or by both.

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> Provided, that where the crime conspired to be committed is capital murder or murder as defined by law or is a violation of section 41-29-139 (b)(1) or section 41-29-139 (c)(2)(D), Mississippi Code of 1972, being provisions of the Uniform Controlled Substances Law, the offense shall be punishable by a fine of not more than five hundred thousand dollars ($500,000.00) or by imprisonment for not more than twenty (20) years, or by both.
>
> Provided, that where the crime conspired to be committed is a misdemeanor, then upon conviction said crime shall be punished as a misdemeanor as provided by law.
>
> **SOURCES:** Codes, 1892, Sec. 1006; 1906, Sec. 1084; Hemingway's 1917, Sec. 810; 1930, Sec. 830; 1942, Sec. 2056; Laws, 1954, Ex. ch. 20; 1968, ch. 343, Sec. 1; 1981, ch. 488, Sec. 1, eff from and after passage (approved April 15, 1981.)

CUT & PASTED FROM: http://www.mscode.com/free/statutes/97/001/0001.htm. See **EXHIBIT "32"** attached hereto and incorporated by reference.

I believe Investigations by the Legislature/Congress will yield the following in regards to legal actions I have brought in which persons conspired to: **a)** commit a crime, or **b)** falsely and maliciously accuse me of a crime and subjected me to an unlawful/illegal arrest; **c)** falsely and maliciously repeatedly instituted lawsuits against me – ongoing behavior in which they are now attempting to bring **another** malicious action against for an alleged traffic violation approximately three (3) years ago and threatening me with a **"warrant for my arrest."** See **EXHIBIT "33"** attached hereto and incorporated by reference. An action in which they failed to prosecute. Moreover, an action wherein at the time of the alleged charges the City Prosecutor, Barbara Blunston, was an attorney I worked with during a contract assignment with the Mississippi Division of Medicaid and a person upset when I turned down the job opportunity offered me – after conflict with salary offer. This is merely evidence of continued acts to destroy my life, harass me, subject me to an unlawful arrest; **d)** cheat and defraud me out of my residence through the use of criminal acts and being executed under false pretense to unlawfully/illegally obtain property to destroy evidence, etc. known to them to be brought in lawsuit against them; **e)** commit willful and deliberate acts to obstruct the administration of justice; **f)** to overthrow or violate the laws of the United States as well as the state in which I resided; g) willfully, deliberately and maliciously accomplish unlawful/illegal purposes against me.

> For the Legislature/Congress to obtain the facts, evidence and legal basis of the civil/criminal wrongs rendered me, attached at **EXHIBIT "34"** is the civil complaint I filed in Case No. 3:07-cv-00099 of the USDC-MS.

For such actions taken against me by "certain" Whites was knowingly, deliberately and maliciously done through purposes of "force or threat of force willfully injuring, intimidation or interferences" to me because I am African-American and have sought to seek justice through

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protected activities in the exercise of my rights against such unlawful/illegal violations rendered me. Moreover, actions taken against me by "certain" Whites to further their agenda against African-Americans and/or persons of color. See 42 U.S.C. § 3631- **EXHIBIT "35"** attached hereto and incorporated by reference.

IX. FEDERAL BUREAU OF INVESTIGATION (FBI)

On or about **June 26, 2006**, I filed a "formal" typewritten Complaint in person with the FBI in Jackson, Mississippi. See **EXHIBIT "16"** attached herto and incorporated by reference. On August 5, 2006, I followed up requesting the status of the Complaint and noted certain concerns such as:

> *My concerns, as conveyed in the Complaint, was whether or not the FBI would be willing to investigate the allegations of my Complaint and remain impartial in their handling thereof, due to the fact that Judge Skinner* (Justice Court Judge) – **whose father was killed in the line of duty during an FBI raid in 1971 on the Republic of New Afrika** – the/his Constable (Jon Lewis) and others, associated with Judge Skinner, may have ***engaged in criminal wrongs*** against me which *violated my civil rights* and *other protected rights*.
>
> Upon my recent visit to the FBI's website, I found where the FBI handles Complaints such as mine, which I believe falls under **CIVIL RIGHTS – COLOR OF LAW:** (1) Excessive force, (2) False Arrest and Fabrication of Evidence, and (3) Failure to Keep from Harm.

See **EXHIBIT "36"** attached hereto and incorporated by reference.

The Legislature/Congress' intervention is sought to Investigate the FBI's handling of the complaint I filed in that the evidence supports the claims brought by me were within the jurisdiction of the FBI; however, they failed to perform the ministerial duties owed me. Furthermore, it raises reasonable doubts as to such failure by the FBI may be in furtherance of the conspiracy leveled against me and acts taken to render Judge Skinner and others **"special"** favors. I believe Investigations will yield evidence that the FBI in failing to deter the legal/civil/criminal wrongs brought to its attention, deprived me of rights secured under the Constitution, Civil Rights Act, the statutes/laws upon which they were created and/or are required to uphold. Furthermore, I believe the Legislature/Congress will find that there was never an investigation or inquiry by the FBI as to the claims asserted in the complaint I filed with it, in that said agency compromised its integrity for purposes of rendering of **"special"** favors for Judge Skinner and others as well as actions deliberately done to force me to file legal actions

CHRIST THE WAY FOR YOU!!

against Judge Skinner and others in that they would conspire to make infringe upon depriving me of civil rights, constitutional rights, and other statutes/laws in which I am entitled.

The record evidence will support that a timely Complaint was filed with the FBI notifying of the civil/criminal wrongs rendered me; however, the FBI elected to do nothing and to date has done nothing although they are aware of the conspiracy against me – raising very valid concerns that the FBI is playing such a role in the conspiracy leveled against me.

My concerns regarding the FBI's handling of this matter is the fact that, such failure may be due to its relationships and ties to Judge William Skinner as well as the Judges, attorneys and other friends of the FBI officials. It is important to note that Judge Skinner's father has a police academy in Jackson, Mississippi named after him – *William L. Skinner Training Academy*. Given the facts one may conclude the FBI's failure to prosecute may be a direct and proximate result of the role it played in Judge Skinner's father's death (then blaming it on the RNA) during the 1971 raid on the New Republic of Africa. Moreover, has for all these years covered up such facts for the purposes of destroying African-American lives and subjecting them to prison.

Judge Skinner's background does not only link him to an association and or alliance with the FBI through is father's death, but his SWAT Training FBI, Crisis Management FBI, FBI Defensive Tactics Instructor Certification, Semi-Automatic Weapon FBI/JPTA and Pistol Transition of Instructors FBI. See **EXHIBIT "37"** attached hereto. While he asserts Obadele to be a terrorist, articles and pictures supports his obsession with guns – moreover a medical discharge from the police department – raising serious concerns as to his medical state (what drugs – if any- he is taking) and whether he is even fit to preside as a Judge in that such a position requires decisions that affects the lives of citizens and/or the public at large. *When was the last time he was required to submit to a **"drug"** test*?

X. BARIA FYKE HAWKINS & STRACENER (BFH&S)

This is a law firm I began working for in late 2002. It is a law firm I was employed with while I was involved in a lawsuit against Entergy (USDC-Eastern District of LA, New Orleans; Case No. 2:99-cv-03109) See **EXHIBIT "38"** – Docket Sheet attached hereto and incorporated by reference. **As a matter of law**, this case is **still** pending (while the Docket may show it as closed) because no final judgment (although I have **repeatedly** requested entry of "final" judgment) has ever been entered in this case. Clearly, further evidence of the courts' blatant disregard for my rights and refusal to enter the required judgments in compliance with the statutes/laws in which they are governed. Therefore, this is a matter that I also bring before the Legislature/Congress during its handling of this instant Complaint submitted it. Through this instant Complaint, I am also requesting that the Legislature/Congress through its Investigations determine whether Entergy, its counsel and/or others have been participating the in the conspiracy leveled against me.

Shortly after one of the partners' (David Baria) BFH&S trip to New Orleans, my employment with BFH& S was terminated. The following e-mail evidences my employment:

CHANGE THAT WORKS FOR YOU!!

06/27/03 E-Mail:

VN: David, In that I am presently working and due to the circumstances involving my employment with BFH&S, I would like to have a friend of mine pick up my paycheck on Monday. Also, would like to know whether or not I will be getting my vacation pay as well. If so, please have these checks ready for my friend when she comes by. If there is a problem with this request, kindly advise.

See **EXHIBIT "39"** June 27, 2003 E-mail between myself and Baria; attached hereto and incorporated by reference.

While employed at BFH&S, I worked with David Baria (*Former **President** of the Mississippi Trial Lawyers Association*). Prior to a trip to New Orleans, Louisiana for a conference, I realized that Mr. Baria's behavior and/or attitude towards me had changed. After his return from New Orleans it was more noticeable and his demeanor very agitated, hostile, etc. I felt that prior to and during his trip to New Orleans that he probably had met with attorneys representing Entergy in a lawsuit I had filed. Baria abruptly terminated my employment with BFH&S telling me that I did not seem to be happy there, so he was letting me go to do something else. Such a statement which I knew was false and never did I advise him I was not happy there. I gathered that my termination from BFH&S was a mutual agreement (in the conspiracy that had been hatched against me to ruin my life and blacklist me) in that after the malicious deeds of Baria, he and the other owners left to go to lunch. My termination was prior to lunch. After notifying me of my termination, he left with them for lunch. **I must note, that while there, I was commended for the good job I was doing.** *In fact, the employment agency, which assigned me there, advised me of the positive feedback they had received in regards to my job performance and how the firm wanted to extend to me a job. A job in which I accepted.* While I believed that my abrupt termination with BFH&S was due to the fact that I was suing Entergy and was done as a favor for Entergy's attorneys, I had no proof so I merely moved on. However, I believe that based upon the evidence presented herein as well as that obtained through Investigations by the Legislature/Congress, it will yield additional evidence to sustain the allegations asserted by me.

A. BRUNINI GRANTHAM GROWER & HEWES:

After leaving BFH&S an employment agency assigned me to the law firm of Brunini Grantham Grower & Hewes (BGG&H). The people there seemed so nice. Only being there for a few days, the person I was assigned to work with Charles L. McBride ("Chuck") was pleased with my work. I was approached by the Human Resource person and asked if I was interested in the job and that BGG&H was interested in hiring me. I advised that I was interested and accepted. I then had a conversation with Chuck which during that conversation he had mentioned to me the need to run everything (correspondence, etc.) by him before going out because he was aware of a situation where a secretary had inadvertently mailed out legal documents to the opposing side in error. Had he been the attorney on the other side, he would not have opened the document and would have destroyed realizing that it was information that he

CHANGE. PLEASE WORK FOR YOU!!

should not have received. I advised Chuck I understood. I had first-hand of the situation Chuck was referring to from the additional information he provided. Upon leaving his office and thinking on our conversation, I returned to advise Chuck that I had first-hand knowledge of the situation he brought to my attention because I was the secretary for the other law firm (which was BFH&S) who had received this information and left it at that. Chuck advised me that he would have to check into this; however, it should be okay. However, it was to the contrary. ***Apparently, upon checking with BFH&S – David Baria – Baria was upset and objected to their hiring me.*** As a ***direct and proximate result*** of Baria's behavior and his **threats to bring legal action** against BGG&H if they hired me, it resulted in BGG&H's ***offer of employment being rescinded***. When I discussed this matter with an attorney I had worked with at another firm, I was advised that BGG&H could have taken actions in that lawyers are known to do this all the time. That if there were concerns, all they needed to do was have me sign an agreement to confidentiality - not only that, Chuck and the case or files in relation to the case in question were not even in the department of BGG&H that I would be working for. Nevertheless, this is what happened.

It is important to note that while BGG&H also contacted a former employer of mine (Owens Law Firm – African-American owned) to see if there would be a problem with my working for them. Owens Law Firm had no problem with my working with BGG&H. However, you can see how BFH&S (White owned law firm) began to create problems for me.

IT IS IMPORTANT TO NOTE: That there should be documentation in the records of BFH&S and BGG&H in that upon obtaining a receipt of Baria's correspondence relating to this matter and my assurance to Baria that I would abide by any confidentiality required. However, this was not acceptable. Apparently, Baria did not think that as his secretary I knew anything, so in his response to my correspondence he gave the go ahead in advising that I was under no such obligations of confidentiality. Therefore, I responded in kind (via correspondence) where I sung like a mockingbird and advised both Baria's firm and BGG&H what I knew and addressed the concerns of unethical practices of Baria's wife, Marcie Fyke, in that she was engaging in acts she knew were prohibited by Court Order. I was performing tasks for her not knowing that the Court had issued certain orders prohibiting certain acts. Fyke was providing information to the media, etc. when she knew that what she was doing was unethical, etc. As I mentioned BFH&S and BGG&H have the documentation surrounding this matter. I'm thinking that from her acts and the information provided to BGG&H, something happened, because for a period of time Fyke was not practicing law. (See **EXHIBIT "40"** attached hereto and incorporated by reference – thus an Investigation and Hearings as to the reasons for her inactivity is pertinent in this matter. Moreover, the reasons why she appears to be in *sole* practice now). I was thinking that BGG&H sought actions against Fyke for such unethical practices and violations. This probably being why BFH&S (Baria **Fyke** Hawkins & Stracener) ***dropped*** **her name from the firm** and it later became *"Baria Hawkins & Stracener."* See **EXHIBIT "41"** attached hereto and incorporated by reference. Since then, it appears Baria has left and the other two attorneys (Hawkins and Stracener) have picked up another partner to join the firm and the new name is "Hawkins Stracener & Gibson, PLLC." (See **EXHIBIT "42"** attached hereto) – *Now dropping both Baria and Fyke (David Baria's wife) from the name of the firm.* ***Perhaps wanting to be sure they get rid of any possible future liability to them.***

CHANGE THE WORLD FOR YOU!

IT IS IMPORTANT TO NOTE: Prior to forming the law firm of BFH&S, Stracener (Eric) worked with a law firm by the name of **Page Kruger & Holland** (my former employer – employment which ended in May 2006). Baria and Stracener knew I was working at Page Kruger & Holland.

B. MARY ("MARCIE") MARVEL FYKE:

This being David Baria's wife and she worked at the law firm Baria Fyke Hawkins & Stracener. At the time of my discharge from Page Kruger & Holland, the Mississippi Bar had Marcie listed as "Inactive." While I am not sure for such status, my checking every now and then after the information I provided revealed that she had been Inactive for quite some time. However, upon my mentioning this and the conspiracy hatched against me in the federal lawsuit filed in USDC-MS (Case No. 3:07-cv-00099), Marcie resurfaced and apparently has ***active*** status since the filing of my lawsuit filed in February 2007. However, it appears she is solo. See **EXHIBIT "43"** attached hereto and incorporated by reference.

XI. PAGE KRUGER & HOLLAND ("PKH")

Is the law firm I was employed with at the time of my arrest on **February 14, 2006.** Prior to my termination of employment, the PKH did not advise me of any employment violations and neither was I on probation for any employment issues. In fact, during my employment, I was commended on my work ethics and sustain the Letter of References provided in EXHIBIT "4" of this instant action:

> TOMMY PAGE EMAIL – 06/16/05:
>
> TP: "***You looked very smart & professional as you walked toward the building***!"
>
> VN: "Why thank you. I strive to dress and carry myself in the manner in which PKH requires. ☺"
>
> TP: "You do it well."

See **EXHIBIT "44"** attached hereto and incorporated by reference

> Vogel, First and foremost, you are doing an **excellent** job. These are just a few things that I thought of that might save us both some time and help things flow smoother. . . - - SUSAN O. CARR

See **EXHIBIT "45"** attached hereto and incorporated by reference. It is important to note that since leaving PKH and from information obtained from research, Carr has since left PKH as well and is presently Law Clerk for one of the Mississippi Courts. See **EXHIBIT "46"** attached hereto and incorporated by reference.

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Attached at **EXHIBIT "47"** is PKH Phone Directory/Roster; attached hereto and incorporated by reference.

IT IS IMPORTANT TO NOTE in looking at the PKH Phone Directory, during my employment with PKH and from my understanding, there was a Legal Assistant, John Noblin, who was an attorney; however, did not want to practice law. Therefore, as a filler (until something better came along) he worked at PKH. John later left PKH to accept another job opportunity (non-legal). John is the son of the Clerk of the Court - USDC – Southern District MS (Jackson Division) – J. T. Noblin. See **EXHIBIT "48"** attached hereto and incorporated by reference.

IT IS IMPORTANT TO NOTE that since my employment with PKH was terminated it appears that at least two of the attorneys are now working ***"WITHIN"*** the courts (judicial system) in Mississippi. Carr being a Clerk now and another attorney by the name of **A.B. (Trey) Smith III** is a judge in a Mississippi court. (See **EXHIBIT "49"** attached hereto and incorporated by reference).

> **EMPHASIS ADDED:** Because the evidence presented herein reveals the **"special"** relationships my former employers have with the courts.

The reasons provided me at the time of my termination are set out in my e-mail of May 15, 2006. Although I requested whether or not I would be given written reasons (pink slip) for my termination, PKH denied providing me with the grounds upon which they were basing their termination of my employment. Therefore, as a follow-up and to memorialize the reasons provided for my termination, I submitted their reasons for my termination in an e-mail:

> E-MAIL of 05/16/06 from Vogel Newsome to Louis J. Baine III (shareholder), Thomas Y. Page, Jr. (shareholder), Linda Thomas (Office Administrator) – providing the reasons given for my termination. Page Kruger & Holland's advising being contacted and having knowledge of lawsuit filed by me.

See **EXHIBIT "50"** attached hereto and incorporated by reference.

> E-MAIL of 03/30/06 regarding CONFLICT CHECK to Lawson Hester (shareholder) and providing Linda Thomas (Office Administrator) a copy on 06/31/06:
> VN: Lawson: I recently had a matter occur with a Constable of Hinds County, where I am presently considering. Would this present a conflict? Thanks.

NOTE: My concerns went unaddressed. See **EXHIBIT "51"** attached hereto and incorporated by reference. The record evidence further supporting that PKH was timely notified of my concerns of conflict in their representing Hinds County, as well as my advising of considering filing a lawsuit against Constable Lewis. It is important to note that this conflict was also

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brought to my attention by another attorney, Raymond Fraser (African-American attorney with whom I worked and in whom I advised of what I was dealing with – aware of my arrest.) In fact, Fraser *advised me that he had tried to call me back on the day I was arrested in follow up to our telephone conversation because I had called him during the time Constable Lewis, Crews and others were in my residence to advise him of what was going on.* During said conversation Fraser confirmed that the actions being rendered by unlawful and his surprise in the way things were taking place since he had knowledge of the legal pleadings that were before the court which prohibited such practices.

It is important to note that Fraser also advised that I should talk to Jamie Travis (an African-American attorney at PKH – who during the time of my employment was an Associate; however, since my termination and the filing of lawsuit, it appears PKH has made him a shareholder –perhaps a move to buy his silence in that from my understanding during my employment Travis had been seeking shareholder status for a while and felt that he was entitled to it; however, PKH was not budging) in that Travis went to school with Judge Skinner and may be able to assist in getting the matter resolved. How would the average citizen with no connection to law firms, or the legal industry be aware of such a relationship? Based upon the information provided by Fraser, I have found the following: a) Travis completed laws school (Mississippi College of Law in **1999**) and was admitted to practice **09/28/1999**; and b) Judge Skinner completed law school (Mississippi College of Law in December **1998**, and was admitted to practice **4/27/99**). See Travis' Bio at **EXHIBIT "52"** and incorporated herein by reference, and Skinners Resume at EXHIBIT "20." However, I did not discuss this matter with Travis in that I knew that the actions rendered me were unlawful/illegal and the very acts of engaging Travis to seek what I took as "special" favors due to his relationship with Judge Skinner to me was unethical and clearly went to the very concerns that I realized that African-Americans have believed for years - the judicial system is tainted and the **"shady/corrupt"** dealings that take place behind the scenes. I definitely did not want to be a part of such corrupt practices that I as well, as other African-Americans, knew was present and the reason why the laws are so adverse towards them when faced with judicial and/or justice issues. Leaving me wondering whether or not Travis used my incident and/or PKH knew from my incident that making Travis a partner/shareholder was simply a **"buy-out"** tactic (for his silence) – giving him an interest in the firm in efforts of warring of any liability it knew it would be facing and any other possible conflicts of interest – due to Travis' (and perhaps others) relationship with Judge Skinner. I wanted justice to be based upon the statutes/laws and not upon such improprieties.

A. CCH EEOC DECISIONS:

> Charging Party was hired by Respondent on June 4, 1968, as a bookkeeper. On November 21, 1969, Charging Party was discharged. Charging Party asserts that he had never been reprimanded in connection with his work, and that his supervisor was antagonistic because he is a Spanish surnamed American and because he filed a charge of discrimination against another employer.

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Respondent denies the charge and contends that Charging Party was discharged because he was belligerent, uncooperative and unable to perform work assigned.

One of three of Respondent's officials who participated in the decision to discharge Charging Party stated in an affidavit that he had contacted an employer against whom Charging Party had made a previous Commission charge. He states *that the employer* ***recommended*** *that "****we take action now for our own protection****."* He also stated that "the material in (Charging Party's personnel file) gave indication the (Charging Party) was not rational (sic). The file reflected that he had filed a Civil Rights charge with EEOC. ***I was sure the same thing would eventually happen me.***" The record also reveals that Charging Party received salary increases of $50 and $75 per month in 1968, before Respondent became aware of Charging Party's earlier charge. There is no evidence on the record indicating that Respondent would have discharged Charging Party had it not been aware of Charging Party's earlier charge. Such an action based, at least in part, upon Charging Party's participation in Commission proceedings violates Section 704(a) of Title VII.

Decision: There is reasonable cause to believe that Respondent engaged in an unlawful employment practice in violation of Section 704(a) of Title VII of the Civil Rights Act of 1964 by discharging Charging Party.

See **EXHIBIT "53"** attached hereto and incorporated by reference.

B. 7 POF 2D RETALIATORY JOB TERMINATION § 4:

Among employee activities that are protected against retaliatory discharge is the filing of formal unlawful employment practices charges with the EEOC or a state employment practices commission. The filing of charges is protected even if the charge contains collateral statements which are false and apparently malicious, and this includes charges filed against a previous employer. Also protected is an employee's participation in an EEOC investigation or proceeding, or his refusal to participate in proceedings commenced by another . . .

See **EXHIBIT "54"** attached hereto and incorporated by reference.

I believe Investigations will yield the Equal Employment Opportunity Commission's ("EEOC") officials roles in the conspiracy leveled against me and its failure to enforce the statutes/laws wherein it created and governed. Moreover, how the EEOC's officials/employees used its unlawful/illegal practices to create a ***pattern-of-practice*** against me and create its own profile of

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me so that when I would bring complaints to its attention, they merely ignored the employment violations under Title VII as well as other Civil Rights statutes/laws upon which they were created and/or governed. Investigations into the EEOC' handling of the complaints I filed with it will also yield how I provided typewritten complaints containing facts, evidence and legal conclusions to sustain my complaint; however, they clearly elected to take a far departure from the statutes/laws to deprive me equal protection of the laws and due process of laws.

XII. ENTERGY

This is a company I was assigned to a contract position through an employment agency wherein I was subjected to discriminatory practices by the manger and a recently hired employee. **IT IS IMPORTANT TO NOTE** that after my filing with the EEOC both of these employees employment with Entergy ended. While I do not know the reasons, I believe a reasonable mind may conclude that based upon the facts, evidence and statutes/laws in place, violations under Title VII were found. However, do Legislature/Congress think the EEOC or Entergy made this information public. No. They kept it to themselves and whether than prosecute and hold Entergy liable for said violations, it simply provided me with a Right to Sue Letter. Depriving me rights secured under the Constitution, Title VII, Civil Rights Act and other statutes/laws governing said matters.

The laws are clear that decisions/rulings/judgments entered that lack evidence, legal conclusions to sustain them are deemed to be arbitrary and/or capricious. Moreover, rendered in bad faith and to deprive one equal protection of the laws and due process of laws; furthermore, obstruct the administration of justice.

I AM REQUESTING the Legislature/Congress obtain the records of the EEOC, initiate an investigation into its handling of the Charge submitted by me, hold hearings and render its Findings and/or decisions based upon said investigation. If said violations as to my Constitutional Rights, Civil Rights, etc. are found, that the applicable actions be taken to deter such unlawful/illegal and unethical practices – restoring the integrity and the public confidence in said entity.

I AM REQUESTING the Legislature/Congress based on the information presented herein, initiate investigations, hold Hearings and render its Findings and/or decisions in regards to the USDC's handling of the lawsuit filed by me. If said violations as to my Constitutional Rights, Civil Rights, etc. are found, that the applicable actions be taken to deter such unlawful/illegal and unethical practices – restoring the integrity and the public confidence in said entity.

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XIII. MITCHELL McNUTT & SAMS ("MMS")

Former employer of mine who subjected me to very very. . . hostile, sexual and discriminatory treatment. Also encouraged and/or condoned its employees providing of false information during government investigation for purposes of depriving me rights secured under the Constitution, Civil Rights Act, and other statutes/laws for the purpose of obstructing the administration of justice, depriving me equal protection of the laws, due process of laws, etc.

CUT & PASTED FROM: http://miami.**fbi**.gov/statutes/title_18/section1001.htm

Title 18, U.S.C., Section 1001 - False Statements or Entries Generally

> This statute makes it a crime for falsifying, concealing, or covering up material facts surrounding a civil rights investigation, or making false statements, representations, or writings.
>
> This law prohibits a person acting under color of law, statute, ordinance, regulation or custom to make false statements or misrepresentations surrounding their individual or collective actions, during a civil rights investigation. It has been successfully applied to civil rights investigations involving the loss of life, ***where the subjects of the investigation lied to protect their careers and those of other co-conspirators.***
>
> Punishment varies from a fine or imprisonment of up to five years or both.

MMS conducting and/or operating a business in which it knew it was violating the Fair Labor Standards Act ("FLSA"), Title VII, Occupational Safety & Health Administration ("OSHA"). I brought such unlawful practices to MMS' attention and as a direct and proximate result, the MMS allowed its employees to subject me to retaliatory practices, constant hostile, sexual and discriminatory practices. MMS was aware of their employees' unlawful/illegal actions towards me; however, did nothing to deter such behavior. Instead, MMS moved to terminate and/or fire me. **IT IS IMPORTANT TO NOTE:** I was able to obtain such admission of hostile, sexual harassment and discrimination from MMS' employees during cross examination during the Mississippi Department of Employment Security handling of my request for Unemployment Benefits. Such examination will further support MMS' willingness to produce employees who are willing to falsify and/or perjure themselves to protect their jobs and to see that I am deprived unemployment benefits. (See **EXHIBIT "59"** – Excerpt of Transcript attached hereto and incorporated by reference.)

A. MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY ("MDES")

Decision Code No. 2400
Reporting Point No. 0480
Case No. 00002-R-05-01 and 00241-R-05-01
Circuit Court Case No. 251-2005-163CIV

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The record evidence will support a pattern-of-practice and how and how Defendants have a total disrespect for the laws and place themselves above the laws, relying upon the **special** favors of government employees and/or Courts. Moreover, their links ties to key organizations. How they stopped at nothing to deprive me the relief I sought through the action with the MDES. How MMS' employees were willing to come before the MDES and produce information they knew to be false and/or misleading. They came with what they thought was a well laid out plan, that before they knew it, they were providing testimony to support my claims of retaliation, discrimination, hostile treatment, etc.

> *DeCarlo v. Bonus Stores, Inc.*, 413 F.Supp.2d 770 (S.D.Miss.,2006.) - In his complaint, McArn charged that Terminix maliciously defamed him before the Mississippi Employment Security Commission by stating he was fired for a "bad attitude." At trial, McArn testified that Terminix's
> contention that he was insubordinate was false. That is the extent of McArn's evidence of defamation.
>
> (n. 10) Under Mississippi law, public policy exception to employment at will doctrine permits employee to bring action in tort for damages against his employer if he is terminated for: **(1)** *refusing to participate in illegal act*, or **(2)** **reporting** *illegal acts of his employer to employer or anyone else.*
>
> *McArn v. Allied Bruce-Terminix Co., Inc.*, 626 So.2d 603 (Miss.,1993) - [3] McArn argues that the Mississippi Employment Security Commission was falsely told that he was terminated for a bad attitude and not told the true reason for his firing. McArn argues that Miss.Code Ann. § 71-5-131 (1972) permits a claim for defamation whenever the employer makes statements to the Commission which are "false in fact and maliciously ... made for the purpose of causing a denial of benefits."
>
> There is no question but that Miss.Code Ann. § 71-5-131 provides that communications between an employer and the Commission are privileged and "when qualified privilege is established, statements or written communications are not actionable as slanderous or libelous absent bad faith or malice if the communications are limited to those persons who have a legitimate and direct interest in the subject matter." Benson v. Hall, 339 So.2d 570, 573 (Miss.1976).
>
> In his complaint, McArn charged that Terminix maliciously defamed him before the Mississippi Employment Security Commission by stating he was fired for a "bad attitude." At trial, McArn testified that Terminix's contention that he was

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insubordinate was false. That is the extent of McArn's evidence of defamation.

See **EXHIBIT "59"** Testimony taken under cross-examination and former employer admitting to discriminatory practices and harassment of me. Information was easily obtainable had the government agency(s) to which I filed complaints, would have found if they really wanted to determine the truth and/or merits of my claims; however, failed to uphold the laws as a direct and proximate result of depriving me equal protection of the laws and due process of laws. The record evidence supports that MMS falsely accused me of insubordination and deliberately created situations through their retaliatory practices which required my objections. Moreover, that MMS and employees were aware of my reporting of such unlawful/illegal practices by them.

I REQUEST the Legislature/Congress initiate an Investigation, obtain the record in the MDES action, hold Hearings to determine whether there were violations of my Constitutional/Civil Rights. Moreover, MMS' as well as the MDES role (if any) played in the conspiracy alleged. I believe that an investigation may also yield that as MMS did with the Wage & Hour Division, they provided MDES with information clearly outside the proceedings addressing my engagement in protected activities; or, the MDES took it upon itself to deprive me of rights guaranteed/secured under the Constitution, Civil Rights Act and/or governing statutes because of its knowledge of my engagement in protected activities.

B. OCCUPATIONAL SAFTY & HEALTH ADMINISTRATION ("OSHA")
Case No. 4-1220-04-027 or 4-1220-05-04

I REQUEST the Legislature/Congress initiate an Investigation, obtain the record in the OSHA action, hold Hearings to determine whether there were violations of my Constitutional/Civil Rights. Moreover, MMS' as well as the OSHA's role (if any) played in the conspiracy alleged. I believe that an investigation may also yield that as MMS did with the Wage & Hour Division, they provided OSHA with information clearly outside the proceedings addressing my engagement in protected activities; or, the OSHA took it upon itself to deprive me of rights guaranteed/secured under the Constitution, Civil Rights Act and/or governing statutes because of its knowledge of my engagement in protected activities.

C. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ("EEOC"):
Case No. 131-2005-01442

I REQUEST the Legislature/Congress initiate an Investigation, obtain the record in the EEOC action, hold Hearings to determine whether there were violations of my Constitutional/Civil Rights. Moreover, MMS' as well as the EEOC's role (if any) played in the conspiracy alleged. I believe that an investigation may also yield that as MMS did with the Wage & Hour Division, they provided EEOC with information clearly outside the proceedings addressing my engagement in protected activities; or, the EEOC took it upon itself to deprive me of rights guaranteed/secured under the Constitution, Civil Rights Act and/or governing statutes because of its knowledge of my engagement in protected activities.

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Furthermore, I am requesting that the Legislature/Congress Investigate the handling of ALL charges I have filed with the EEOC and determine whether the ruling of each charge was influenced by any other charges that I may have filed. Moreover, whether or not the EEOC's officials/employees engaged in any conspiracy alleged by me and/or entered arbitrary rulings for purposes of aiding the employer. I believe a reasonable mind may conclude that based upon all of the Charges I filed with the EEOC, there was sufficient information to warrant an investigation and to see that employers were sanctioned and/or required to comply with the laws. However, this did not happen and the EEOC merely engaged in a "pattern-building" manner and unlawfully/illegally dismissed valid charges for failure of not wanting to perform their duties. I am requesting that if said violations are found by the EEOC and its officials/employees that the proper punishment be rendered to deter such actions in the future. Moreover, the EEOC has repeated evidenced its lack of ability to abide by the statutes/laws upon which it was created. Therefore, I would request that the Legislature/Congress determine whether or not the EEOC needs to continue to operate and/or exist. Apparently from my charges brought, they are not enforced the statutes/laws upon it was created. Therefore, not having any purposes for existing and needs to be dismantled and/or overhauled with employees that are willing uphold the statutes/laws.

D. WAGE & HOUR DIVISION ("WHD"):

The record evidence will support that the Department of Justice/Office of Solicitor General, U.S. Department of Labor/ESA – Wage and Hour Division, and Administrative Review Board were timely properly and adequately placed on notice of MMS violation of the FLSA. To no avail. Said agency(s) records will support sufficient facts, evidence and legal conclusions presented to sustain the complaint and/or concerns I brought to its attention. ***While these agency(s) were aware of MMS' violation of the laws governing the FLSA and/or Wage and Hour Laws, they did nothing to deter such acts or to see that the wrongs complained of were corrected and that the injustices rendered against me as a direct and proximate result of my reporting said violations were corrected. Instead said agency, its agents and others engaged in conspiracy.***

U.S. Department of Labor – **FLSA NARRATIVE REPORT**:

> Evidence: Interviews of Supervisor Robert Gordon, Attorney Mike Farrell, and Secretary Ladye Margaret Townsend[8] revealed that Ms. Newsome had been rebellious and insubordinate in job duties assigned her from the start of her employment.
>
> [redacted] interview (Exhibit [redacted]) stated that every since Ms Newsome was hired she been looking for a way to get fired to

[8] All of whom are "White" and having a personal interest and financial interest (either employment and/or business investment related).

pursue a lawsuit. . . After this incident Ms Newsome began working on whether she was paid properly . . . Newsome disagreed with Attorney Farrell and told Cochanuer and Townsend she was going to contact Wage Hour. [redacted] didn't know if Newsome did or not because nothing came of it. [redacted] further confirmed other events of insubordination. (Exhibit [redacted]).

Further action:

[redacted]

(Note) During the course of this investigation, District Director ("DD") Billy Jones retired from the department. Regional Administrator McKeon assigned Assistant District Director ("ADD") Oliver Peebles as Acting DD fro the Gulf Coast District. DD Peebles has been advised through all actions of this case, and all of his instructions have been followed.

See **EXHIBIT "60"** attached hereto and incorporated by reference. I believe the redacted information is pertinent, that I may not have been provided with the entire file. *During my employment with MMS, I noticed how Billy Jones would call quite often requesting to speak to Michael Farrell (one of the attorneys). I found it interesting because during one of the meetings with Farrell, he made it known how he was familiar with the Wage & Hour Division; moreover, how he had the employees personal direct lines and provided such information.* I believe an Investigation by the Legislature/Congress may yield evidence of the government agency(s) and/or its agents cover-up in aiding her former employers in covering up civil/criminal wrongs rendered against me. Moreover, how they secretly handled issues evidencing the wrongs complained of by me; however, failed to assure that the employers were required to come into compliance with the laws. For instance, while they wanted me to believe I did not understand the FLSA and that my employer was not in violation, such is not the case. Prior to bring ingsuch action, I spoke with an attorney I had worked with at another firm and said attorney confirmed my understanding of the statute/laws was correct. In fact, said attorney had also advised that they had recently represented a client who was paying its employees in the same way as MMS and violations were found and the matter was resolved. Moreover, such confirmation has been solidified with my present employer – that my understanding of the FLSA was correct.

IT IS IMPORANT TO ALSO NOTE that shortly after being employed with **PKH,** one of the attorneys brought it to my attention that PKH was recently found to be in violation and sanctioned. This is pertinent information, because an investigation will yield that although PKH was sanctioned, it was still operating in violation of the laws during my employment. Thus, going to additional motive behind my unlawful/illegal termination. Not only that, it goes to the fact that there are many employers that are operating in violation of the FLSA and/or Wage & Hour laws and the WHD is aware of such and discriminatively apply the laws to employers – sanctioning some and allowing some to continue to practice in ways contrary to the statutes/laws governing payment of employees wages. THIS IS IMPORTANT in that the public at large is

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affected and employers are relying upon unlawful/illegal methods to keep from having to pay their employees their full wages.

IT IS IMPORTANT TO NOTE that to have found MMS in violation, MMS would have been required to compensate all of its employees (hourly/salaried/non-exempt) back wages owed for all of the time in which they had been practicing in such a manner. For the WHD to have acknowledged the violations would have been very costly in that MMS, PKH and others who have been conducting business in violation of the FLSA and/or Wage & Hour laws for quite some time. Moreover, an investigation by the Legislature/Congress would yield the name of government employees that knew of such violations and did nothing – allowing MMS, PKH and others to continue in a manner they knew were in violation of the FLSA and/or Wage & Hour laws.

> **MISSISSIPPI CODE OF 1972**
>
> **SEC. 97-9-61. Perjury; penalty.**
>
> Persons convicted of perjury shall be punished by imprisonment in the penitentiary as follows: For perjury committed on the trial of any indictment for a capital offense or for any other felony, for a term not less than ten years; for perjury committed on any other judicial trial or inquiry, or in any other case, for a term **not exceeding ten years**.
>
> **SOURCES:** Codes, Hutchinson's 1848, ch. 64, art. 12, Title 5(2); 1857, ch. 64, art. 205; 1871, Sec. 2661; 1880, Sec. 2922; 1892, Sec. 1244; 1906, Sec. 1319; Hemingway's 1917, Sec. 1052; 1930, Sec. 1083; 1942, Sec. 2316.

CUT & PASTED FROM: http://www.mscode.com/free/statutes/97/009/0061.htm. See **EXHIBIT "61"** attached hereto and incorporated by reference.

It appears from the information obtained MMS employees were willing for falsify and/or provide false statements for the purposes of obstructing the administration of justice and to see that I was deprived the relief sought. See **Title 18, U.S.C., Section 1001 - False Statements . . .** above.

IT IS IMPORTANT TO NOTE: That prior to filing my claim with the Jackson Wage & Hour Division, I had spoken with an attorney at another law firm where I worked and this attorney advised me that my understanding of the law was correct and that their firm had just settled a matter for one of their clients because the client was paying in such a manner as MMS. Moreover, also important to note, my present employer have lawyers who have experience and understanding of the laws governing said matters and my working there has confirmed my understanding of the FLSA and/or Wage & Hour statutes/laws. Further, confirmed my understanding the method of payment that MMS was using prior to and during my employment was in violation of the FLSA and/or Wage & Hour laws.

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E. PUBLIC INTEREST:

I believe this matter is of public concern in that it affects the financial welfare and/or being of other citizens. I believe an Investigation by the Legislature/Congress will yield findings that employers who use such unlawful/illegal practices to deprive employees has knowingly done so with the willful and malicious intent to withhold wages/earnings from its employees. Furthermore, the Wage & Hour Division's assistance and condoning such unlawful/illegal practices; because to find in favor of the evidence (such as that presented by me), will require that MMS compensate its employees as well as myself for the **unpaid** wages earned that they failed to pay. Thus, being a huge financial hit on MMS. However, had they complied with the statutes/laws, they would not now be required to compensate employees for the monies/wages illegally/unlawfully withheld.

IT IS IMPORTANT TO NOTE: That there is a Mississippi Appeals Court Judge who was employed by MMS prior to taking judgeship role. This judge's name is Donna Barnes. See **EXHIBIT "62"** attached hereto and incorporated by reference. I also attach a copy of the MMS Phone Directory for its employees during my employment. See **EXHIBIT "63"** attached hereto and incorporated by reference.

IT IS IMPORTANT TO NOTE: That it appears MMS has closed its Jackson, Mississippi Office in which I was working AFTER the MDES matter and their receipt of the Transcript provided from the MDES hearing. However, while the MDES was in the position to deter and punish MMS and its employees for the unlawful/illegal actions committed against me, said government agency failed to do so for the purposes of aiding MMS and its employees. So attorneys Mike Farrell and Robert Gordon along with co-worker Ladye Margaret Townsend would have to look elsewhere. MMS closing of the downtown Jackson, Mississippi location when they had moved into the facility about May 2004, and had had plans of expanding.

F. BOARD OF REVIEW – U.S. DEPARTMENT OF LABOR:

I request the Legislature/Congress intervention and that the necessary Investigations, Hearings and Findings be rendered in that I believe the record evidence will also yield how I did not leave this matter in the hands of the Jackson Office to resolve – out of concerns of conspiracy acts and relationships with Billy Jones and/or other government agents/employees with MMS and others; Moreover, said relationships would preclude government agencies and/or their employees from remaining fair, just and impartial in the handling of this matter. Nevertheless, I believe the Legislature/Congress will find that although I took extra steps to see that justice prevailed, even taking the matter to Washington, D.C. for handling, also proved to be *futile*. Providing several officers with pertinent evidence to sustain my defense and to expose the unlawful/illegal practices of MMS. See **EXHIBIT "63"** attached hereto and incorporated by reference. Moreover, that Billy Jones (District Director of the Wage & Hour Division) was timely notified of my concerns and the Wage & Hour Division's failure to enforce the laws. WHD being given the opportunity to correct its error. To no avail. WHD was determined to render MMS special favors based upon the established relationships it had with MMS and its employees. See **EXHIBIT "64"** attached hereto and incorporated by reference.

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IT IS IMPORTANT TO NOTE that I went as far as also notifying the ***Secretary of Labor***, Elaine L. Chao. Still the Department of Labor did nothing to see that MMS compensate me (and/or its salaried/non-exempt employees) for unpaid wages earned. I believe an investigation will yield how the Department of Labor shielded such unlawful/illegal acts from me as well as the public in an effort to protect and/or render MMS Special favors. See **EXHIBIT "65"** attached hereto and incorporated by reference. Said Exhibit is merely provided to evidence that documentation is in the record of the Department of Labor as well as with the office of the Secretary of Labor. *This being one of many documentation to said office to notify them of the unlawful/illegal actions of MMS. Merely, getting Billy Jones to leave without exposing the unlawful/illegal actions of MMS was merely a bandage and did nothing to deter and/or end such unlawful/illegal actions by MMS. Moreover, was done to make it appear that I had no valid charge where in fact I was correct in the reporting of the unlawful/illegal actions of MMS.*

XIV. AGENCY ACTIONS

I am requesting the Legislature/Congress' intervention and Investigations, Hearings be held and their Findings submitted in regards to the government entities (EEOC, Wage & Hour Division, OSHA, United States Federal and State Courts, etc.) handling of matters presented by me and/or on my behalf. Moreover, whether I have been deprived of Constitutional Rights, Civil Rights and /or any other rights secured/guaranteed under the statutes/laws under which they are governed to determine whether additional laws need to be created to correct such injustices, for the enforcement of such laws and any and all other recourse the Legislature/Congress is available to the public to address such legal wrongs complained of herein.

I believe that the record evidence of this Court will support that I have been repeatedly subjected to discriminatory handling/treatment of complaints filed by me and/or on my behalf. Moreover, that government entity has allowed continued practices such as those displayed by my former employers and others as exhibited and/or evidenced in this instant Complaint with the Legislature/Congress. Moreover, how confident ***"certain"*** Whites are and their total disrespect for the laws and the rights of African-Americans and/or people of color. So confident, that as in USDC-MS actions as well as other government-entity actions, said persons are so comfortable in coming before the fact-finders and are willing to commit perjury and/or provide false information that they know is clearly prohibited by laws. Therefore, I seek the intervention of the Legislature/Congress to address such Constitutional violations and direct the enforcement of laws to punish such acts.

IT IS IMPORTANT TO NOTE that in the complaints that I have submitted to the government entities mentioned in this instant Complaint, said complaints with those entities were supported by evidence and/or provided sufficient information as to where the evidence could be found; as well as provided sufficient information to provide government agencies with facts to guide them in the right direction where to obtain additional information had they in good faith wanted to uphold the statutes/laws under which they were governed. For example, with MMS an investigation by the Legislature/Congress will yield that I filed a timely **typewritten** *Charge of*

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Discrimination Complaint against MMS with the EEOC; however, the EEOC refused to perform the ministerial duties owed me in its efforts to aid MMS and in furtherance of the conspiracy I have alleged. See **EXHIBIT "66"** attached hereto and incorporated by reference. Moreover, a timely Retaliation Complaint against MMS was also filed with the EEOC. Again, to no avail, because of efforts of this agencies determination to aid MMS and its employees in depriving rights secured under the Constitution, Civil Rights Act, Title VII, and/or the applicable governing statutes/laws. See **EXHIBIT "67"** attached hereto and incorporated by reference.

XV. MISSISSIPPI COMMISSION OF JUDICIAL PERFORMANCE ("MCJP")

I believe that the Legislature/Congress' intervention is also necessary to initiate Investigations, Hearings and render their Findings as to the actions of government officers, as well as attorneys actions and/or conduct that have engaged in the unlawful/illegal and unethical practices rendered me. I believe the record evidence will support that due to the "special" relationships that my former employers have established with government entity officials, to continue to file complaints with the required Associations to exposes the unethical practices of government officials, would prove to be futile. Therefore, the Legislature/Congress is hereby being requested to handled said matters.

For example, the record evidence will support that I filed a timely typewritten Complaint regarding Judge Skinner with the MCJP; however, they elected not to correct the wrongs timely, properly and adequately presented to it. Judge Skinner wherein the record provided herein establishes his strong ties to government operations and the ability to influence decisions based upon well-established relationships. The MCJP allowing a judge they knew and/or should have known based on the information provided and information that would have surfaced during an investigation to continue to obtain the bench rather than have him removed and/or the applicable actions taken deter such conduct in the future. Judge Skinner from my understanding who attempted to seek a position with the highest court (Mississippi Supreme Court); however, lost. So now it appears he is working his way up the judicial chain so that his next run for the Mississippi Supreme Court is successful – starting out in the Hinds County Justice Court and now he has moved up to the Hinds County Court. This is a judge in which the record evidence supports that he has his own laws and renders ruling clearly contrary to the statutes/laws for purposes of furthering his own agenda and rendering "special" favors to his friends, associates, colleagues, etc.

Therefore, I now come before the Legislature/Congress to request an Investigation, Hearings and its Findings as to the actions of Judge William Skinner. Moreover, now the actions of the Judges/Magistrates in the USDC-MS actions – that they be required to provide testimony and evidence to rebut that presented by me and in the record of courts to support their "judicial abuse." Moreover, the evidence provided in Skinner's Resume will support that he had extensive training in the Landlord & Tenant laws; however, elected to take a far departure from the laws and allow the abuse and/or use in the handling of Service of Process for purposes of illegally/unlawfully obtaining jurisdiction over citizens (over the citizens objections). For example: **a)** Skinner did not operate with the guidelines of the Code of Judicial Conduct

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governing Justice Court officials - See **EXHIBIT "68"** attached hereto and incorporated by reference; **b)** Skinner knew and/or should have known that Summons and Complaint was not handled in compliance with the statutes/laws of the state of Mississippi and neither was I given the time to respond in accordance with the laws governing said matters because the Landlord was attempting to obtain property through unlawful/illegal manner. See **EXHIBIT "68"** attached hereto and incorporated by reference; and **c)** that even the Mississippi Justice Court Guide provides helpful information to judges to aid them in determining whether Process was perfected. See **EXHIBIT "69"** attached hereto and incorporated by reference. Nevertheless, Skinner takes it upon himself to create and determine his own justice rather than uphold the laws of the state in which he presides. The evidence provided through is Resume reveals that he is an officer of the Mississippi Justice Court Judges Association – **President** (2005-2006 and 2006-2007) – See EXHIBIT "20" attached hereto..

IT IS IMPORANT TO NOTE that a timely complaint was filed with the MCJP against Judge Skinner. See **EXHIBIT "70"** attached hereto and incorporated by reference. However, the MCJP elected not to do anything and failed to address all of the issues raised against Judge Skinner. See **EXHIBIT "71"** attached hereto and incorporated by reference. I submitted my timely objections to the handling of the MCJP handling of this matter. To no avail. Said submittal proved to be futile. Thus, requiring the Legislature/Congress' intervention. See **EXHIBIT "72"** attached hereto and incorporated by reference.

IT IS IMPORTANT TO REITERATE that I believe Judge Skinner's *goal is the Mississippi Supreme Court and/or higher courts* in which the record evidence will sustain he **is not** qualified as well as the harm that would be rendered the public if he is continued to climb the judicial ladder in which he displaying and rendering clearly arbitrary and/or capricious rulings for the purposes of depriving citizens justice and "special" favors to persons/groups in which he has personal interest and/or gains. Moreover, raising serious concerns that Skinners pursuit of such positions are merely masking his ties to "racist" organizations such as the KKK and the furtherance of said racist organizations agendas underhandedly. Because it is clear that Skinner does not operate within the guidelines of the laws.

IT IS IMPORANT TO NOTE that due to the "special" relationships and/or ties my former employers have to major organizations – such as the Mississippi Defense Lawyers Association (wherein attorneys holding key positions such as "President/President-Elect," "Vice President" – as James D. Holland and W. Wright Hill, Jr. of PKH - See **EXHIBIT "73"** attached *hereto* and incorporated by reference; and PKH employing John Noblin, son of the Clerk of the Court USDC-MS) - which I believe has made it very difficult for me to obtain justice through the appropriate legal and/or judicial process based on such "special" relationships and the conspiracy leveled against me. Furthermore, the record evidence will support that my termination at PKH was deliberately orchestrated through said conspiracy to destroy my life. In fact, my termination with PKH occurred on or about **Monday,** May 15, 2006 – only **three** days before my court hearing on Thursday, May 18, 2006, in the Hinds County Court regarding Motions (such as my attorney Brandon Dorsey's Motion to Withdraw as my attorney, Injunctive Relief I was seeking, etc.) See **EXHIBIT "74"** attached hereto and incorporated by reference. Which clearly evidences a NEXUS between my termination of employment and my participation in a protected activity and PKH's efforts to aid opposing counsel in the lawsuit in which I filed –

my termination coming cause me financial devastation and preclude me from defending lawsuit. Moreover, said court's granting of an unlawful withdrawal to provide the opposing with an undue/unfair advantage over me – "White" justice in full form.

IT IS IMPORTANT TO NOTE that "personal" and/or "special" interest has been confirmed in the USDC-MS matter. Magistrate Judge has recused himself – not before committing judicial abuse and/or unlawful/illegal and unethical practices – for "conflict of interest." However, he failed to disclose to parties what said conflict was as required by law. Furthermore, in efforts of hiding his hand, he failed to provide me with a copy of his Order and I had to retain a copy through other process. See **EXHIBIT "75"** attached hereto and incorporated by reference. Magistrate Judge prior to filing his recusal order filed a ruling requiring me to pay a bond to proceed with my lawsuit. As a matter of law, said illegal bond setting, is prohibited by laws and neither can the court provide evidence to sustain the issuance of such an order. Upon review of the complaint filed in the USDC-MS wherein said court is requiring bond, it will be found that said complaint was drafted in compliance with the statutes/laws governing federal actions; moreover, that the complaint is sustained by "factual" evidence and "legal" conclusions to support the relief sought therein. NEVERTHELESS, as the record will reveal Judges in the USDC-MS action is attempting to uphold the void/null Order of the Magistrate Judge although timely objections, facts, evidence and legal conclusions have been presented to support that the court cannot require the bond sought. See **EXHIBIT "76"** attached hereto and incorporated by reference.

IT IS IMPORTANT TO NOTE that the proper pleading has been filed with the USDC-MS for the certification of the record in preparation for review and/or intervention by the Legislature/Congress. See **EXHIBIT "77"** attached hereto and incorporated by reference.

IT IS IMPORTANT TO NOTE that the USDC-MS is unlawfully/illegally attempting to deprive me access to said court and has entered arbitrary rulings/decisions to that effect. I have filed timely objections to said rulings which are in the record of said court. **THEREFORE, DUE TO THE FACT THAT THE USDC-MS IS ATTEMPING TO CLOSE ITS DOORS TO ME, THE LEGISLATURE/CONGRESS' INTERVENTION IS SOUGHT TO CREATE AN APPLICABLE SUPERIOR COURT AND/OR COMMITTEE TO PULL USDC-MS DOCUMENTS AS WELL AS OTHERS THAT ARE BEING REQUESTED THROUGH THIS INSTANT COMPLAINT.**

IT IS IMPORTANT TO NOTE that such unlawful/illegal and unethical actions by the USDC-MS in attempting to close its doors to me is also an attempt by said courts to aid PKH, MMS and others against future lawsuits they have been notified are to be filed by me. For example, MMS was timely placed on notice of my intent to file legal action through the judicial process - See **EXHIBIT "77"** attached hereto and incorporated by reference – as well as PKH, see EXHIBIT "50" attached hereto.

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XVI. MY ATTORNEYS

I request the Legislature/Congress Investigate, hold Hearings and render its Findings on my attorneys' handling of the lawsuits in which they represented me. Moreover, inquire into the reasons for their **unlawful/illegal and unethical withdrawals** as well as their unlawful/illegal handling of my lawsuits. While the Legislature/Congress may want to direct me to the appropriate agency (Bar Association of the state in which attorneys practice, I believe the record evidence will sustain that such efforts would prove to be futile as a direct and proximate result of the ties/relationships attorney may have with the fact-finders of said association; moreover, how it would be apparent that the association would do nothing in that it would rely upon information outside the proceedings – my participation in protected activities to cloud their judgment). Therefore, the Legislature/Congress' intervention is being sought.

The USDC-MS is presently attempting to **close its doors** to me unless I subject myself to the ***illegal bond setting*** *they have implemented.* The investigation of my attorneys' handling is also pertinent in that it clearly supports the attorneys' belief in the merits of my lawsuits; however, for some apparent reason they abruptly move to withdraw and clearly elect to violate the Code of Professional Conduct, etc. for the purposes of aiding the court as well as opposing counsel in depriving me the relief sought through the legal actions in which they were retained to represent me. Moreover, such an Investigation, Hearings and Findings are necessary in that upon the court's and the conspirators' success in inducing my attorneys to commit civil/criminal wrongs against me through their unlawful/illegal and unethical practices, ***I was left with having to proceed pro se to preserve my rights in the lawsuits involved.*** Therefore, I request the Legislature/Congress Investigate, hold Hearings and render its Findings regarding attorneys conduct:

Brandon I. Dorsey was the first attorney I retained to represent me in the civil matter against leading to the USDC-MS actions. Upon being contacted and being provided with documentation of previous lawsuits by me, he abruptly moved for a withdrawal and deliberately and knowingly provided information he knew to be false and/or misleading. While I knew that such actions by Dorsey were unlawful and unethical and contested his withdrawal, the court obliged him for the purposes of aiding opposing counsel and providing opposing parties with an undue/illegal and unlawful advantage over me. Dorsey advised me during his representation of me, that he ***has to live in Mississippi and feed his family*** – not being able to handle the pressure from opposing counsel and others. See **Title 42, U.S.C., Section 3631 - Criminal Interference with Right to Fair Housing** above. Dorsey required a Retainer to represent me, which he returned. However, this does not shield him from any investigation by the Legislature/Congress to determine whether or not such actions by him violated my Constitutional and Civil Rights and/or statutes/laws governing said matters. Moreover, his role (if any) played in the furtherance of the conspiracy alleged by me in the USDC-MS (3:07-cv-00099) action.

Wanda X. Abioto was the second attorney I retained to represent me in the civil matter after Dorsey abandoned me and has recently filed a *Motion to Withdraw* after representing me in the County Court and authorizing the filing of the Complaint in Federal Court. She represents me in USDC-MS Case No. 3:07-cv-00560. See **EXHIBIT "55"** the Complaint submitted on my behalf – attached hereto and incorporated by reference. While Abioto submitted her Motion to

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Withdraw, said motion was met with my opposition pleading. See EXHIBIT "10" attached hereto and incorporated by reference. From said pleading and the supporting attachments, I believe the Legislature/Congress may reach the same conclusion that I did upon doing research on Abioto, that opposing counsel may have obtained information regarding her sanctions by the Tennessee Bar and Mississippi Bar and used such information to strong-arm her in abandoning me; moreover, taken to get her to throw the lawsuit – wherein she tried in her deliberate and willful acts in not having one of the defendants (only one I gave her to handle in that I had process serve handle service on other parties) in said action served. As a matter or law, such error has been corrected by this defendant's attorney, Monroe, filing a joint pleading with a properly served defendant, Melody Crews. She clearly ignored my e-mails and phone calls requesting she contact me. I had to find out through Monroe's filings on behalf of his clients what he had been up to – badgering, harassing and attempting to get Abioto to withdraw the lawsuit filed on my behalf. Monroe making such threats and attacks on Abioto via correspondence. See **EXHIBIT "56"** attached hereto and incorporated by reference. Monroe going as far as requesting "in court hearing," which was timely met with my objections. See EXHIBIT "9" attached hereto. The actions of Monroe clearly is prohibited by statutes/laws. See **Title 42, U.S.C., Section 3631 - Criminal Interference with Right to Fair Housing** above. Abioto required a Retainer to represent me, which she has only returned $500 and apparently spent the rest. However, this does not shield her from any investigation by the Legislature/Congress to determine whether or not such actions by her violated my Constitutional and Civil Rights and/or statutes/laws governing said matters. Moreover, her role (if any) played in the furtherance of the conspiracy alleged by me in the USDC-MS (3:07-cv-00099) action.

Richard Rehfeldt was the attorney I retained to represent me in the criminal matter arising out of my February 14, 2006 unlawful/illegal arrest. While he was retained to represent me, protect my interest and rights, I believe he may have conspired with opposing counsel in my civil lawsuit(s) and others to set me up and their goal was to obtain a "guilty" verdict. I am also concerned that the FBI would have been in on such unlawful/illegal activities had not put them on notice through my correspondence addressing concerns of corrupt practices – See **EXHIBIT "57"** – 10/01/07 Correspondence to FBI *"Concerns of FBI Cover-Up of Criminal Actions; Status of Findings Regarding June 26, 2006 Complaint Filed With FBI"* – attached hereto and incorporated by reference. I believe the FBI would have aided in the unlawful conviction of me; however upon receipt of my October 1, 2007 correspondence and not certain what other persons were obtaining copies of this document, **squashed** their plans to railroad me. *The "CONSPIRACY" plan was to find me "guilty" so that the **"certain"** Whites (Judge Skinner, Hinds County, Sheriff, etc) and their counsel would have a defense against the civil lawsuit I had filed.* Unbeknownst to Rehfeldt, he was not aware that I had contacted the FBI. I knew after my meeting with him in August 2007, that he would probably attempt to compromise my case. Therefore, I contacted the FBI. See **EXHIBIT "58"** – E-mails to Richard Rehfeldt. I gathered from my August 2007 meeting with Mr. Rehfeldt, when he was trying to set me up to accept being found guilty that he did not like the fact that I would research information he provided to determine whether his advice was accurate. He was employed to represent me and I wanted to be sure that my rights and interests were protected. It was apparent Rehfeldt did not expect me to go and research the laws to determine the best defense. He thought I was going to be stupid enough to place everything in his hands without feedback. It was a good thing I did not do this because it was clearly a setup. I provided Rehfeldt with instructions on how I wanted him to

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proceed with the representation of me in the criminal matter. From the ***deliberate*** acts of Rehfeldt – in his failing to notify me of the court date, it is obvious that he was working with others to assure that I would not appear in court in hopes of getting the court to find me guilty. It will be very interesting to find out what explanation he provided the court for my absence. I do know he attempted to call me after everything to pretend like he did not know why I was not there in court. The reason being because he deliberately failed to advise me of the court date that had been set on the charges brought by Constable Jon Lewis. Rehfeldt required a Retainer to represent me, which to date he has not returned any unearned portion. However, this does not shield him from any investigation by the Legislature/Congress to determine whether or not such actions by his violated my Constitutional and Civil Rights and/or statutes/laws governing said matters. Moreover, his role (if any) played in the furtherance of the conspiracy alleged by me in the USDC-MS (3:07-cv-00099) action.

XVII. KENTUCKY MATTER

Before I begin to address the Kentucky issue, I believe it is important to raise my concerns as to how there appears to be a systematic and/or well-designed conspiracy network between "certain" whites across states and/or the country. From the information contained in this record, the evidence will yield a *pattern-of-**organized**-criminal* wrongs involving government entities/employees to oppress African-Americans and/or people of color seeking to exercise rights under the Civil Rights Act, Title VII, Fair Housing Act, Constitution, etc. – the laws created and designed to protect persons of color from the unlawful/illegal wrongs complained of herein. What is disturbing, is not that it is following me, but how the government has used its resources to "blacklist" me and "network" within their own organizations and engage in such unlawful/illegal and unethical practices against me for the purposes of obstructing the administration of justice and to deprive me equal protection of the laws and due process of laws. Yes, I find our government's participation in such activities very disturbing in that when a citizen brings concerns of such injustices (without evidence) they are projected as being crazy or mentally imbalanced, etc. However, when they have the evidence to sustain their claims (as in my case), the government officials participate with others to further such civil/criminal injustices against me. I am entitled to an explanation for such actions by our government and through this instant Complaint demand such.

While I presently work in Ohio, my residence is in Kentucky. Since moving here, I have found that Kentucky is well known for its Klu Klux Klan (KKK) associations. Which I find very sad. I also have learned that the courts here operate under the "Good Boy" association – which to me excludes African-Americans and/or people of color – wherein they are known to disregard the laws in efforts of yielding special favors for one another.

Based upon the facts, evidence and legal conclusions presented in this instant Complaint the Legislature/Congress' intervention is sought to pull all matters addressed herein and/or made known to it in relation to the matters addressed herein and create the required "inferior"

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court and/or committee to address the civil/criminal wrongs involving the Constitutional and Civil Rights violations addressed.

IT IS IMPORTANT TO NOTE as I have mentioned, that I am currently employed with a law firm in Ohio. Said law firm authorized one of its attorneys to assist me in the Kentucky matter; however, said attorney (white) became upset when confronted with the bad advice being provided. Moreover, it was made known to me that opposing counsel (white) reputation for corrupt practices and making Kentucky news for being a slumlord. It appears they were attempting to force me to give up my residence and a place I enjoyed rather than comply with the laws. Therefore, the attorney assigned me by the firm abandoned me and I am proceeding on. I am very disturbed by the fact that it appears that "certain" Whites feel that they have the right to determine where I want to live and if I do not agree with their unlawful/illegal demands to give up my residence, they result to civil/criminal actions TO FORCE ME OUT!

IT IS IMPORTANT TO NOTE that I have filed a civil lawsuit against the Landlord in Kentucky. See **EXHIBIT "78"** attached hereto and incorporated by reference. The record evidence will sustain that said filing was not made before diligent efforts were taken to resolve the issues addressed. **IT IS IMPORTANT TO NOTE** that the attorney representing the landlord, James West, also worked with the Judge, Gregory M. Bartlett, before Bartlett took the bench. *Do you think this was information made known to me by the court?* NO. **This information was provided to me by one of the lawyers at the law firm I am presently employed at**. Moreover, said lawyer advised me why some attorneys do not like practicing in the state of Kentucky – because of the "GOOD BOY" network in place in Kentucky. Therefore, I believe it is safe to conclude that rather than the laws being upheld in Kentucky, they are rendered as special favors to attorneys, judges friends, colleagues, etc. **IT IS IMPORTANT TO NOTE** that in said action I have successfully obtained an Injunction/Restraining Order against the Landlord; however, since obtaining same, West through the assistance of Bartlett has been trying to get it removed/lifted and attempting to unlawfully/illegally get their hands on rent money being retained in Escrow. However, the proper pleadings have been filed to preserve my rights. **IT IS IMPORTANT TO NOTE** *that I have filed the applicable pleadings requesting the recusal of Bartlett from this matter; however, he has failed to do so. He has also failed to obey the ruling of the higher court (Kentucky Court of Appeals) and refuses to enter rulings in compliance with the statutes/laws. Therefore, this matter and the unresolved issues are presently pending.*

IT IS IMPORTANT TO NOTE that the Kentucky Court of Appeals presently have before it pending actions regarding a Writ of Prohibition I have filed against Judge Bartlett. Said filing was made in compliance with the Order issued by the KY Court of Appeals. However, it now appears said court is attempting to back paddle and extend special favors against my objections. Timely pleading has been filed to notify the Court of Appeals of my intents to engage this Legislature/Congress in said matters. See **EXHIBIT "79"** attached hereto and incorporated by reference. To support the issuance of the Writ of Prohibition and the civil/criminal wrongs involving Judge Bartlett and landlord's counsel, James West, I provide a copy of the Writ of Prohibition filed with the KY Court of Appeals. Said pleading sets for the facts, evidence and legal conclusions to sustain the relief sought therein. See **EXHIBIT "80"** attached hereto and incorporated by reference.

CHANGE. PLEASE MOVE ON!!

IT IS IMPORTANT TO NOTE that I have also filed charges with the Kentucky Commission on Human Rights. To no avail. This agency has elected to circumvent the laws over my objections. A copy of the complaint filed with said agency is attached hereto at **"EXHIBIT "81"** and incorporated by reference. **IT IS IMPORTANT TO NOTE** that while there is evidence in the Commissions record to support the landlords providing of required repairs to other tenants and other tenants not being forced and/or required to move out, said landlord has failed to provide me with the same services. Therefore, I believe it may be due to the landlord and their counsel's knowledge of my engagement in protected activities as well as their knowledge of my matters pending before USDC-MS. **IT IS IMPORTANT TO NOTE** that the Commission has taken a far departure from the laws/statutes under which they are governed to deprive me equal protection f the laws and due process of laws. I believe such unlawful/illegal actions by said agency is due to its knowledge of my engagement in protected activities and merely this government agency furthering the conspiracy I have alleged.

IT IS IMPORTANT TO NOTE that in an effort to shield/mask its illegal/unlawful activities the Kentucky Commission has refused to provide me with a copy of the record. The laws clearly provide provisions for such requests; however the Commission has denied me a copy of the record. Providing me with copies of documents that I submitted; however, attempting to keep me from obtaining documentation that would expose their criminal/civil violations against me. **IT IS IMPORTANT TO NOTE** that I am attempting to file the required Writ of Mandamus action against the Kentucky Commission; however, such efforts have been met with unlawful/illegal resistance. I have filed the applicable *Motion to Compel* with the KY Court of Appeals - See **EXHIBIT "82"** attached hereto and incorporated by reference – as well as the applicable pleading to stay actions in that the Kentucky Commission is aware of my intent to bring a Writ of Mandamus action against it. The Kentucky Commission has resorted to actions clearly prohibited by laws to preclude me from obtaining a copy of the record in that it will reveal the unlawful/illegal and/or civil/criminal wrongs of its employees.

IT IS IMPORTANT TO NOTE that the KY Court of Appeals is attempting to aid the Kentucky Commission in the shielding/record without legal and/or just cause but to keep me from seeing the civil/criminal acts of the Commissions officers/employees. I have filed the Motion for Findings as well as placed the KY Court of Appeals on notice of my intention to seek the Legislature/Congress intervention. See EXHIBIT "79" attached hereto and incorporated by reference.

A. ATTORNEY

It is important to note that I retained an attorney to represent in this matter. This attorneys name was Brian Bishop. However, in keeping with the pattern-of-illegal/unlawful actions, Judge Bartlett granted a his Motion to Withdraw. Said motion which is also being contested. Bishop required a Retainer to represent me, which I paid and which to date he has not returned any unearned portion. However, this does not shield him from any investigation by the Legislature/Congress to determine whether or not such actions by him violated my Constitutional and Civil Rights and/or statutes/laws governing said matters.

THEREFORE, the Legislature/Congress' intervention in this matter is requested to aid in the protection of my Constitutional and Civil Rights.

XVIII. RELIEF SOUGHT

WHEREFORE PREMISES CONSIDERED, Vogel Denise Newsome request the following relief through this *Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Findings*:

1. Pursuant to **a)** Article 1 – The Legislative Branch; **b)** Article 1 § 8 – Powers of Congress,; **c)** Article 3 § 1 – Judicial powers and create the applicable tribunal (inferior court and/or committee(s)) to address the Constitutional Right and/or Civil Rights violations addressed herein. Moreover, civil/criminal wrongs rendered through said Rights and/or violations of the statutes/laws associated and/or governing said Rights; and **d)** Article 4 – The States: wherein I am requesting the Legislature/Congress intervention in any/all state matters addressed herein regarding me and/or made known to it through the filing of this instant Complaint.

2. I seek the relief sought in this instant Complaint under the United States Constitution, the Constitution of the States addressed and/or affected by said filing

3. I am requesting that due to the evidence presented in this instant Complaint that the Legislature/Congress create the required "inferior court" and/or "committee(s)" and initiate Investigations, hold Hearings and render their Findings as it relates to the Constitutional, Civil and Criminal wrongs complained in this instant Complaint.

4. I am requesting that due to the evidence presented in this instant Complaint that the Legislature/Congress create the required "inferior court" and/or "committee(s)" and initiate Investigations, hold Hearings and render their Findings as it relates to the Constitutional, Civil and Criminal wrongs complained in this instant Complaint and that the Legislature/Congress pull the following matters/cases and/or those brought to its attention regarding me through its handling of this matter which include, but is not limited to the following:

    a) United States District Court Actions:

        i) Cases in the Federal Court – USDC Southern District of Mississippi (Jackson Division) Case Nos. 3:07-cv-00099 TSL/LRA and 3:07-cv-00560 WHB/LRA – the Docket Sheet for said cases are attached hereto respectively as **EXHIBITS "83"** and **"84"** and are incorporated herein by reference.

ii) Case in the Federal Court – USDC Eastern District of Louisiana (New Orleans) Case No. 2:99-cv-03109 – See **EXHIBIT "38"** attached hereto.

b) State Court Actions (State of Kentucky):

i) Kenton County ***District*** Court Case No. 06-C-05059 – Appeal: Kenton County Circuit Court Case No. 07-XX-00001; and Kentucky Court of Appeals Case No. 2007CA001589

ii) Kenton County ***Circuit*** Court Case No. 06-CI-03270 – Appeal: Kentucky Court of Appeals Case No. 2007CA000834

c) State Agency Actions (State of Mississippi)

i) MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY ("MDES")
Decision Code No. 2400
Reporting Point No. 0480
Case No. 00002-R-05-01 and 00241-R-05-01
Hinds County Circuit Court Case No. 251-2005-163CIV

ii) OCCUPATIONAL SAFTY & HEALTH ADMINISTRATION ("OSHA")
Case No. 4-1220-04-027 and/or 4-1220-05-04 and/or all cases filed on my behalf and/or related to me

iii) EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ("EEOC"):
Case No. 131-2005-01442 and/or all cases filed on my behalf and/or related to me

iv) WAGE & HOUR DIVISION ("WHD")
Any and all Cases filed on my behalf and/or relating to me.

v) BOARD OF REVIEW – U.S. DEPARTMENT OF LABOR
Any and all Cases filed on my behalf and/or relating to me.

d) State Agency Action (State of Kentucky)

i) Kentucky Commission on Human Rights – Case Nos. KCHR 1423-H and HUD No. 04-07-0000-8

e) Hinds County Board of Supervisors

f) Federal Bureau of Investigations (FBI)

g) City of Jackson Matter – Regarding Traffic Citation (See EXHIBIT "33")

5. Any and all applicable relief allowed under the Constitution, Civil Rights Act, and statutes and laws governing the civil and criminal wrongs addressed herein.

Respectfully submitted this **14th** day of **July, 2008.**

VOGEL DENISE NEWSOME
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (601) 885-9536

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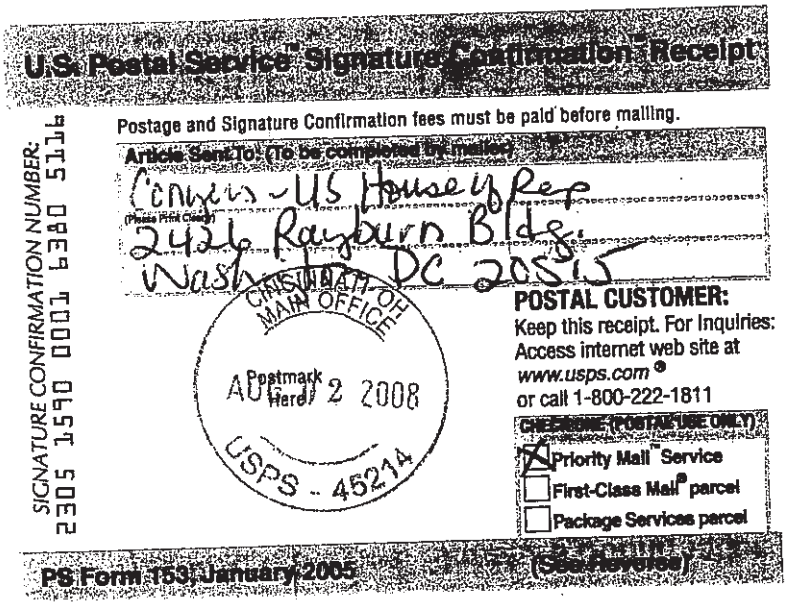

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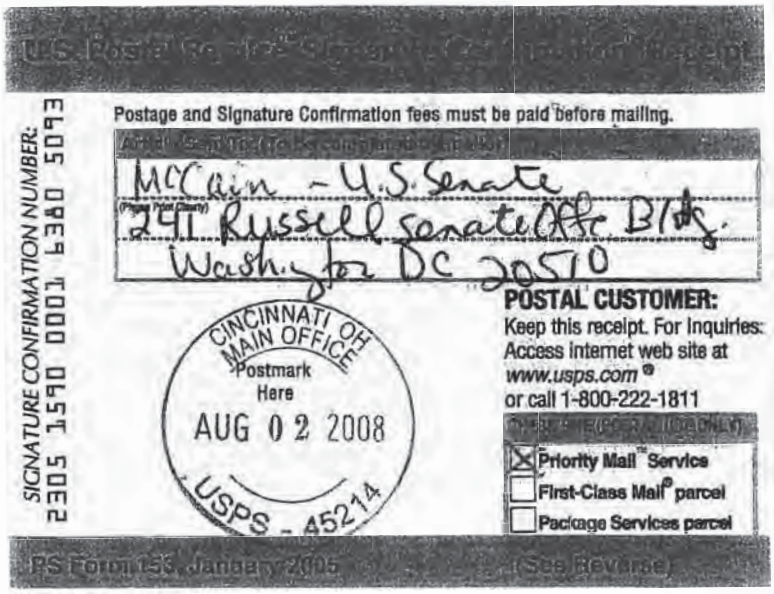
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Trouble at Hinds Youth Detention Center



File Photo

Hinds County Supervisor Peggy Calhoun says that she has been shut off from the detention center since the county took authority away from Judge Bill Skinner.

by Ward Schaefer
June 3, 2009

A rash of suicide attempts at the Hinds County Youth Detention Center brought a long-simmering conflict to a boil Monday. The center, also called Henley-Young, saw six suicide attempts last month, District 3 Supervisor Peggy Calhoun revealed at a Board of Supervisors meeting. Over repeated objections from George Smith, president of the county Board of Supervisors, Calhoun suggested that a "cover-up" was responsible for the lack of communication between the center and supervisors.

"Why wasn't the Board of Supervisors notified of these incidents?" Calhoun asked. "I had to request documentation of this information twice, long after the fact. If a child is hurt at the center, then the Board of

EXHIBIT 39

Supervisors is liable. It appears that there have been efforts to cover up these incidents."

Among other incidents, Calhoun described a male detainee hitting his head repeatedly against his cell door and a female detainee tying socks around her neck. Henley-Young staff may not be providing adequate supervision or communicating enough with each other, Calhoun suggested.

"When the detention center was under the supervision of the judge, there was no problem disclosing what was going on at the center," Calhoun noted, referring to Hinds County Court Judge Bill Skinner.

The Supervisors gave Skinner authority over the detention center, in addition to his powers as Youth Court judge, more than a year ago, but in January, it voted 3-2 in executive session to revoke that authority due to complaints. "The board had received information that we believe were federal violations regarding the operation of the center," Supervisor Robert Graham told the Jackson Free Press Tuesday.

Calhoun and District 4 Supervisor Phil Fisher opposed the move, and Skinner has asked a chancery-court judge for an injunction on his behalf. Skinner still serves as a Youth Court judge, however, which means that he controls the influx of juveniles into the detention center.

Skinner did not return calls Tuesday.

Speaking to the Jackson Free Press after the meeting, Graham cautioned that, while serious, Calhoun's comments were merely allegations and require investigation.

"We're going to move on these allegations and make sure that the children are being protected no matter what," Graham said. "We've requested that the state come in just to check out the allegations."

Calhoun provided documentation for her allegations in the form of reports from Henley-Young Director Darron Farr to County Administrator Vern Gavin. The reports detail the seven suicide attempts at Henley-Young since January, as well as incidents of detainee misconduct and an injury that a guard suffered May 28 while trying to break up a fight.

Donald Beard, director of the state's Juvenile Facilities Monitoring Unit, said state evaluators will visit the center June 10. A visit from the agency earlier this year turned up numerous violations. Evaluators found that the center was holding juveniles and adults in the same areas and detaining non-criminal runaways with criminal offenders, both of which violate state law.

Beard said evaluators will first look at whether Henley-Young is adequately staffed. Following national standards, his agency recommends that detention centers hold no more than eight juveniles for each staff person in order to prevent problems. If a detainee is on suicide watch, guards should have visual contact with him or her every five minutes, Beard said.

"Our recommendation is that we never allow overcrowding in detention centers for fear of something happening—very much what's alleged at Henley-Young," he said.

Youth Court judges have substantial discretion in dealing with juvenile offenders, Beard added. Instead of detention, judges can refer juveniles to a mental institution or a monitoring program.

"If the detention centers is at full capacity, then some other alternatives should be looked into," Beard said.

Henley-Young Director Farr referred all questions to Gavin, who acknowledged the center's staffing problems.

"We were understaffed for maximum capacity, but at this particular point we are operating at maximum capacity," Gavin said. "So we're caught in a situation where we need additional staff."

The center is currently holding its maximum capacity of 84 juveniles, Gavin said. It has 24 people on staff, but not all of those are on duty at the same time. Gavin also said that Farr has recommended a lower staff-to-detainee ratio

of five to one. Farr himself has little control over the number of juveniles he must hold. That figure is the responsibility of the Youth Court and Judge Skinner.

“Whether or not they are released or booked is the decision coming from the judge,” Gavin said. “The court side determines who stays and who goes.”

The Mississippi Youth Justice Project, an advocacy organization focusing on juvenile justice, toured Henley-Young in December 2008 and found several causes for concern, including the center’s use of a restraint chair without properly trained staff. MYJP Director Bear Atwood, the center has stopped using the restraint chair, but she still has concerns about the lack of mental health screening.

“They should be able to say, ‘We can’t take a child who we can’t care for,” Atwood said this week.

posted by Ronni_Mott on 06/03/09 at 08:03 PM. [printer version]

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COMMENTS

I hate to say it, but I have to be honest!

But let's face facts:

1. DHS is so big, maybe the focus should be put on moving juvenile justice under another umbrella?

2. The Department of Corrections understands how to house and care for aggressive youth and they process juvenile offenders through Corrections and then tranport them over to DHS anyway.

My conclusion, move the responsibility from one agency to another that specializes in that area anyway.

posted by Duan Carter on 06/04/09 at 07:00 AM

Most people do not understand that the Youth Detention Center is a "holding facility" and not a juvenile prison. Children are held there for all sorts of reasons - not just because they are "aggressive youth" and would be charged as having committing a "crime" if they were considered adults. These are children. Some are held for their own protection until such time as they can be released to their parent or guardian. But all children booked into the facility are done so under the direction and administration of the Youth Court Services, which comes under the authority of the Judge - not DHS. The Department of Corrections deals with those considered juveniles but who have broken the law and are considered adults by reason of the law.

posted by kb5vag777 on 06/04/09 at 09:46 AM

---

so kb5vag777, riddle me this? when Southern Poverty Law Center sued the state of Mississippi - what agency took the blame or was held responsible for the action?

posted by Duan Carter on 06/08/09 at 06:54 AM

---

baquan2000: I think your asking that question proves my point - "most people do not understand..." the purpose of the Henley-Young Juvenile Justice Center.

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"Truth" about Henley Young Center, The

0 Comments | Jackson Advocate, Nov 12-Nov 18, 2009

Judge William Skinner has been at The Henley Young Juvenile Justice Center (HYJJC) for three years. In that three-year period, there has been three different Detention Center directors. In the first year, Betty Longino was the director. But she was isolated and did not have any communicative relationship with Skinner. There was never even a meeting between the two. The reasoning was that Skinner did not have full control over the HYJJC; that he only controlled the courtside. Longino went on to retire because of Skinner's antics of refusing to work with her as a collective unit.

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In the second year, Lakesha Bell Wilson, who had the same problems with Skinner, was employed for only a year: April 2007 to April 2008. In January 2008, the Board of Supervisors awarded Skinner full control over the Detention Center and the Youth Court. Skinner wasted no time. On February 4, 2008, Skinner demoted Wilson from Director to a Supervising Officer, and on April 14, 2008, she resigned. Likewise, Wilson refused to be one of Skinner's flunkies.

The third and current director is Darron Farr. It is clear that Skinner sought after Mr. Farr, persuading him to come on board with the understanding Farr had expertise in the area of state and federal rules and regulations and laws that pertain to juveniles. This may have been due to the fact Skinner was facing numerous federal and state violations. Apparently, he needed Farr to help keep the federal and state monitors off his back. Once Skinner realized Fair was not willing to violate state and federal regulations, Skinner immediately began planning Farr's demise. It appeared once again that Skinner had lost control of the detention side and was again in the media attempting to destroy yet another Director.

Skinner routinely housed adult inmates with juveniles at HYJJC knowing this was a violation of state and federal laws. Skinner was prone to lock up non-felon juveniles for numerous days, sometimes 20-30 days before a hearing. At the hearing, he would sentence these same juveniles to an additional 89 days, not counting the time already served. This was supposed to be the judge's program for rehabilitation.

However, only the punishment, not the rehabilitation, applied. Skinner hired a LPN, but according to the Board of Nursing, she could not carry out all of the day-to-day healthcare needs at the facility because she is not qualified to do so as a LPN; a RN is required. The LPN Skinner hired was a family member-his brother's wife's mother.

The Detention Center houses 99% to 100% minorities. The other possible 1% comes from outside counties. Because Skinner does not get paid any extra money whether he is in control of the facility or not, one would ask why Skinner, with nothing to gain, would want full control of the facility. We would say it has to be the money!

Concerned Citizens for Hinds County

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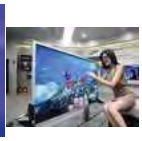
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Group Says Henley-Young Punishing, Not Helping Kids

Youth Detention Facility's Goal Is Rehabilitation

POSTED: 2:35 pm CDT July 23, 2009
UPDATED: 8:44 am CDT August 11, 2009



JACKSON, Miss. -- The Henley-Young Youth Detention Center is meant to help put children headed down the wrong path on the right one. Unlike the adult criminal system where punishment is the purpose, the youth system's goal is rehabilitation.



But inside Hinds County's Henley-Young, many said that goal isn't being reached. The Mississippi Youth Justice Project said that the children are being locked up on minor offenses and children with mental illness aren't getting treatment. They said that the facility is more of a revolving door than a center for rehabilitation.

"It's a jail -- it's no more, no less," Bear Atwood with the Mississippi Youth Justice Project said. "If you go inside, it looks like any prison movie you ever saw."

At 84 beds and 54,000 square feet, the Henley-Young Juvenile Detention Center is where youth court sends children who break the law. The children range in age from 10 years old to 17 years old. The center's goal is to hold the children until they see a youth court judge. For the children who are sentenced to serve time at the center, the goal is rehabilitation.

"What we are doing in Hinds County is completely the wrong way to go about it," Atwood said.

The Mississippi Youth Justice Project monitors the youth facility, and representatives make regular visits.

"They are at risk for a serious incident -- of a youth being seriously hurt or of a staff member being seriously hurt. They are at risk for a youth suicide,"

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Atwood said.

Mississippi's Juvenile Facilities Monitoring Unit released a report last month about Henley-Young and found several problems. As a result, the unit made recommendations including the following:

• Henley-Young should report all suicide attempts and threats to the judge, Hinds County Board of Supervisors and the monitoring unit immediately.
• Mental health screenings should be performed as soon as a youth is brought into the facility instead of after the detention hearing.
• Henley-Young should hold a meeting with Jackson Public Schools officials to keep local schools from using the center as a dumping ground for disruptive kids.
• Henley-Young should stop feeding children in their cells, unless there is a security issue. Right now kids are fed in their cells, where they also have a toilet to use the bathroom.

“Seventy-90 percent of the kids there have a mental health diagnosis. Many of them come without medication. If they don’t have their medication with them or their family doesn't bring them, they don’t get it at all,” Atwood said.

The Lincoln High Project teen Christian novel Matthew 5:16 goes to high school www.myspace.com/lincoln_high
Affordable Teen Programs Overcome Depression, Anger and Substance Abuse. Call us! www.TrailsCarolina.com
Department Of Corrections Find more sources/options for Department Of Corrections www.webcrawler.com
Courthouse Panic Alarm Wireless panic alarm allows judges to signal for help www.ciscor.com

Atwood said the court dumps the mentally ill children at Henley-Young because they don't know where to put them. But Henley-Young staff members said that placing the kids in the proper mental health facility isn't always possible right away.

“The last thing we want is for any child to be in this facility that should be somewhere else, but there is a process. Sometimes it takes between eight and 24 hours,” Henley-Young resource Officer Claude McInnis said.

McInnis said locations for children with mental illnesses are often backlogged, making it difficult to place a child right away.

“Henley-Young is never going to release a child back to a situation where that child could harm others or harm themselves,” McInnis said. “We would rather secure that child in a facility that's designed for juveniles.”

McInnis showed 16 WAPT News around Henley-Young. He showed reporter Joseph Pleasant the visitation, booking and on-site school areas. McInnis said he agrees with Atwood and others when it comes to staffing. He said they need more guards and professional counselors, but filling those positions is up to the Board of Supervisors.

Board of Supervisors President Greg Smith said the problem is that the county can't estimate how many children will come into the facility.

“We have not had the population that we have now, so therefore that’s something we have to address,” Smith said.

Youth Court Judge William Skinner controls the population. Skinner declined to be interviewed for this story.

“I think we are doing a good job. I do think they are some deficiencies,” Smith said.

Henley-Young officials admit to the problems they are having, including the numerous violations, understaffing and suicide attempts, but they said right now, they are working on ways to make sure the facility is safe and healthy for the children who come there.

“The administrator is in the process of making sure every staff member knows what their role and responsibility is,” Smith said.

Henley-Young staff members said that they are also working with the Mississippi Youth Justice Project to improve the quality of service.

“Our challenge is to make sure that not only do we do that, but we continue to educate that child,” Smith said.

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Hinds County, MS 01/14/08

Youth court judge battles Board of Supervisors

Posted: Jan 14, 2009 6:46 PM EST
Updated: Feb 04, 2009 10:32 AM EST

By Monica Hernandez - bio | email

HINDS COUNTY, MS (WLBT) - He's been heralded as a problem-solver who gets results. But now, Hinds County Youth Court Judge Bill Skinner is facing serious allegations.

At least, that's according to Hinds County Supervisor Robert Graham, who couldn't give specifics because of pending litigation.

"Nothing where children are in any immediate type of threat or danger, but there was not just one allegation, there were several, and as I stated, they were substantial and some have been verifiable," said Graham.

And so, on January 5th, almost a year after the Hinds County Board of Supervisors voted to give Skinner control of the Henley-Young Juvenile Justice Center, they voted 3-2 to take it away. Skinner still oversees youth court, but his duties at the youth detention center were handed over to executive director Darren Farr.

Some supervisors believe the move is completely political.

"I think ego had a lot to do with it and just the desire to have more power," said Hinds County Supervisor Phil Fisher. "This veil, these allegations of this that and the other, it's all something to hide behind. The point of the matter is, the judge has done an excellent job."

Judge Skinner's attorney, Brandon Dorsey, said it's too early to comment at this point, except to say he hasn't been made aware of any allegations against the youth detention center.

Skinner filed an injunction January 8th, hoping to regain control of the detention center. The injunction cites Attorney General Jim Hood's opinion that "it is the youth court judge who has the final legal responsibility for administering the youth detention facility."

No Hinds County judge has agreed to hear the case, so it's being turned over to the Mississippi Supreme Court.

Graham said the supervisors voted to put Skinner in charge of the center, which was previously run by the board of supervisors, because he promised to save money for the county and improve performance.

"Several supervisors don't believe he was able to deliver on the promise he made. In fact, the budget went up in several different areas," said Graham.

Fisher said the budget has increased because of improved technology and conditions at the facility.

"I don't think Judge Skinner has done anything outside the lines of what any other good manager would do," said Fisher. "I think there are too many other things in the county that are broken, that the board of supervisors doesn't need to get involved and break something that's working."

"Honestly, I think this is one of those issues where the buildings on fire and the board of supervisors are fighting over a parking spot," added Fisher.

The Mississippi Youth Justice Project is investigating the center. Representatives said there are some concerns with the center's education standards and conditions, but wouldn't go into detail. MYJP added that the center is working hard to make sure it's up to standard.



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Jackson Free Press jegyzetei

Jegyzetek a Jackson Free Press témában

Feliratkozás

Jackson Free Press jegyzetei

Trouble at Hinds Youth Detention Center

Jackson Free Press, 2009. június 3., 14:03

by Ward Schaefer June 3, 2009 A rash of suicide attempts at the Hinds County Youth Detention Center brought a long-simmering conflict to a boil Monday. The center, also called Henley-Young, saw six suicide attempts last month, District 3 Supervisor Peggy Calhoun revealed at a Board of Supervisors meeting. Over repeated objections from George Smith, president of the county Board of Supervisors, Calhoun suggested that a cover-up was responsible for the lack of communication between the center and supervisors.

Hozzászólok · Tetszik · Az eredeti bejegyzés megtekintése · Megosztás

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Website:
www.dunbarmonroe.com

February 19, 2007

Wanda Abioto
2353 Syon
Memphis, TN 38119

Via Facsimile (901) 791-2248 and U.S. Mail
Also via abioto@hotmail.com

Re: ***Vogel Newsome v. Melody Crews, et. al.***, Civil Action No. 3:07cv00560

Dear Ms. Abioto:

This letter concerns the case you purportedly filed against my clients Melody Crews and Dial Equities, Inc. asserting certain Fair Housing Act violations, among other things. I am attaching to this letter a letter from your client, Mrs. Newsome, to the Clerk of the United States District Court providing six (6) filings which *she signed* with her name over *your* signature block. I attach only the first four (4) of those filings. I note Vogel Newsome carbon copied you on the filings as well.

Vogel Newsome represented to the Court you were sick so she was making the filings for you. This implies, to me, that you have read and **approved** the content of those filings which defame and make unprofessional accusations against a siting United States Magistrate Judge. This is wholly unacceptable. I have called you today and yesterday about this and you have ignored me. I emailed you on February 14, 2008 and again today. You have failed to respond. I have also noted that you did not even sign the Complaint. **Rather it appears your client signed your name to the initial complaint. Do you even represent her?**

Therefore, please accept this letter as my final attempt to request that you either contact me and discuss this or make arrangements with the Court to withdraw these accusations and confirm your involvement as counsel for Ms. Newsome. If you fail to respond on or before Thursday, February 21, 2008 by 5:00 p.m. then I will consider your silence to be ratification of the attached filings and will advise the Court you have failed to dispute your involvement in these accusations. I also demand you sign the Complaint and all submitted motions of record to date.

I do not believe I can overstate to you how critical it is that you clear up this matter immediately. I look forward to your immediate response to me or via filings with the Court in this matter.

Cordially,

DunbarMonroe, PLLC

Clark Monroe

GCM/mfg
Enclosures
cc: Lanny Pace

EXHIBIT 40

DUNBARMONROE, PLLC

ATTORNEYS AT LAW

G. Clark Monroe II

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February 21, 2008

Wanda Abioto
2353 Syon
Memphis, TN 38119

Via Facsimile (901) 791-2248 and U.S. Mail
Also via abioto@hotmail.com

Re: ***Vogel Newsome v. Melody Crews, et. al.***, Civil Action No. 3:07cv00560

Dear Ms. Abioto:

This confirms your call yesterday regarding my letter to you of February 19, 2008. In that call you confirmed to me that you authorized the filing of the complaint in this matter. You also advised you presently represent Mrs. Newsome and that you authorized Mrs. Newsome to sign your name to the initial Complaint and send it to the Court for filing on your behalf as her lawyer.

You also advised you did not know about the subsequent filings in this case made by Mrs. Newsome in which she made numerous accusations against United States Magistrate Judge Anderson. You have advised you do not endorse her statements made therein. You also advised that you would be filing a Notice of Withdrawal as counsel as a result of these actions.

As I expressed to you yesterday, we will not agree that you may withdraw as counsel unless you dismiss the entire lawsuit. Pursuant to the Local Rules for the Northern and Southern District of Mississippi, Rule 83.1(B)(3) "when an attorney enters an appearance in a civil action, he or she shall remain as counsel of record until released by formal order of the court." The rule requires that a motion must be filed. It is our position that you knew Mrs. Newsome would make unauthorized filings when you agreed to file this suit. We also take the position that you knew that she had already filed Civil Action No. 3:07cv00099 and that the case you filed was based upon the same facts and circumstances. You were fully aware that Mrs. Newsome would be a difficult client and one you could not control. However, notwithstanding this knowledge, you chose to sue my clients and instigate this now third frivolous lawsuit against my client on Mrs. Newomse's behalf. Therefore, unless the Court releases you we have no intent of agreeing to your withdrawal as counsel. Also, even if released, you remain responsible for the filing of the Complaint pursuant to Rule 11 and we are going to seek sanctions under that rule.

I regret this position is necessary, but the costs to my client to date have exceed the bounds of reasonableness and much of it is directly due to your knowingly filing this frivolous suit and presumably encouraging Mrs. Newsome's belief that she has a valid claim.

Cordially,

DunbarMonroe, PLLC

Clark Monroe

GCM/mfg
Enclosures
cc: Lanny Pace

DOCKET 1180 PAGE 585

999-0049430

LEWIS JON - CONSTABLE

STATE OF MISSISSIPPI

VS.

NEWSOME VOGEL

CHARGE RESISTING ARREST 97-9-73

FILED 07-11-07

PLEA

H 8-7-07 9:30 AM

DISPOSITION

Attorney for Plaintiff

Richard Rehfeldt

Attorney for Defendant

JCVENV2

DOCKET 1180 PAGE 584 585

999-0049429

LEWIS JON - CONSTABLE

STATE OF MISSISSIPPI

VS.

NEWSOME VOGEL

CHARGE DISORDERLY CONDUCT-FAILURE TO COMPLE WITH LAW ENFORCEMENT

FILED 07-11-07

PLEA

H 8-7-07 9:30 AM

DISPOSITION

Attorney for Plaintiff

Richard Refeldt

Attorney for Defendant

400 Briarwood Dr Ste 500

JCVENV2 Jackson, MS 39206

EXHIBIT 41

GENERAL AFFIDAVIT

STATE OF MISSISSIPPI

COUNTY OF HINDS

DOCKET 1180 PAGE 585
999-0049430

BEFORE ME, the undersigned Justice Court Clerk of Hinds County, personally came

Jon Lewis

being first duly sworn, makes affidavit that Vagel Newsome
1434 Hawthorne Co
Jackson, MS 39206 on or about

the 14 day of February 06, in the county aforesaid, did willfully and unlawfully
Resisting Arrest 97-3-73
did willfully and unlawfully resist by force the lawful arrest by Constable Jon Lewis, a state law enforcement officer.

against the peace and dignity of the State of Mississippi.

Witness my hand this the 3 day of July, 07.

Affiant's Address

407 Pascagoula St.
Jackson, MS

Phone

PATRICIA T. WOODS
Hinds County Justice Court Clerk
407 East Pascagoula Street - Suite 333
P.O. Box 3490
Jackson, Mississippi 39207
(601) 965-8800

BY _____ D.C.

JCVAFF1

GENERAL AFFIDAVIT

STATE OF MISSISSIPPI

COUNTY OF HINDS

DOCKET 1180 PAGE 584
099-00049429

BEFORE ME, the undersigned Justice Court Clerk of Hinds County, personally came

Jon Lewis

being first duly sworn, makes affidavit that Vogel Newsome
1434 Hawthorne Cv.
Jackson MS 39286 on or about

the 14 day of February 06, in the county aforesaid, did willfully and unlawfully
97-35-7(1)(a) Disorderly Conduct - Failure To Comply with Request of Command of Law Enforcement officer
did willfully and unlawfully, with the intent to provoke a breach of peace resulting in a breach of peace, refuse to comply with the ~~command~~ order of Jon Lewis, a law enforcement officer who had the authority to then and there arrest any person for a violation of the law, to move from the apartment in which she was being evicted.

against the peace and dignity of the State of Mississippi.

Witness my hand this the 3 day of July, 07

Affiant's Address

407 Pascagoula St.
Jackson MS.

Phone

PATRICIA T. WOODS
Hinds County Justice Court Clerk
407 East Pascagoula Street - Suite 333
P.O. Box 3490
Jackson, Mississippi 39207
(601) 965-8800

BY D.C.

JCYAFF1

CJRA-SU, CLOSED, JURY, LEAD, LRA

U.S. District Court
Southern District of Mississippi (Jackson)
CIVIL DOCKET FOR CASE #: 3:07-cv-00099-TSL-LRA

Newsome v. Crews et al
Assigned to: District Judge Tom S. Lee
Referred to: Magistrate Judge Linda R. Anderson
Demand: $53,000,000
Cause: 28:1331 Fed. Question: Personal Injury

Date Filed: 02/14/2007
Date Terminated: 12/01/2008
Jury Demand: Plaintiff
Nature of Suit: 360 P.I.: Other
Jurisdiction: Diversity

Plaintiff

Vogel Newsome represented by **Vogel Newsome**
P. O. Box 14731
Cincinnati, OH 45250
601/885-9536 513/680-2922
PRO SE

V.

Defendant

Melody Crews represented by **Grover Clark Monroe , II**
DUNBARMONROE, P.A.
270 Trace Colony Park, Suite A
Ridgeland , MS 39157
601/898-2073
Fax: 601/898-2074
Email: gcmonroe@dunbarmonroe.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Benny McCalip May
DUNBARMONROE, P.A.
270 Trace Colony Park, Suite A
Ridgeland , MS 39157
601/898-2073
Fax: 601/898-2074
Email: mmay@dunbarmonroe.com
ATTORNEY TO BE NOTICED

Defendant

Spring Lake Apartments LLC represented by **Lanny R. Pace**
STEEN, DALEHITE & PACE
P.O. Box 900
Jackson , MS 39205-0900

EXHIBIT 42

(601) 969-7054
Email: lrp@steenrd.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Dial Equities, Inc.

represented by **Grover Clark Monroe , II**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Benny McCalip May
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Jon C. Lewis
individually and in his capacity as Constable of Hinds County

represented by **Clifford Allen McDaniel , II**
PAGE, KRUGER & HOLLAND, P.A.
P. O. Box 1163
Jackson , MS 39215-1163
601/420-0333
Email: amcdaniel@pagekruger.com
ATTORNEY TO BE NOTICED

Defendant

William L. Skinner, II
individually and in his capacity as Justice Court Judge

represented by **Clifford Allen McDaniel , II**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Malcom McMillan
individually and in his capacity as Sheriff of Hinds County

represented by **J. Lawson Hester**
PAGE, KRUGER & HOLLAND, P.A.
P. O. Box 1163
Jackson , MS 39215-1163
601/420-0333
Fax: 601/420-0033
Email: lhester@pagekruger.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Clifford Allen McDaniel , II
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

John Does
1-26 individually and in their official capacity

Defendant

Hinds County, Mississippi represented by **J. Lawson Hester**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Clifford Allen McDaniel , II
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Jane Does
1-26 individually and in their official capacity

Date Filed	#	Docket Text
02/14/2007	1	COMPLAINT against Melody Crews, Spring Lake Apartments LLC, Dial Equities, Inc., Jon C. Lewis, William L. Skinner, II, Malcom McMillan (Filing fee $ 350 receipt number 17645.) (attachments maintained in court file), filed by Vogel Newsome. (Attachments: # 1 Civil Cover Sheet # 2 exhibits# 3 exhibits)(THR,) (Entered: 02/23/2007)
04/04/2007	2	Change of Address filed by Vogel Newsome, Post Office Box 14731, Cincinnati, Ohio 45250. (Moore, Janet) (Entered: 04/05/2007)
05/01/2007	3	Summons Issued as to Hinds County, Mississippi, Jane Does, Melody Crews, Dial Equities, Inc., Jon C. Lewis, Malcom McMillan, John Does. (Moore, Janet) (Entered: 05/02/2007)
06/06/2007	4	MOTION for Extension of Time to Serve Summons by Vogel Newsome (Attachments: # 1 Exhibit A# 2 Exhibit B# 3 Exhibit C# 4 Exhibit E# 5 Exhibit F# 6 Exhibit G# 7 Exhibit H# 8 Exhibit I)(JKM) (Entered: 06/06/2007)
06/06/2007	5	MEMORANDUM in Support re 4 MOTION for Extension of Time to File filed by Vogel Newsome (JKM) (Entered: 06/06/2007)
06/12/2007	6	ORDER granting 4 Motion for Extension of Time to File. Plaintiff given until 9/14/07 to effect service. Signed by Judge James C. Sumner on 6/11/07 (YWJ,) (Entered: 06/12/2007)
07/12/2007	7	MOTION to Dismiss *or Alternatively for Summary Judgment* by Spring Lake Apartments LLC (Attachments: # 1 Exhibit List# 2 Exhibit Part 1# 3 Exhibit Part 2# 4 Exhibit part 3# 5 Exhibit part 4# 6 Exhibit part 5# 7 Exhibit part 6# 8 Exhibit part 7# 9 Exhibit part 8# 10 Exhibit part 9# 11 Exhibit part 10# 12 Exhibit part 11# 13 Exhibit part 12# 14 Exhibit part 13# 15 Exhibit part 14# 16 Exhibit part 15# 17 Exhibit part 16# 18 Exhibit part 17# 19 Exhibit part 18# 20 Exhibit part 19# 21 Exhibit part 20# 22 Exhibit part 21# 23 Exhibit part 22)(Pace, Lanny) (Entered: 07/12/2007)
07/12/2007	8	MEMORANDUM in Support re 7 MOTION to Dismiss *or Alternatively for Summary Judgment* filed by Spring Lake Apartments LLC (Pace, Lanny)

		(Entered: 07/12/2007)
07/13/2007	9	MOTION for Bond by Hinds County, Mississippi, Malcom McMillan (Attachments: # 1 Exhibit A# 2 Exhibit B# 3 Exhibit C# 4 Exhibit D# 5 Exhibit E# 6 Exhibit F)(McDaniel, Clifford) (Entered: 07/13/2007)
07/13/2007	10	MOTION to Stay by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) (Entered: 07/13/2007)
07/16/2007	11	MOTION to Dismiss *or in the alternative, Motion to Quash* by William L. Skinner, II (Attachments: # 1 Exhibit A)(McDaniel, Clifford) (Entered: 07/16/2007)
07/16/2007	12	ANSWER to Complaint by Hinds County, Mississippi, Malcom McMillan. (McDaniel, Clifford) (Entered: 07/16/2007)
07/16/2007	13	MOTION to Dismiss by Jon C. Lewis (McDaniel, Clifford) (Entered: 07/16/2007)
07/17/2007	14	NOTICE of Appearance by J. Lawson Hester on behalf of Hinds County, Mississippi, Malcom McMillan (Hester, J.) (Entered: 07/17/2007)
07/17/2007	15	ATTACHMENT re 11 MOTION to Dismiss *or in the alternative, Motion to Quash* by William L. Skinner, II (McDaniel, Clifford) (Entered: 07/17/2007)
07/17/2007	16	Amended MOTION to Dismiss *or in the alternative Motion to Quash* by Jon C. Lewis (Attachments: # 1 Exhibit A# 2 Exhibit B)(McDaniel, Clifford) (Entered: 07/17/2007)
07/20/2007	17	NOTICE of Appearance by Grover Clark Monroe, II on behalf of Melody Crews, Dial Equities, Inc. (Monroe, Grover) (Entered: 07/20/2007)
07/20/2007	18	NOTICE of Appearance by Benny McCalip May on behalf of Melody Crews, Dial Equities, Inc. (May, Benny) (Entered: 07/20/2007)
07/26/2007	19	MOTION for Extension of Time to File Answer re 1 Complaint, by Melody Crews, Dial Equities, Inc. (May, Benny) (Entered: 07/26/2007)
07/27/2007		Text Only ORDER granting 19 Motion for Extension of Time to Answer. Melody Crews answer due 8/15/2007; Dial Equities, Inc. answer due 8/15/2007. NO WRITTEN ORDER WILL ISSUE. Signed by Judge James C. Sumner on July 27, 2007 (CSF) (Entered: 07/27/2007)
07/27/2007	20	Joinder by Spring Lake Apartments LLC to 9 MOTION for Bond filed by Malcom McMillan, Hinds County, Mississippi (Pace, Lanny) (Entered: 07/27/2007)
07/27/2007	21	Joinder by Spring Lake Apartments LLC to 10 MOTION to Stay filed by Malcom McMillan, Hinds County, Mississippi (Pace, Lanny) (Entered: 07/27/2007)
08/01/2007	22	MOTION for Joinder *in Motion for Stay of Proceedings* by Melody Crews, Dial Equities, Inc. (Monroe, Grover) (Entered: 08/01/2007)
08/01/2007	23	MOTION for Joinder *in Motion for Security of Costs and Separate Motion for*

		Security of Attorney Fees by Melody Crews, Dial Equities, Inc. (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit)(Monroe, Grover) (Entered: 08/01/2007)
08/02/2007		DOCKET ANNOTATION as to #23 Attorney to refile as 2 separate pleadings. Motion for Joiner and Motion for Security of Attorney Fees. (JKM) (Entered: 08/02/2007)
08/02/2007	24	MOTION for Attorney Fees *(Security of)* by Melody Crews, Dial Equities, Inc. (Attachments: # 1 Exhibit # 2 Exhibit # 3 Exhibit)(Monroe, Grover) (Entered: 08/02/2007)
08/06/2007	25	MOTION to Strike 10 MOTION to Stay, 9 MOTION for Bond by Vogel Newsome (JKM) (Entered: 08/08/2007)
08/06/2007	26	MEMORANDUM in Support re 25 MOTION to Strike 10 MOTION to Stay, 9 MOTION for Bond filed by Vogel Newsome (JKM) (Entered: 08/08/2007)
08/06/2007	27	MOTION to Strike 7 MOTION to Dismiss *or Alternatively for Summary Judgment* by Vogel Newsome (JKM) (Entered: 08/08/2007)
08/06/2007	28	MOTION to Strike 23 MOTION for Joinder *in Motion for Security of Costs and Separate Motion for Security of Attorney Fees*, 22 MOTION for Joinder *in Motion for Stay of Proceedings* by Vogel Newsome (JKM) (Entered: 08/08/2007)
08/06/2007	29	RESPONSE in Opposition re 19 MOTION for Extension of Time to File Answer re 1 Complaint, filed by Vogel Newsome (JKM) (Entered: 08/08/2007)
08/06/2007	31	MOTION to Strike 11 MOTION to Dismiss *or in the alternative, Motion to Quash*, 13 MOTION to Dismiss by Vogel Newsome (JKM) (Entered: 08/08/2007)
08/06/2007	32	MEMORANDUM in Support re 31 MOTION to Strike 11 MOTION to Dismiss *or in the alternative, Motion to Quash*, 13 MOTION to Dismiss filed by Vogel Newsome (JKM) (Entered: 08/08/2007)
08/06/2007	33	MEMORANDUM in Support re 28 MOTION to Strike 23 MOTION for Joinder *in Motion for Security of Costs and Separate Motion for Security of Attorney Fees*, 22 MOTION for Joinder *in Motion for Stay of Proceedings* filed by Vogel Newsome (Attachments: # 1 Exhibit 1# 2 Exhibit 2# 3 Exhibit 3# 4 Exhibit 4# 5 Exhibit 5)(JKM) (Entered: 08/08/2007)
08/06/2007	34	SUMMONS Returned Executed by Vogel Newsome. Melody Crews served on 7/8/2007, answer due 7/28/2007. (JKM) (Entered: 08/08/2007)
08/06/2007	35	SUMMONS Returned Executed by Vogel Newsome. Spring Lake Apartments LLC served on 6/22/2007, answer due 7/12/2007. (JKM) (Entered: 08/08/2007)
08/06/2007	36	SUMMONS Returned Executed by Vogel Newsome. Jon C. Lewis served on 6/21/2007, answer due 7/11/2007. (JKM) (Entered: 08/08/2007)
08/06/2007	37	SUMMONS Returned Executed by Vogel Newsome. William L. Skinner, II served on 6/21/2007, answer due 7/11/2007. (JKM) (Entered: 08/08/2007)

08/06/2007	38	SUMMONS Returned Executed by Vogel Newsome. Malcom McMillan served on 6/23/2007, answer due 7/13/2007. (JKM) (Entered: 08/08/2007)
08/06/2007	39	SUMMONS Returned Executed by Vogel Newsome. Hinds County, Mississippi served on 6/25/2007, answer due 7/15/2007. (JKM) (Entered: 08/08/2007)
08/08/2007	30	ATTACHMENT re 24 MOTION for Attorney Fees *(Security of) Supplemental Evidence in Support of Motion for Security of Attorney Fees* by Melody Crews, Dial Equities, Inc. (Attachments: # 1 Exhibit)(Monroe, Grover) (Entered: 08/08/2007)
08/09/2007	40	Second MOTION for Extension of Time to File Answer by Melody Crews, Dial Equities, Inc. (May, Benny) (Entered: 08/09/2007)
08/13/2007	41	ORDER denying 28 Motion to Strike ; granting 40 Motion for Extension of Time to Answer ; granting 9 Motion for Bond; granting 10 Motion to Stay; granting 22 Motion for Joinder; granting 23 Motion for Joinder; denying 24 Motion for Attorney Fees; denying 25 Motion to Strike. Case is stayed until Plaintiff posts bond required by Order. Answer for Crews and Dial Equities due fifteen days after Plaintiff posts bond required by Order. Signed by Judge James C. Sumner on 8/13/07 (YWJ,) (Entered: 08/13/2007)
08/16/2007	42	MOTION to Strike by Vogel Newsome (JKM) (Entered: 08/16/2007)
08/17/2007		TEXT ONLY ORDER finding as moot 42 Motion to Strike Signed by Judge James C. Sumner on August 17, 2007. NO FURTHER WRITTEN ORDER TO ENTER. (DCL,) (Entered: 08/17/2007)
08/22/2007	43	Summons Returned Unexecuted by Vogel Newsome as to Dial Equities, Inc.. (JKM) (Entered: 08/23/2007)
08/22/2007	44	NOTICE OF FILING TO OJECTIONS TO ORDER by Vogel Newsome re 41 Order on Motion to Strike, Order on Motion for Extension of Time to Answer, Order on Motion for Bond, Order on Motion to Stay, Order on Motion for Joinder,Order on Motion for Attorney Fees. (JKM) Modified on 8/24/2007 (JKM). (Entered: 08/23/2007)
08/22/2007	45	Response in Opposition re 40 Second MOTION for Extension of Time to File Answer by Melody Crews, Dial Equities, Inc. (May, Benny) filed by Vogel Newsome (JKM) (Entered: 08/23/2007)
08/22/2007	46	Response in Opposition re 41 ORDER denying 28 Motion to Strike ; granting 40 Motion for Extension of Time to Answer ; granting 9 Motion for Bond; granting 10 Motion to Stay; granting 22 Motion for Joinder; granting 23 Motion for Joinder; denying 24 Motion for Attorney Fees; denying 25 Motion to Strike. Case is stayed until Plaintiff posts bond required by Order. Answer for Crews and Dial Equities due fifteen days after Plaintiff posts bond required by Order. Signed by Judge James C. Sumner on 8/13/07 (YWJ,) filed by Vogel Newsome (Attachments: # 1 Exhibit Part Two)(JKM) (Entered: 08/23/2007)
08/27/2007	47	MOTION to Strike 31 MOTION to Strike 11 MOTION to Dismiss *or in the alternative, Motion to Quash*, 13 MOTION to Dismiss, 46 Response in

		Opposition,, 32 Memorandum in Support of Motion, 29 Response in Opposition to Motion, 33 Memorandum in Support of Motion, 45 Response in Opposition, 26 Memorandum in Support of Motion by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) (Entered: 08/27/2007)
08/28/2007	48	MOTION for Joinder *in Motion to Strike* by Melody Crews, Dial Equities, Inc. (Monroe, Grover) (Entered: 08/28/2007)
08/28/2007	49	Joinder by Spring Lake Apartments LLC to 47 MOTION to Strike 31 MOTION to Strike 11 MOTION to Dismiss *or in the alternative, Motion to Quash*, 13 MOTION to Dismiss, 46 Response in Opposition,, 32 Memorandum in Support of Motion, 29 Response in Opposition to Motion, 33 Memor MOTION to Strike 31 MOTION to Strike 11 MOTION to Dismiss *or in the alternative, Motion to Quash*, 13 MOTION to Dismiss, 46 Response in Opposition,, 32 Memorandum in Support of Motion, 29 Response in Opposition to Motion, 33 Memor filed by Malcom McMillan, Hinds County, Mississippi (Pace, Lanny) (Entered: 08/28/2007)
08/30/2007	50	MOTION to Strike 48 MOTION for Joinder *in Motion to Strike* by Vogel Newsome (JKM) (Entered: 08/30/2007)
08/30/2007	51	RESPONSE to Motion re 46 Response in Opposition,, filed by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) (Entered: 08/30/2007)
08/31/2007	52	MOTION to Strike *Plaintiff's Motion to Strike at Docket Entry 50* by Melody Crews, Dial Equities, Inc. (Monroe, Grover) (Entered: 08/31/2007)
09/04/2007	53	Joinder by Spring Lake Apartments LLC to 51 Response to Motion filed by Malcom McMillan, Hinds County, Mississippi (Pace, Lanny) (Entered: 09/04/2007)
09/05/2007	54	ORDER OF RECUSAL. Judge James C. Sumner recused. Case reassigned to Judge Linda R. Anderson for all further proceedings Signed by Judge James C. Sumner on September 5, 2007 (CSF) (Entered: 09/05/2007)
09/10/2007	55	Corporate Disclosure Statement by Melody Crews, Dial Equities, Inc. (Monroe, Grover) (Entered: 09/10/2007)
09/10/2007	56	MOTION for Protective Order *and to File Under Seal Part of the Rule 7.1 Disclosure Statement* by Melody Crews, Dial Equities, Inc. (Monroe, Grover) (Entered: 09/10/2007)
09/11/2007	57	RESPONSE to Motion re 47 MOTION to Strike 31 MOTION to Strike 11 MOTION to Dismiss *or in the alternative, Motion to Quash*, 13 MOTION to Dismiss, 46 Response in Opposition,, 32 Memorandum in Support of Motion, 29 Response in Opposition to Motion, 33 Memor MOTION to Strike 31 MOTION to Strike 11 MOTION to Dismiss *or in the alternative, Motion to Quash*, 13 MOTION to Dismiss, 46 Response in Opposition,, 32 Memorandum in Support of Motion, 29 Response in Opposition to Motion, 33 Memor filed by Vogel Newsome (JKM) (Entered: 09/11/2007)
09/11/2007	58	RESPONSE to Motion re 48 MOTION for Joinder *in Motion to Strike* filed by Vogel Newsome (JKM) (Entered: 09/11/2007)

09/11/2007	59	RESPONSE to Motion re 49 Joinder filed by Vogel Newsome (JKM) (Entered: 09/11/2007)
09/20/2007	60	REPLY to Response to Motion re 57 Response to Motion,, filed by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) (Entered: 09/20/2007)
09/20/2007	61	Response in Opposition re 51 RESPONSE to Motion re 46 Response in Opposition, filed by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) filed by Vogel Newsome (JKM) Modified on 9/25/2007 (JKM). (Entered: 09/21/2007)
09/20/2007	62	MOTION for Extension of Time to File Response to Defendant Dial Equties, Inc. Motion for Protective Order and to file under seal part of the Rule 7.1 Disclosure Statement by Vogel Newsome (JKM) (Entered: 09/21/2007)
09/21/2007	63	RESPONSE to Motion re 62 MOTION for Extension of Time to File *and to Respond to Defendants' Motion for Protective Order and to File Under Seal Part of the Rule 7.1 Disclosure Statement* filed by Melody Crews, Dial Equities, Inc. (Monroe, Grover) (Entered: 09/21/2007)
09/21/2007	64	ATTACHMENT re 63 Response to Motion, *Exhibit A* by Melody Crews, Dial Equities, Inc. (Monroe, Grover) (Entered: 09/21/2007)
09/21/2007	65	ATTACHMENT re 63 Response to Motion, *Exhibit B* by Melody Crews, Dial Equities, Inc. (Monroe, Grover) (Entered: 09/21/2007)
09/26/2007	66	MOTION to Dismiss by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) (Entered: 09/26/2007)
09/28/2007	67	ORDER REFERRING MOTION: 11 MOTION to Dismiss *or in the alternative, Motion to Quash* filed by William L. Skinner, II, 52 MOTION to Strike *Plaintiff's Motion to Strike at Docket Entry 50* filed by Dial Equities, Inc., Melody Crews, 62 MOTION for Extension of Time to File filed by Vogel Newsome, 31 MOTION to Strike 11 MOTION to Dismiss *or in the alternative, Motion to Quash*, 13 MOTION to Dismiss filed by Vogel Newsome, 50 MOTION to Strike 48 MOTION for Joinder *in Motion to Strike* filed by Vogel Newsome, 66 MOTION to Dismiss filed by Malcom McMillan, Hinds County, Mississippi, 16 Amended MOTION to Dismiss *or in the alternative Motion to Quash* filed by Jon C. Lewis, 56 MOTION for Protective Order *and to File Under Seal Part of the Rule 7.1 Disclosure Statement* filed by Dial Equities, Inc., Melody Crews, 47 MOTION to Strike 31 MOTION to Strike 11 MOTION to Dismiss *or in the alternative, Motion to Quash*, 13 MOTION to Dismiss, 46 Response in Opposition,, 32 Memorandum in Support of Motion, 29 Response in Opposition to Motion, 33 Memor MOTION to Strike 31 MOTION to Strike 11 MOTION to Dismiss *or in the alternative, Motion to Quash*, 13 MOTION to Dismiss, 46 Response in Opposition,, 32 Memorandum in Support of Motion, 29 Response in Opposition to Motion, 33 Memor filed by Malcom McMillan, Hinds County, Mississippi, 13 MOTION to Dismiss filed by Jon C. Lewis, 7 MOTION to Dismiss *or Alternatively for Summary Judgment* filed by Spring Lake Apartments LLC, 27 MOTION to Strike 7 MOTION to Dismiss *or Alternatively for Summary Judgment* filed by Vogel Newsome Signed by

		Judge Tom S. Lee on 9/28/07 (LWE) (Entered: 09/28/2007)
10/01/2007	68	MOTION for Joinder *to Dismiss* by Melody Crews, Dial Equities, Inc. (May, Benny) (Entered: 10/01/2007)
10/02/2007	69	Response in Opposition re 56 MOTION for Protective Order *and to File Under Seal Part of the Rule 7.1 Disclosure Statement* by Melody Crews, Dial Equities, Inc. (Monroe, Grover) filed by Vogel Newsome (JKM) (Entered: 10/02/2007)
10/03/2007	70	RESPONSE to Motion re 27 MOTION to Strike 7 MOTION to Dismiss *or Alternatively for Summary Judgment* filed by Spring Lake Apartments LLC (Pace, Lanny) (Entered: 10/03/2007)
10/03/2007	71	Corporate Disclosure Statement by Spring Lake Apartments LLC (Pace, Lanny) (Entered: 10/03/2007)
10/03/2007	72	REPLY to Response to Motion re 69 Response in Opposition *to Plaintiff's Objections to Dial Equities Motion for Protective Order and to File Under Seal Part of the Rule 7.1 Disclosure Statement* filed by Melody Crews, Dial Equities, Inc. (Monroe, Grover) (Entered: 10/03/2007)
10/09/2007	73	ORDER granting 62 Motion for Extension of Time to Respond to 56 Motion for Protective Order. Extension granted until October 23, 2007. Signed by Judge Linda R. Anderson on 10/9/07 (CC) (Entered: 10/09/2007)
10/10/2007	74	Response to Order re 67 ORDER REFERRING MOTION: 11 MOTION to Dismiss *or in the alternative, Motion to Quash* filed by William L. Skinner, II, 52 MOTION to Strike *Plaintiff's Motion to Strike at Docket Entry 50* filed by Dial Equities, Inc., Melody Crews, 62 MOTION for Extension of Time to File filed by Vogel Newsome, 31 MOTION to Strike 11 MOTION to Dismiss *or in the alternative, Motion to Quash*, 13 MOTION to Dismiss filed by Vogel Newsome, 50 MOTION to Strike 48 MOTION for Joinder *in Motion to Strike* filed by Vogel Newsome, 66 MOTION to Dismiss filed by Malcom McMillan, Hinds County, Mississippi, 16 Amended MOTION to Dismiss *or in the alternative Motion to Quash* filed by Jon C. Lewis, 56 MOTION for Protective Order *and to File Under Seal Part of the Rule 7.1 Disclosure Statement* filed by Dial Equities, Inc., Melody Crews, 47 MOTION to Strike 31 MOTION to Strike 11 MOTION to Dismiss *or in the alternative, Motion to Quash*, 13 MOTION to Dismiss, 46 Response in Opposition,, 32 Memorandum in Support of Motion, 29 Response in Opposition to Motion, 33 Memor MOTION to Strike 31 MOTION to Strike 11 MOTION to Dismiss *or in the alternative, Motion to Quash*, 13 MOTION to Dismiss, 46 Response in Opposition,, 32 Memorandum in Support of Motion, 29 Response in Opposition to Motion, 33 Memor filed by Malcom McMillan, Hinds County, Mississippi, 13 MOTION to Dismiss filed by Jon C. Lewis, 7 MOTION to Dismiss *or Alternatively for Summary Judgment* filed by Spring Lake Apartments LLC, 27 MOTION to Strike 7 MOTION to Dismiss *or Alternatively for Summary Judgment* filed by Vogel Newsome Signed by Judge Tom S. Lee on 9/28/07 (LWE) filed by Vogel Newsome (JKM) (Entered: 10/10/2007)
10/10/2007	75	MOTION to Strike 74 Response to Order,,,,,,, by Hinds County, Mississippi,

		Malcom McMillan (McDaniel, Clifford) (Entered: 10/10/2007)
10/15/2007	76	RESPONSE to Motion re 66 MOTION to Dismiss filed by Vogel Newsome (THR) (Entered: 10/15/2007)
10/15/2007	77	RESPONSE to Motion re 66 MOTION to Dismiss filed by Vogel Newsome (Attachments: # 1 Exhibit)(THR) (Entered: 10/16/2007)
10/16/2007		DOCKET ANNOTATION as to #76. Inadvertently entered. #74 is the correct filing. (JKM) (Entered: 10/16/2007)
10/16/2007	78	MOTION to Strike 77 Response to Motion by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) (Entered: 10/16/2007)
10/16/2007	79	REPLY to Response to Motion re 70 Response to Motion filed by Vogel Newsome (JKM) (Entered: 10/16/2007)
10/16/2007	80	RESPONSE to Motion re 72 Reply to Response to Motion, filed by Vogel Newsome (JKM) (Entered: 10/16/2007)
10/16/2007	81	RESPONSE to Motion re 68 MOTION for Joinder *to Dismiss* filed by Vogel Newsome (JKM) (Entered: 10/16/2007)
10/23/2007	82	RESPONSE to Motion re 78 MOTION to Strike 77 Response to Motion filed by Vogel Newsome (Attachments: # 1 Exhibit One# 2 Exhibit Two# 3 Exhibit Three)(JKM) (Entered: 10/23/2007)
10/24/2007	83	REPLY to Response to Motion re 82 Response to Motion filed by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) (Entered: 10/24/2007)
10/25/2007	84	Response to Order re 73 ORDER granting 62 Motion for Extension of Time to Respond to 56 Motion for Protective Order. Extension granted until October 23, 2007. Signed by Judge Linda R. Anderson on 10/9/07 (CC) filed by Vogel Newsome (JKM) (Entered: 10/25/2007)
10/25/2007	85	RESPONSE to Motion re 78 MOTION to Strike 77 Response to Motion filed by Vogel Newsome (JKM) (Entered: 10/25/2007)
10/25/2007	86	REPLY to Response to Motion re 85 Response to Motion filed by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) (Entered: 10/25/2007)
10/29/2007		TEXT ONLY ORDER Setting Hearing on Motion 78 MOTION to Strike 77 Response to Motion, 52 MOTION to Strike Plaintiff's Motion to Strike at Docket Entry 50>, 66 MOTION to Dismiss, 16 Amended MOTION to Dismiss or in the alternative Motion to Quash, 27 MOTION to Strike 7 MOTION to Dismiss or Alternatively for Summary Judgment, 50 MOTION to Strike 48 MOTION for Joinder in Motion to Strike 13 MOTION to Dismiss, 75 MOTION to Strike 74 Response to Order, 7 MOTION to Dismiss or Alternatively for Summary Judgment, 11 MOTION to Dismiss or in the alternative, Motion to Quash, 31 MOTION to Strike 11 MOTION to Dismiss or in the alternative, Motion to Quash, 13 MOTION to Dismiss, 56 MOTION for Protective Order and to File Under Seal Part of the Rule 7.1 Disclosure

		Statemen>, 68 MOTION for Joinder to Dismiss 47 MOTION to Strike 31 MOTION to Strike 11 MOTION to Dismiss or in the alternative, Motion to Quash 13 MOTION to Dismiss, 46 Response in Opposition, 29 Response in Opposition to Motion, 33 MOTION to Strike 31 MOTION to Strike 11 MOTION to Dismiss or in the alternative, Motion to Quash 13 MOTION to Dismiss, 46 Response in Opposition,, 32 Memorandum in Support of Motion, 29 Response in Opposition to Motion, 33 Memor : Motion Hearing set for 11/13/2007 at 11:00 AM with Magistrate Judge Linda R. Anderson via telephone conference. Telephone number for conference: 601-965-4528. Plaintiff shall be responsible for initiating the conference call with all counsel and the Court unless otherwise agreed to by all parties. Signed by Judge Linda R. Anderson on October 29, 2007. NO FURTHER WRITTEN ORDER SHALL BE ISSUED. (WG) (Entered: 10/29/2007)
11/05/2007	87	Response to Order - Plaintiff's Objections to re TEXT ONLY ORDER Setting Hearing on Motion 78 MOTION to Strike 77 Response to Motion, 52 MOTION to Strike Plaintiff's Motion to Strike at Docket Entry 50>, 66 MOTION to Dismiss, 16 Amended MOTION to Dismiss or in the alternative Motion to Quash, 27 MOTION to Strike 7 MOTION to Dismiss or Alternatively for Summary Judgment, 50 MOTION to Strike 48 MOTION for Joinder in Motion to Strike 13 MOTION to Dismiss, 75 MOTION to Strike 74 Response to Order, 7 MOTION to Dismiss or Alternatively for Summary Judgment, 11 MOTION to Dismiss or in the alternative, Motion to Quash, 31 MOTION to Strike 11 MOTION to Dismiss or in the alternative, Motion to Quash, 13 MOTION to Dismiss, 56 MOTION for Protective Order and to File Under Seal Part of the Rule 7.1 Disclosure Statemen>, 68 MOTION for Joinder to Dismiss 47 MOTION to Strike 31 MOTION to Strike 11 MOTION to Dismiss or in the alternative, Motion to Quash 13 MOTION to Dismiss, 46 Response in Opposition, 29 Response in Opposition to Motion, 33 MOTION to Strike 31 MOTION to Strike 11 MOTION to Dismiss or in the alternative, Motion to Quash 13 MOTION to Dismiss, 46 Response in Opposition,, 32 Memorandum in Support of Motion, 29 Response in Opposition to Motion, 33 Memor : Motion Hearing set for 11/13/2007 at 11:00 AM with Magistrate Judge Linda R. Anderson via telephone conference. Telephone number for conference: 601-965-4528. Plaintiff shall be responsible for initiating the conference call with all counsel and the Court unless otherwise agreed to by all parties. Signed by Judge Linda R. Anderson on October 29, 2007. NO FURTHER WRITTEN ORDER SHALL BE ISSUED. (WG) filed by Vogel Newsome (JKM) Additional attachment(s) added on 11/6/2007 (JKM). (Entered: 11/05/2007)
11/06/2007	88	REPLY to Response to Motion re 87 Response to Order,*Plaintiff's Objections to Text Only Order RE Hearing* filed by Melody Crews, Dial Equities, Inc. (Attachments: # 1 Exhibit A)(Monroe, Grover) Modified on 11/15/2007 (JKM). (Entered: 11/06/2007)
11/06/2007	89	MOTION to Strike 87 Response to Order, by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) Modified on 11/15/2007 (JKM). (Entered: 11/06/2007)
11/13/2007	90	ORDER: Plaintiff's objections to magistrate's order executed 8/13/07, motion

		to vacate/set aside/expunge order; motion for findings and memorandum of law in support thereof, and jury trial demand are without merit. Accordingly, the order of the magistrate judge is affirmed in all respects. Plaintiff is granted until 12/3/07 to post a $1,000.00 bond and, as stated, all other provisions of the order are declared to be in effect. Signed by Judge Tom S. Lee on 11/13/07 (LWE) (Entered: 11/13/2007)
11/13/2007		Minute Entry for proceedings held before Judge Linda R. Anderson : Motion Hearing held on 11/13/2007 regarding all pending motions filed herein. Participants: Allen McDaniel, counsel for defendant. The Court informed counsel of plaintiff's notice of nonparticipation. Counsel advised the Court of a new complaint that had been filed by plaintiff in this Court and the plaintiff's failure to post a security bond. The Court will proceed to rule on the pending motions. (WG) (Entered: 11/14/2007)
11/14/2007	91	MOTION for Extension of Time to File Response/Reply as to 88 Reply to Response to Motion by Vogel Newsome (JKM) (Entered: 11/14/2007)
11/14/2007	92	NOTICE ON NONPARTICIPATION IN NOVEMBER 13, 2007, HEARING: NON-WAIVER OF RIGHT TO JURY TRIAL ON THE ISSUES IN QUESTION AND NOTICE OF INTENT TO FILE MADAUMUS ACTION by Vogel Newsome (JKM) (Entered: 11/14/2007)
11/14/2007	93	RESPONSE to Motion re 89 MOTION to Strike 87 Response to Order filed by Vogel Newsome (Attachments: # 1 Exhibit I)(JKM) (Entered: 11/14/2007)
11/19/2007	94	NOTICE of Motion to Stay Proceedings by Vogel Newsome (JKM) (Entered: 11/20/2007)
11/19/2007	95	MOTION to Stay by Vogel Newsome (Attachments: # 1 Exhibit 1# 2 Exhibit 2# 3 Exhibit 3# 4 Exhibit 4# 5 Exhibit 5# 6 Exhibit 6# 7 Exhibit 7# 8 Exhibit 8# 9 Exhibit 9)(JKM) (Entered: 11/20/2007)
11/20/2007	96	MEMORANDUM IN SUPPORT re 95 MOTION to Stay filed by Vogel Newsome (JKM) (Entered: 11/20/2007)
11/30/2007	97	RESPONSE to Motion re 95 MOTION to Stay filed by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) (Entered: 11/30/2007)
11/30/2007	98	Joinder by Spring Lake Apartments LLC to 97 Response to Motion filed by Malcom McMillan, Hinds County, Mississippi (Pace, Lanny) (Entered: 11/30/2007)
11/30/2007	99	Joinder by Melody Crews, Dial Equities, Inc. to 97 Response to MOTION filed by Malcom McMillan, Hinds County, Mississippi (Monroe, Grover) Modified on 12/3/2007 (MGB). (Entered: 11/30/2007)
12/11/2007	100	Supplemental MOTION to Dismiss by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) (Entered: 12/11/2007)
12/12/2007	101	Joinder by Spring Lake Apartments LLC to 100 Supplemental MOTION to Dismiss filed by Malcom McMillan, Hinds County, Mississippi (Pace, Lanny) (Entered: 12/12/2007)

12/12/2007	102	Joinder by Melody Crews, Dial Equities, Inc. to 100 Supplemental MOTION to Dismiss filed by Malcom McMillan, Hinds County, Mississippi (May, Benny) (Entered: 12/12/2007)
12/13/2007	103	RESPONSE to Motion re 97 Response to Motion filed by Vogel Newsome (JKM) (Entered: 12/17/2007)
12/18/2007	104	MOTION to Strike 101 Joinder, 100 Supplemental MOTION to Dismiss, 102 Joinder by Vogel Newsome (JKM) (Entered: 12/19/2007)
12/18/2007	105	MEMORANDUM IN SUPPORT re 104 MOTION to Strike 101 Joinder, 100 Supplemental MOTION to Dismiss, 102 Joinder filed by Vogel Newsome (JKM) (Entered: 12/19/2007)
12/18/2007	106	NOTICE OF REQUEST FOR CERTIFICATION by Vogel Newsome re 90 Order, (JKM) (Entered: 12/19/2007)
12/18/2007		Remark - Certified copy of record and exhibits checked out to Mr. Moorehead, 633 Northstate Street, Jackson, MS 39209. (JKM) (Entered: 12/19/2007)
12/19/2007	107	RESPONSE to Motion re 104 MOTION to Strike 101 Joinder, 100 Supplemental MOTION to Dismiss, 102 Joinder, 105 Memorandum in Support filed by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) (Entered: 12/19/2007)
02/04/2008	108	ORDER denying 95 Motion to Stay Proceedings. Signed by Magistrate Judge Linda R. Anderson on 2/4/08 (CC) (Entered: 02/04/2008)
02/04/2008	109	ORDER denying 104 Motion to Strike 100 Supplemental Motion to Dismiss, 101 Joinder filed by Spring Lake Apartments LLC, and 102 Joinder filed by Melody Crews and Dial Equities, Inc. Signed by Magistrate Judge Linda R. Anderson on 2/4/08 (CC) (Entered: 02/04/2008)
02/19/2008	113	Writ of Continuing Garnishment Issued as to Vogel Newsome. (JKM) (Entered: 02/21/2008)
02/20/2008	110	MOTION for Recusal of Magistrate Judge Anderson by Vogel Newsome (JKM) (Entered: 02/21/2008)
02/20/2008	111	NOTICE OF FILING by Vogel Newsome re 108 Order on Motion to Stay, 109 Order on Motion to Strike (JKM) (Entered: 02/21/2008)
02/20/2008	112	Response in Opposition re 108 ORDER denying 95 Motion to Stay Proceedings. Signed by Magistrate Judge Linda R. Anderson on 2/4/08 (CC), 109 ORDER denying 104 Motion to Strike 100 Supplemental Motion to Dismiss, 101 Joinder filed by Spring Lake Apartments LLC, and 102 Joinder filed by Melody Crews and Dial Equities, Inc. Signed by Magistrate Judge Linda R. Anderson on 2/4/08 (CC) filed by Vogel Newsome (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K, # 12 Exhibit L)(JKM) (Entered: 02/21/2008)
02/20/2008	114	NOTICE OF INTENT TO FILE DISQUALIFICATIONS/RECUSAL

		ACTION by Vogel Newsome re 110 MOTION for Recusal (JKM) (Entered: 02/22/2008)
02/21/2008		DOCKET ANNOTATION as to #113. Inadvertently filed in wrong case. (JKM) (Entered: 02/21/2008)
02/23/2008	115	Response in Opposition re 112 Response in Opposition re 108 ORDER denying 95 Motion to Stay Proceedings. Signed by Magistrate Judge Linda R. Anderson on 2/4/08 (CC), 109 ORDER denying 104 Motion to Strike 100 Supplemental Motion to Dismiss, 101 Joinder filed by Spring Lake Apartments LLC, and 102 Joinder filed by Melody Crews and Dial Equities, Inc. Signed by Magistrate Judge Linda R. Anderson on 2/4/08 (CC) filed by Vogel Newsome (Attachments: # Exhibit A, # Exhibit B, # Exhibit C, # Exhibit D, # Exhibit E, # Exhibit F, # Exhibit G, # Exhibit H, # Exhibit I, # Exhibit J, # Exhibit K, # Exhibit L)(JKM) filed by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) (Entered: 02/23/2008)
02/23/2008	116	MOTION to Strike 112 Response in Opposition,, by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) (Entered: 02/23/2008)
02/25/2008	117	MOTION *for General Relief and*, MOTION for Order to Show Cause *and for Hearing* by Melody Crews (Attachments: # 1 Exhibit A, # 2 Exhibit B) (Monroe, Grover) (Entered: 02/25/2008)
02/25/2008	118	RESPONSE to Motion re 112 Response in Opposition,, filed by Spring Lake Apartments LLC (Attachments: # 1 Exhibit Exhibit 1)(Pace, Lanny) (Entered: 02/25/2008)
02/25/2008	119	Joinder by Melody Crews, Dial Equities, Inc. to 118 Response to Motion filed by Spring Lake Apartments LLC, 116 MOTION to Strike 112 Response in Opposition,, filed by Malcom McMillan, Hinds County, Mississippi, 115 Response in Opposition,, filed by Malcom McMillan, Hinds County, Mississippi (May, Benny) (Entered: 02/25/2008)
02/28/2008	120	Joinder by Hinds County, Mississippi, Malcom McMillan to 117 MOTION *for General Relief and* MOTION for Order to Show Cause *and for Hearing* filed by Melody Crews (McDaniel, Clifford) (Entered: 02/28/2008)
03/11/2008	121	Response in Opposition re 117 MOTION *for General Relief and*, MOTION for Order to Show Cause *and for Hearing* by Melody Crews (Attachments: # 1 Exhibit A, # Exhibit B)(Monroe, Grover), 116 MOTION to Strike 112 Response in Opposition,, by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) filed by Vogel Newsome (JKM) (Additional attachment (s) added on 3/11/2008: # 1 Exhibit 1-16) (JKM). (Entered: 03/11/2008)
03/11/2008	122	MEMORANDUM IN SUPPORT re 121 Response in Opposition, filed by Vogel Newsome (JKM) (Entered: 03/11/2008)
03/12/2008	123	MOTION to Strike 116 MOTION to Strike 112 Response in Opposition,, by Vogel Newsome (Attachments: # 1 Exhibit 1-8)(JKM) (Entered: 03/13/2008)
03/12/2008	124	MEMORANDUM in Support re 123 MOTION to Strike 116 MOTION to Strike 112 Response in Opposition,, filed by Vogel Newsome (JKM) (Entered: 03/13/2008)

03/13/2008	125	RESPONSE in Opposition re 123 MOTION to Strike 116 MOTION to Strike 112 Response in Opposition,, filed by Hinds County, Mississippi, Malcom McMillan (McDaniel, Clifford) (Entered: 03/13/2008)
03/13/2008	126	ORDER CONSOLIDATING CASES 3:07CV560 AND 3:07CV99 ARE CONSOLIDATED. IT IS FURTHER ORDERED THAT ALL PLEADINGS WILL BE FILED IN LEAD CASE CIVIL ACTION 3:07cv99. Signed by District Judge William H. Barbour, Jr on 3/13/08 (JKM) (Entered: 03/13/2008)
03/13/2008	127	RESPONSE to Motion re 121 Response in Opposition, *and Reply to Plaintiff's Objection, Etc. to Motion for Show Cause Hearing and For General Relief* filed by Melody Crews (Monroe, Grover) (Entered: 03/13/2008)
03/14/2008	128	RESPONSE in Opposition re 123 MOTION to Strike 116 MOTION to Strike 112 Response in Opposition filed by Vogel Newsome (Attachments: # 1 Exhibit)(THR) (Entered: 03/18/2008)
03/14/2008	129	MOTION for Sanctions by Vogel Newsome (this motion has the same PDF as #128) (Attachments: # 2 Exhibit)(THR) (Modified on 3/19/2008 to add correct PDF(SEC). on 3/19/2008: # 3 Main Document) (SEC). (Entered: 03/18/2008)
03/14/2008	130	MEMORANDUM in Support re 128 Response in Opposition to Motion, 129 MOTION for Sanctions filed by Vogel Newsome (THR) (Entered: 03/18/2008)
03/14/2008	131	MOTION to Strike statements and meterials of defendant Spring Lake Apartments, LLC by Vogel Newsome (THR) (Entered: 03/18/2008)
03/14/2008	132	MEMORANDUM IN SUPPORT re 131 MOTION to Strike filed by Vogel Newsome (THR) (Entered: 03/18/2008)
03/17/2008		TEXT ONLY ORDER hereby relieving any and all Defendants in this cause of the requirement of Uniform Local Rule 7.2(C). By Order of this Court, Defendants shall not be required to respond to any pending or future pleadings or filings by pro se Plaintiff, Vogel Newsome, unless otherwise directed by the Court. Signed by Magistrate Judge Linda R. Anderson on 3/17/08. NO FURTHER WRITTEN ORDER SHALL FOLLOW. (CC) Modified on 3/17/2008 (CC). (Entered: 03/17/2008)
03/25/2008	133	Response in Opposition re 126 ORDER CONSOLIDATING CASES 3:07CV560 AND 3:07CV99 ARE CONSOLIDATED. IT IS FURTHER ORDERED THAT ALL PLEADINGS WILL BE FILED IN LEAD CASE CIVIL ACTION 3:07cv99. Signed by District Judge William H. Barbour, Jr on 3/13/08 (JKM) filed by Vogel Newsome (JKM) (Entered: 03/25/2008)
03/25/2008	134	MEMORANDUM IN SUPPORT re 133 Response in Opposition, filed by Vogel Newsome (JKM) (Entered: 03/25/2008)
03/25/2008	135	Response in Opposition re 126 ORDER CONSOLIDATING CASES 3:07CV560 AND 3:07CV99 ARE CONSOLIDATED. IT IS FURTHER ORDERED THAT ALL PLEADINGS WILL BE FILED IN LEAD CASE CIVIL ACTION 3:07cv99. Signed by District Judge William H. Barbour, Jr

		on 3/13/08 (JKM) filed by Vogel Newsome (JKM) (Entered: 03/25/2008)
03/25/2008	136	MEMORANDUM IN SUPPORT re 135 Response in Opposition, filed by Vogel Newsome (JKM) (Entered: 03/25/2008)
03/25/2008	137	NOTICE OF FILING OF OBJECTIONS by Vogel Newsome re 135 Response in Opposition, 136 Memorandum in Support (JKM) (Entered: 03/25/2008)
03/25/2008	138	NOTICE OF FILING OF OBJECTIONS by Vogel Newsome re 133 Response in Opposition, 134 Memorandum in Support (JKM) (Entered: 03/25/2008)
03/27/2008	139	RESPONSE in Opposition re 40 Second MOTION for Extension of Time to File Answer filed by Vogel Newsome (JKM) (Entered: 03/27/2008)
03/27/2008	140	MEMORANDUM IN SUPPORT re 139 Response in Opposition to Motion filed by Vogel Newsome (JKM) (Entered: 03/27/2008)
04/04/2008	141	Response to Order re TEXT ONLY ORDER hereby relieving any and all Defendants in this cause of the requirement of Uniform Local Rule 7.2(C). By Order of this Court, Defendants shall not be required to respond to any pending or future pleadings or filings by pro se Plaintiff, Vogel Newsome, unless otherwise directed by the Court. Signed by Magistrate Judge Linda R. Anderson on 3/17/08. NO FURTHER WRITTEN ORDER SHALL FOLLOW. (CC) Modified on 3/17/2008 (CC). filed by Vogel Newsome (JKM) (Entered: 04/04/2008)
04/04/2008	142	MOTION for Summary Judgment by Melody Crews, Dial Equities, Inc. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D) (Monroe, Grover) (Entered: 04/04/2008)
04/04/2008	143	MEMORANDUM in Support re 142 MOTION for Summary Judgment filed by Melody Crews, Dial Equities, Inc. (Monroe, Grover) (Entered: 04/04/2008)
04/09/2008	144	ORDER: Plaintiff is directed to include civil action number 3:07cv99 in pleadings filed in this action and may further indicate in the style that the two actions (3:07cv99 and 3:07cv560) are consolidated. Furthermore, following entry of this order, the clerk of court is directed to return, unfiled, any "pleadings" which do not comport with this order. Signed by District Judge Tom S. Lee on 4/9/08 (LWE) (JKM). (Entered: 04/09/2008)
04/24/2008	145	ORDER REFERRING MOTIONS: 142 MOTION for Summary Judgment; 131 MOTION to Strike; 123 MOTION to Strike; 116 MOTION to Strike; 75 MOTION to Strike; 91 MOTION for Extension of Time to File Response/Reply; 68 Joinder in motion *to Dismiss*; 110 MOTION for Recusal; 117 MOTION *for General Relief and* MOTION for Order to Show Cause *and for Hearing*; 129 MOTION for Sanctions; 89 MOTION to Strike; 78 MOTION to Strike. Signed by District Judge Tom S. Lee on 4/24/08 (LWE) (Entered: 04/24/2008)
04/25/2008	146	Response to Order re 144 ORDER: Plaintiff is directed to include civil action number 3:07cv99 in pleadings filed in this action and may further indicate in the style that the two actions (3:07cv99 and 3:07cv560) are consolidated. Furthermore, following entry of this order, the clerk of court is directed to return, unfiled, any "pleadings" which do not comport with this order. Signed

		by District Judge Tom S. Lee on 4/9/08 (LWE) (JKM). filed by Vogel Newsome (JKM) (Entered: 04/25/2008)
04/29/2008	147	NOTICE OF FILING OF MOTION FOR CONTINUANCE AND MOTION TO STRIKE by Vogel Newsome (JKM) (Entered: 04/30/2008)
04/29/2008	148	Rebuttal re 142 MOTION for Summary Judgment filed by Vogel Newsome (JKM) (Entered: 05/01/2008)
04/29/2008	149	MEMORANDUM IN SUPPORT re 148 Rebuttal filed by Vogel Newsome (JKM) (Entered: 05/01/2008)
05/05/2008	150	REPLY to Response to Motion re 148 Rebuttal, 149 Memorandum in Support filed by Melody Crews, Dial Equities, Inc. (Monroe, Grover) (Entered: 05/05/2008)
05/06/2008	151	Response in Opposition re 145 ORDER REFERRING MOTIONS: 142 MOTION for Summary Judgment; 131 MOTION to Strike; 123 MOTION to Strike; 116 MOTION to Strike; 75 MOTION to Strike; 91 MOTION for Extension of Time to File Response/Reply; 68 Joinder in motion *to Dismiss*; 110 MOTION for Recusal; 117 MOTION *for General Relief and* MOTION for Order to Show Cause *and for Hearing*; 129 MOTION for Sanctions; 89 MOTION to Strike; 78 MOTION to Strike. Signed by District Judge Tom S. Lee on 4/24/08 (LWE) filed by Vogel Newsome (JKM) (Entered: 05/08/2008)
05/06/2008	152	NOTICE of Filing by Vogel Newsome re 151 Response in Opposition,, (JKM) (Entered: 05/08/2008)
05/29/2008	153	REPORT AND RECOMMENDATIONS: recommending that the complaint be dismissed. Plaintiff should not be allowed to file pleadings in this court without paying the $1000 that she was previously ordered to pay. Objections to R&R due by 6/18/2008. Signed by Magistrate Judge Linda R. Anderson on 5/29/08. (ACF) (Entered: 05/29/2008)
06/09/2008	154	OBJECTION to 153 Report and Recommendations by Melody Crews (Monroe, Grover) (Entered: 06/09/2008)
06/09/2008	155	OPINION AND ORDER. Plaintiff's Motion to Amend[Docket No. 42 in Member Case 3:07cv560WHB-LRA] is hereby denied. The Clerk of Court is directed to file a copy of this Opinion and Order in both of the above referenced lawsuits. No further pleading shall be filed in the Member Case 3:07cv560WHB-LRA, unless authorized by the Court. Signed by District Judge William H. Barbour, Jr on 6-9-08 (Lewis, Nijah) (Entered: 06/09/2008)
06/11/2008	156	OBJECTION to 153 Report and Recommendations by Spring Lake Apartments LLC (Pace, Lanny) (Entered: 06/11/2008)
06/17/2008	157	MOTION for Extension of Time to File and MOTION to Stay. Exhibits maintained in Court file. by Vogel Newsome (JKM) (Entered: 06/24/2008)
07/01/2008	158	ORDER granting 157 Motion for Extension of Time to File to the extent that plaintiff will be allowed until July 17, 2008 in which to file her objection to the report and recommendation; denying 157 Motion to Stay pending congressional investigation. Signed by District Judge Tom S. Lee on July 1,

		2008 (DCL) (Entered: 07/01/2008)
07/22/2008	159	MOTION for Extension of Time to File Response/Reply as to 158 Order on Motion for Extension of Time to File, Order on Motion to Stay, by Vogel Newsome (JKM) (Entered: 07/22/2008)
07/22/2008	160	NOTICE OF FILING OF OFFICIAL COMPLAINT WITH THE UNITED STATES LEGISLATURE/UNITED STATES CONGRESS by Vogel Newsome (JKM) (Entered: 07/22/2008)
08/04/2008	161	NOTICE OF FILING OF OFFICIAL COMPLAINT WITH THE UNITED STATES LEGISLATURE/UNITED STATES CONGRESS by Vogel Newsome (JKM) (Entered: 08/04/2008)
08/05/2008	162	ORDER granting 159 Motion for Extension of Time to File objection to report and recommendation; objection due by 8/14/08. NO FURTHER EXTENSTIONS WILL BE GRANTED. Signed by District Judge Tom S. Lee on 8/5/08 (LWE) (Entered: 08/05/2008)
08/19/2008	163	Response to Order re 162 ORDER granting 159 Motion for Extension of Time to File objection to report and recommendation; objection due by 8/14/08. NO FURTHER EXTENSTIONS WILL BE GRANTED. Signed by District Judge Tom S. Lee on 8/5/08 (LWE) filed by Vogel Newsome (JKM) (Entered: 08/19/2008)
12/01/2008	164	Memorandum Opinion and Order re 153 REPORT AND RECOMMENDATIONS re 11 MOTION to Dismiss *or in the alternative, Motion to Quash* filed by William L. Skinner, II, 66 MOTION to Dismiss filed by Malcom McMillan, Hinds County, Mississippi, 16 Amended MOTION to Dismiss *or in the aREPORT AND RECOMMENDATIONS re 11 MOTION to Dismiss or in the alternative, Motion to Quash filed by William L. Skinner, II, 66 MOTION to Dismiss filed by Malcom McMillan, Hinds County, Mississippi, 16 Amended MOTION to Dismiss or in the a Signed by District Judge Tom S. Lee on 12/1/08 (JKM) (Entered: 12/01/2008)*
12/01/2008	165	FINAL JUDGMENT AS SET OUT HEREIN. Signed by District Judge Tom S. Lee on 12/1/08 (JKM) (Entered: 12/01/2008)
12/15/2008	166	NOTICE of Non-Waiver of Constituational Right and Civil Rights, etc. by Vogel Newsome re 165 Judgment (JKM) (Entered: 12/16/2008)

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
AUG - 6 2007
J. T. NOBLIN, CLERK
BY _____ DEPUTY

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

VOGEL NEWSOME — PLAINTIFF

vs. — Case No. 3:07-cv-00099-TSL-JCS

MELODY CREWS, ET AL. — DEFENDANTS

PLAINTIFF'S MOTION TO STRIKE STATEMENTS AND MATERIALS OF DEFENDANTS', JON C. LEWIS AND WILLIAM L. SKINNER, II, MOTION TO DISMISS, OR IN THE ALTERNATIVE, MOTION TO QUASH[1]

COMES NOW Plaintiff, Vogel Newsome ("Plaintiff") and files this her *Motion to Motion to Strike Statements and Materials of Defendants', Jon C. Lewis and William L. Skinner, II, Motion to Dismiss, or in the Alternative, Motion to Quash* pursuant to Rule 12(f) of the Federal Rules of Civil Procedure (FRCP), consolidating said Motions pursuant to Rule 12(g) of the FRCP; and seeks, as a matter of law, that this Court enter individual Default Judgments in favor of Plaintiff of and against each of these Defendants, one for Jon C. Lewis ("Lewis") individually and in his official capacity; and, one for William L. Skinner, II ("Skinner"), individually and in his official capacity.

This Plaintiff moves this Court to strike the opening paragraph, paragraphs numbered 1 through 8, unnumbered paragraph following paragraph number 8, any and all supporting statement and materials provided with Lewis' *Motion to Dismiss*, including Exhibit A and Exhibit B, pursuant to Rule 12(f) of the FRCP in that said paragraphs are either irrelevant, immaterial and/or scandalous to this lawsuit and is not permissible as a matter of law and cannot be substantiated to support any such defenses against the claims brought by the Plaintiff in her

[1] Boldface, italics and/or underline in this pleading has been added for emphasis.

EXHIBIT 43

Complaint.

This Plaintiff moves this Court to strike the opening paragraph, paragraphs numbered 1 through 9, and following unnumbered paragraph following paragraph number 9, any and all supporting statement and materials provided with Skinner's *Motion to Dismiss*, including Exhibit A and Exhibit B, pursuant to Rule 12(f) of the FRCP in that said paragraphs are either irrelevant, immaterial and/or scandalous to this lawsuit and is not permissible as a matter of law and cannot be substantiated to support any such defenses against the claims brought by the Plaintiff in her Complaint.

Moreover, to let said statements and material to remain in the record would heavily prejudice the Plaintiff and infringe upon rights secured under the United States Constitution, Civil Rights Act and other statutes/laws outlawing such practices many years ago. In support thereof, the Plaintiff incorporates the Affidavits of the Process Server, David Langley, attached hereto as **Exhibit "1"** as it relates to service of process on Defendant Lewis and is incorporated by reference and made a part of this pleading; and, **Exhibit "2"** as it relates to service of process on Defendant Skinner and is incorporated by reference and made a part of this pleading, thus, states the following:

1. This instant Motion is provided in good faith and is not being provided to delay, hinder and/or obstruct the administration of justice.

2. The Motions to Dismiss filed by Defendants Lewis and Skinner are **UNTIMELY** filed.

3. As a direct and proximate result of Lewis' and Skinner's failure to file a timely Answer and/or responsive pleading, these Defendants have **WAIVED** any such defenses they assert through their ***dilatory*** *Motions to Dismiss.*

4. Summons issued on Defendant Lewis was not defective.

5. Summons issued on Defendant Skinner was not defective.

6. Defendants Lewis nor Skinner can show any excusable neglect.

7. Defendants Lewis and Skinner: (1) aware of Complaint – lawsuit filed; (2) filed a responsive pleading through their attorney; and (3) appearance in action through their attorney. Thus, waiving any arguments and/or defenses as to this Court's jurisdiction.

8. Answer and/or responsive pleading was due on July 11, 2007, for Lewis. Summons and Complaint were served on June 21, 2007. Instead of filing an Answer and/or responsive pleading on July 11, 2007, Lewis elected to forgo his rights, and, instead, on **July 11, 2007** – on the date his Answer and/or responsive pleading was due in this lawsuit – he elected to subject the Plaintiff to another malicious lawsuit by filing a complaint against the Plaintiff in the Hinds County Justice Court for: (1) Docket No. 1180, Page 584, No. 999-0049429 alleging "Disorderly Conduct – *Failure to Comple* [sic] *With Law Enforcement*;" and (2) Docket No. 1180, Page 5855, No. 999-0049430 alleging *Resisting Arrest*. Lewis' malicious lawsuit was filed in retaliation and for malicious purposes to cause the Plaintiff additional injury/harm. Thus, further supporting Lewis was aware of the significance of the July 11, 2007, date; however, elected forgo his rights and embark on a frivolous lawsuit against the Plaintiff. Clearly supporting where Lewis placed his priorities ((i.e. instituting his malicious and frivolous complaint in Justice Court rather than file an Answer and/or responsive pleading in this lawsuit). The time for attacking process of service lapsed on July 11, 2007 and the defenses Lewis attempts to assert at this late stage in the lawsuit as well. See **Exhibit "3"** attached hereto and incorporated by reference.

9. Answer and/or responsive pleading was due on July 11, 2007, for Defendant Skinner. Therefore, said Defendant's Answer and/or responsive pleading to the Summons and Complaint were due July 11, 2007. However, said Defendant has elected to WAIVE any such rights that he may assert he is entitled to. Skinner in his official capacity is a judge, so he knew and/or should have known the criticalness of filing an Answer and/or responsive pleading if he wanted to assert any such defenses. The time for attacking process of service lapsed on July 11, 2007 and the defenses Skinner attempts to assert at this late stage in the lawsuit as well.

10. Pursuant to Rule 4 of the Federal Rules of Civil Procedure ("FRCP") Lewis was served with *Notice of Lawsuit and Request for Waiver of Service of Summons* on **April 26, 2007,** which included document from Plaintiff entitled, "*Notification Accompanying Waiver Request*" which notified said Defendant that his "responsive pleading shall comply with Federal Rules of Civil Procedure Rule 8 and/or other applicable laws governing said matters and those responses to Complaint." See **Exhibits "4"** herein incorporated by reference and made a part of this pleading – Notice served on Lewis (with copy of U.S. Postal Service Signature Confirmation Receipt). Said *Notice* was received on or about **May 1, 2007**; therefore giving Defendant Lewis 30 days to sign and return waiver and would have given him

60 days to file an Answer and/or responsive pleading to the Plaintiff's Complaint. Had Lewis executed said Waiver, he would have been allowed until **June 25, 2007,** to file Answer to Complaint and/or responsive pleading. Said *Notice* provided Lewis with the required and/or pertinent information (i.e. Court, Caption and **Case Number** of the lawsuit brought, etc.). Moreover, the Summons provided with the Complaint provided Lewis with the "**Case Number.**" However, *although required*, Lewis elected not to comply with Rule 4 of the FRCP requiring the Plaintiff to have him served with Summons and Complaint. Lewis *clearly* does not deny not being given his mail or the person(s) in charge of receipt and delivering his mail was not authorized to receive mail and deliver it. Thus, Lewis having **NOTICE** of the instant lawsuit as early as April 2007, if not notified sooner through any other resources and/or means available to him.

11. It is important to note that Defendant Lewis is also being sued in his "***official***" capacity as well and is; therefore, also subject to the provisions of Rule 4 and required to comply with said Rule to save the cost of litigation. However, said Defendant failed to do so. Therefore, process was had at Lewis' place of employment with another employee and/or person of proper age and competency to receive service on behalf of Lewis accepted service on his behalf. Moreover, person authorized by law to receive process.

12. Pursuant to Rule 4 of the FRCP Defendant Skinner was served with *Notice of Lawsuit and Request for Waiver of Service of Summons* on **April 26, 2007,** which included document from Plaintiff entitled, "*Notification Accompanying Waiver Request*" which notified said Defendant that his "responsive pleading shall comply with Federal Rules of Civil Procedure Rule 8 and/or other applicable laws governing said matters and those responses to Complaint." See **Exhibits "5"** herein incorporated by reference and made a part of this pleading – Notice served on Lewis (with copy of U.S. Postal Service Signature Confirmation Receipt). Said *Notice* was received on or about **May 1, 2007**; therefore giving Defendant Skinner 30 days to sign and return waiver and would have given him 60 days to file an Answer and/or responsive pleading to the Plaintiff's Complaint. Had Skinner executed said Waiver, he would have been allowed until **June 25, 2007,** to file Answer to Complaint and/or responsive pleading. Said *Notice* provided Skinner with the required and/or pertinent information (i.e. Court, Caption and **Case Number** of the lawsuit brought, etc.). However, Skinner elected not to comply with Rule 4 of the FRCP requiring the Plaintiff to have him served with Summons and Complaint. Skinner *clearly* does not deny not being given his mail or the persons handling and/or delivering his mail was/were not authorized to receive mail and deliver it.

13. Defendant Skinner is also being sued in his "***official***" capacity as well and is; therefore, also subject to the provisions of Rule 4 and required to comply with said Rule to save the cost of litigation. However, said Defendant failed to do so. Therefore, process was had on Skinner at his place of employment with another employee and/or person of proper age and competency to receive service on behalf of Lewis accepted service on his behalf. Moreover, authorized by law to receive process. Thus, Lewis having **NOTICE** of the instant lawsuit as early as April 2007, *if not notified sooner* through any other resources and/or means available to him that

Plaintiff would be bringing action against him.

14. The ***dilatory*** *Motions to Dimiss* of Defendants Lewis and Skinner have been provided for purposes of fraud, deception, malicious intent, malice, harassment, delay and/or hindering proceedings, obstructing administration of justice, in furtherance of malicious prosecution actions, and those known to Defendant Lewis Skinner.

15. A question arises as to whether the herein named Defendants (Lewis and Skinner) have ever been served with process at their place of employment in their official capacity.

16. Defendants' Lewis and Skinner attorneys' law firm (Page Kruger & Holland) in this in this lawsuit is a former employer of the Plaintiff.

17. Plaintiff's employment with the Page Kruger & Holland was terminated as a *direct and proximate* result of their knowledge of a lawsuit brought by her against other named Defendants (Melody Crews, Spring Lake Apartments, LLC and Dial Equities, Inc.).

18. Prior to Plaintiff's termination, they were notified of CONFLICT the Plaintiff had and intent to bring action. See **Exhibit "6"** attached hereto and incorporated herein by reference.

19. While the Plaintiff ask for no special favors from Page Kruger & Holland, she is very thankful that they have elected not to timely file an Answer and/or responsive pleading on behalf of their clients – Jon C. Lewis and William L. Skinner, II. As well as may have advised Defendant Lewis to file his Justice Court action instead – banking on the frivolous assertions provided in these Defendants' Motion to Dismiss.

20. Defendant Skinner may have attended law school with attorney(s) at Page Kruger & Holland. Thus, relying upon their services; however, failed to assure that his attorneys met the filing deadline in responding to the Complaint filed by the Plaintiff. Indeed, justice is now served and he is reaping from the unlawful, illegal and unethical practices he has dished out unjustly. As Theodore Roosevelt is quoted as saying:

> **LAST WORDS:** Straight from Teddy Roosevelt: "*Unless a man is honest we have no right to keep him in public life, it matters not how brilliant his capacity, it hardly matters how great his power of doing good service on certain lines may be . . . No man who is corrupt, no man who condones corruption in others, can possibly do his duty by the community*."

See **Exhibit "7"**- FBI Article "Investigation of Public Corruption: Rooting Crookedness Out of Government," attached hereto and incorporated by reference.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully request this Court:

a. Strike the opening paragraph, paragraphs numbered 1 through 8, unnumbered paragraph following paragraph number 8, any and all supporting statement and materials provided with Lewis' *Motion to Dismiss*, including Exhibit A and Exhibit B, pursuant to Rule 12(f) of the FRCP in that said paragraphs are either irrelevant, immaterial and/or scandalous to this lawsuit and is not permissible as a matter of law and cannot be substantiated to support any such defenses against the claims brought by the Plaintiff in her Complaint. Moreover, Defendant Lewis' Motion to Strike is **UNTIMELY** has been provided for purposes of delay, hindering proceedings, obstructing the administration of justice, fraud, harassment, increasing the costs associated with litigation, and for other such reasons known by him. Therefore, as a matter of laws, any such defenses that Defendant Lewis may have asserted are hereby **WAIVED**. For this Court to allow the statements and materials of Defendant *Lewis's Motion to Dismiss* filing to remain in the record, would prejudice the Plaintiff and infringe upon her rights secured under the United States Constitution, Civil Rights Act and other governing laws as it relates to such matters.

b. Strike the opening paragraph, paragraphs numbered 1 through 9, and following unnumbered paragraph following paragraph number 9, any and all supporting statement and materials provided with Skinner's *Motion to Dismiss*, including Exhibit A and Exhibit B, pursuant to Rule 12(f) of the FRCP in that said paragraphs are either irrelevant, immaterial and/or scandalous to this lawsuit and is not permissible as a matter of law and cannot be substantiated to support any such defenses against the claims brought by the Plaintiff in her Complaint. Moreover, Defendant Skinner's *Motion to Strike* is **UNTIMELY** has been provided for purposes of delay, hindering proceedings, obstructing the administration of justice, fraud,

harassment, increasing the costs associated with litigation, and for other such reasons known by him. Therefore, as a matter of laws, any such defenses that Defendant Skinner may have asserted are hereby **WAIVED**. For this Court to allow the statements and materials of Defendant Skinner's *Motion to Dismiss* filing to remain in the record, would prejudice the Plaintiff and infringe upon her rights secured under the United States Constitution, Civil Rights Act and other governing laws as it relates to such matters.

c. That this Court on its own initiative sanction these Defendants herein named and their attorneys in the amount of $50,000.00 each to deter such practices from them and their counsel; moreover, the applicable punishment permissible under the laws for Rule 11 for violations up to and including contempt – if permissible;

d. Grant the Plaintiff default judgment of and against Defendant Jon C. Lewis in his Individual capacity and in this Official capacity.

e. Grant the Plaintiff a default judgment of and against Defendants William L. Skinner, II, in his Individual capacity and in Official capacity.

f. Furthermore, the averments in the Plaintiff's Complaint, as a matter of law, are deemed admitted. Thus, entitling her to the relief sought in the Complaint filed in this lawsuit.

g. Any and all other relief this Court deems necessary and appropriate to correct the wrongs, injustice and prejudice complained of and rendered the Plaintiff.

Respectfully submitted this **6th** day of **August, 2007**.

VOGEL NEWSOME, Plaintiff - *Pro Se*
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922 or (601) 885-9536

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the forgoing pleading was mailed via U.S. Mail first-class mail on:

Grover Clark Monroe, II, Esq.
Benny McCalip May, Esq.
DUNBARMONROE, PLLC
1855 Lakeland Drive, Suite R201
Jackson, Mississippi 39216
Attorney for Melody Crews and
Dial Equities, Inc.

Lanny R. Pace, Esq.
STEEN DALEHITE & PACE
Post Office Box 900
Jackson, Mississippi 39205-0900
Attorney for Spring Lake Apartments

J. Lawson Hester, Esq.*
Clifford Allen McDaniel, II, Esq.**
PAGE, KRUGER & HOLLAND, P.A.
Post Office Box 1163
Jackson, Mississippi 39215-1163
*Attorney for Malcom McMillan and Hinds County Mississippi
**Attorney for Defendants Jon C. Lewis and William Skinner

Dated this **6th** day of **August, 2007.**

VOGEL NEWSOME

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

VOGEL NEWSOME — PLAINTIFF

vs. — Case No. 3:07-cv-00099-TSL-JCS

MELODY CREWS, ET AL. — DEFENDANTS

AFFIDAVIT OF DAVID LANGLEY
REGARDING SERVICE OF SUMMONS and COMPLAINT ON
JON C. LEWIS

STATE OF MISSISSIPPI)
) SS
COUNTY OF Hinds)

I, David Langley, being first duly sworn, deposes and states:

1. I have personal knowledge as to the issue regarding service of process on Jon C. Lewis, and am competent to testify on this issue.

2. I was the Process Server in the above-styled action that handled service of process on Jon C. Lewis ("Lewis").

3. When provided with the Summons and Complaint in this action, I was provided with information from the Plaintiff, Vogel Newsome ("Plaintiff"), with information containing:

> Contact information for **Jon C. Lewis** (Constable):
> Jon C. Lewis
> Hinds County Courthouse
> 407 East Pascagoula Street
> Phone: (601) or **(601) 968-6781**
>
> **[NOTE:** If you are unable to reach Jon Lewis by phone, please ask the Clerk of the Justice Court (**Patricia T. Woods**) or Chief Deputy Clerk (**Lakesha Bell-Wilson**). Let them know that you need to serve Summons & Complaint and is there a policy you need to follow. Also, ask whether or not they are authorized to receive process on behalf of Jon Lewis if he is not there – please find out what his schedule is (when he is at his office)].

See **Exhibit "A"** attached hereto – pertinent information regarding this issue provided with applicable information being redacted.

1

4. I called the Justice Court Clerk's Office and asked to speak to Jon Lewis. Based on the instructions given by Plaintiff, I asked whether they were authorized to receive service on behalf of Jon Lewis. I was advised by the Clerk, L. Brown, of authorization to receive process (Summons and Complaint) on behalf of Jon C. Lewis.

5. Based upon such representation and affirmation, I left a copy of the Summons and Complaint with L. Brown.

6. If process was served on an unauthorized person, it was the direct and proximate result of false and/or misleading information provided me.

7. I affirm that a copy of the attached *Summons* served and *Return of Service* is a true and correct copy.

8. This affidavit has been submitted in *good faith* and is not being filed for purposes of delay, hindering, misrepresentations and/or obstructing the administration of justice in this lawsuit.

FURTHER, AFFIANT SAYETH NAUGHT.

Dated this **30TH** day of **July, 2007**.

DAVID LANGLEY, *Affiant*

Subscribed and sworn to before me on the **30TH** day of **July, 2007.**

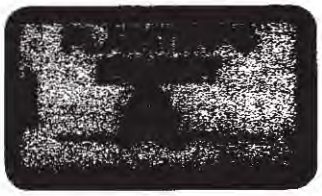
NOTARY PUBLIC

Commission Expires:

TAMMY L. MCDANIEL, MADISON COUNTY, MS
NOTARY PUBLIC
My Commission Expires January 7, 2011

Contact information for **Jon C. Lewis** (Constable):
Jon C. Lewis
Hinds County Courthouse
407 East Pascagoula Street
Jackson, MS 39205
Phone: (601) 965-8800 or **(601) 968-6781**

[**NOTE:** If you are unable to reach Jon Lewis by phone, please ask for the Clerk of the Justice Court (**Patricia T. Woods**) or Chief Deputy Clerk (**Lakesha Bell-Wilson**). Let them know that you need to serve Summons & Complaint and is there a policy you need to follow. Also, ask whether or not they are authorized to receive process on behalf of Jon Lewis if he is not there – please find out what his schedule is (when he is at his office)].



AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern District of Mississippi (Jackson Division)

VOGEL NEWSOME
Plaintiff

V.

MELODY CREWS, ET AL.
Defendants

SUMMONS IN A CIVIL ACTION

CASE NUMBER: 3:07-cv-00099-TSL-JCS

TO: (Name and address of Defendant)

Jon C. Lewis
Individually and in his capacity as Constable of Hinds County
Hinds County Court House
407 Pasacagoula Street
Jackson, Mississippi 39205-0686

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Vogel Newsome
Post Office Box 14731
Cincinnati, Ohio 45250

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. T. NOBLIN

CLERK

5-2-07

DATE

(By) DEPUTY CLERK

B

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE

Service of the Summons and complaint was made by me(1)	DATE 6/21/07
NAME OF SERVER (PRINT) David Langley	TITLE Process Server

Check one box below to indicate appropriate method of service

☐ Served personally upon the defendant. Place where served:

☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left:

☐ Returned unexecuted:

☑ Other (specify): L. Brown (clerk)

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES 35.00	TOTAL $0.00

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on 6/21/07 (Date) _____ (Signature of Server)

916 Frisky Dr
(Address of Server)
Brandon MS 39047

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

VOGEL NEWSOME — PLAINTIFF

vs. — Case No. 3:07-cv-00099-TSL-JCS

MELODY CREWS, ET AL. — DEFENDANTS

AFFIDAVIT OF DAVID LANGLEY
REGARDING SERVICE OF SUMMONS and COMPLAINT ON
WILLIAM L. SKINNER, II

STATE OF MISSISSIPPI)
) SS
COUNTY OF Hinds)

I, David Langley, being first duly sworn, deposes and states:

1. I have personal knowledge as to the issue regarding service of process on William L. Skinner, II, and am competent to testify on this issue.

2. I was the Process Server in the above-styled action that handled service of process on William L. Skinner, II ("Skinner").

3. When provided with the Summons and Complaint in this action, I was provided with instructions from Vogel Newsome ("Plaintiff"), with information containing:

> Contact information for **Jude Skinner**:
> William (Bill) Skinner
> Hinds County Courthouse
> 407 Pascagoula Street
> Jackson, MS 39205
> Phone: (601) 965-8800
>
> **[NOTE:** If you are unable to reach Judge Skinner by phone, please ask the Clerk of the Justice Court (**Patricia T. Woods**) or Chief Deputy Clerk (**Lakesha Bell-Wilson**). Let them know that you need to serve Summons & Complaint and is there a policy you need to follow. Also, ask whether or not they are authorized to receive process on behalf of Judge Skinner if he is not there -- please find out what his schedule is (when he is at his office)].
>
> His schedule according to internet info is as follows:

2

Monday	Tuesday	Wednesday	Thursday	Friday
Initial Appearances in Raymond **Adjudication Hearings**	**Abuse and Neglect Hearings**	**Initial Appearances in Raymond** **Adjudication Hearings**	**Disposition Hearings** **Truancy Hearings**	**Initial Appearances in Raymond** **Restitution Hearings** **Truancy Hearings**
1:00 – 5:00 Youth Court	**1:00 Drug Court**	**1:00 – 5:00 Youth Court**	**1:00 Bad Check Court In Raymond**	**1:00 – 5:00 Youth Court**

See **Exhibit "A"** attached hereto – pertinent information regarding this issue provided with applicable information being redacted.

4. In the service of process, I spoke with Derrick McClung, Case Manager for Day Court, to determine who was authorized to receive process on behalf of Skinner. Mr. McClung advised me that he was authorized to receive service of process and that they receive service of process on other occasions as well.

5. Based upon such representation and affirmation from Mr. McClung, I left a copy of the Summons and Complaint with him to be served and/or delivered to Judge Skinner.

6. If process was served on an unauthorized person, it was the direct and proximate result of false and/or misleading information provided me.

7. I affirm that a copy of the attached *Summons* served and *Return of Service* for William L. Skinner, II is a true and correct copy.

8. This affidavit has been submitted in *good faith* and is not being filed for purposes of delay, hindering, misrepresentations and/or obstructing the administration of justice in this lawsuit.

FURTHER, AFFIANT SAYETH NAUGHT.

Dated this **30TH** day of **July, 2007.**

DAVID LANGLEY, *Affiant*

Subscribed and sworn to before me on the **30TH** day of **July, 2007.**

NOTARY PUBLIC

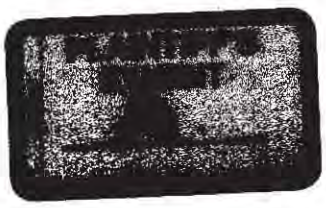
L. MCDANIEL, MADISON COUNTY, MS
NOTARY PUBLIC
My Commission Expires: January 7, 2011

Contact information for **Judge Skinner**:
William (Bill) Skinner
Hinds County Courthouse
407 Pascagoula Street
Jackson, MS 39205
Phone: (601) 965-8800

[**NOTE:** If you are unable to reach Judge Skinner by phone, please ask for the Clerk of the Justice Court (Patricia T. Woods) or Chief Deputy Clerk (Lakesha Bell-Wilson). Let them know that you need to serve Summons & Complaint and is there a policy you need to follow. Also, ask whether or not they are authorized to receive process on behalf of Judge Skinner if he is not there -- please find out what his schedule is (when he is at his office)].

His schedule according to internet info is as follows:

Monday	Tuesday	Wednesday	Thursday	Friday
Initial Appearances in Raymond Adjudication Hearings	Abuse and Neglect Hearings	Initial Appearances in Raymond Adjudication Hearings	Disposition Hearings Truancy Hearings	Initial Appearances in Raymond Restitution Hearings Truancy Hearings
1:00 - 5:00 Youth Court	1:00 Drug Court	1:00 - 5:00 Youth Court	1:00 Bad Check Court in Raymond	1:00 - 5:00 Youth Court



AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern District of Mississippi (Jackson Division)

VOGEL NEWSOME
Plaintiff

V.

MELODY CREWS, ET AL.
Defendants

SUMMONS IN A CIVIL ACTION

CASE NUMBER: 3:07-cv-00099-TSL-JCS

TO: (Name and address of Defendant)

William L. Skinner, II
Individually and in his capacity as Justice Court Judge
Hinds County Courthouse
407 Pasacagoula Street
Jackson, Mississippi 39205-0686

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Vogel Newsome
Post Office Box 14731
Cincinnati, Ohio 45250

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. T. NOBLIN
CLERK

5-2-07
DATE

(By) DEPUTY CLERK

B

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE

Service of the Summons and complaint was made by me(1)	DATE 8/21/07
NAME OF SERVER (PRINT) David Langley	TITLE Process Server

Check one box below to indicate appropriate method of service

☐ Served personally upon the defendant. Place where served:

☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left: X Derrick McClung

☐ Returned unexecuted:

☒ Other (specify): Derrick McClung case manager for dog court

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
		$0.00

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on 8/21/07 (Date)

(Signature of Server)

916 Fritz Dr
(Address of Server)
Brandon, MS 39047

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

DOCKET 1180 PAGE 585

999-0049430

LEWIS JON - CONSTABLE

STATE OF MISSISSIPPI

VS.

NEWSOME VOGEL

CHARGE RESISTING ARREST 97-9-73

FILED 07-11-07

PLEA

H 8-7-07 9:30 Am

DISPOSITION

Attorney for Plaintiff

Richard Rehfeldt

Attorney for Defendant

JCVENV2

DOCKET 1180 PAGE 584 585

999-0049429

LEWIS JON - CONSTABLE

STATE OF MISSISSIPPI

VS.

NEWSOME VOGEL

CHARGE DISORDERLY CONDUCT-FAILURE TO COMPLE WITH LAW ENFORCEMENT

FILED 07-11-07

PLEA

H 8-7-07 9:30 Am

DISPOSITION

Attorney for Plaintiff

Richard Refeldt

Attorney for Defendant

460 Briarwood Dr Ste 500

JCVENV2 Jackson, MS 39206

3

GENERAL AFFIDAVIT

STATE OF MISSISSIPPI

COUNTY OF HINDS

DOCKET 1180 PAGE 585
999-0049430

BEFORE ME, the undersigned Justice Court Clerk of Hinds County, personally came

Jon Lewis

being first duly sworn, makes affidavit that Vogel Newsome
134 Hawthorne Co
Jackson, MS 39206 on or about

the 14 day of February 06, in the county aforesaid, did willfully and unlawfully
Resisting Arrest 97-9-73
did willfully and unlawfully resist by force the lawful arrest by Constable Jon Lewis, a state law enforcement officer.

against the peace and dignity of the State of Mississippi.

Witness my hand this the 3 day of July, 07.

Affiant's Address

407 Pascagoula St.
Jackson, MS

Phone

PATRICIA T. WOODS
Hinds County Justice Court Clerk
407 East Pascagoula Street - Suite 333
P.O. Box 3490
Jackson, Mississippi 39207
(601) 965-8800

BY _____ D.C.

JCVAFF1

GENERAL AFFIDAVIT

STATE OF MISSISSIPPI

COUNTY OF HINDS

DOCKET 1180 PAGE 584
099-00049429

BEFORE ME, the undersigned Justice Court Clerk of Hinds County, personally came

Jon Lewis

being first duly sworn, makes affidavit that Vogel Newsome
1434 Hawthorne Cv.
Jackson MS 39286 on or about

the 14 day of February 06, in the county aforesaid, did willfully and unlawfully
97-35-7(1)(a) Disorderly Conduct - Failure To Comply with Request of Command of Law Enforcement officer

did willfully and unlawfully, with the intent to provoke a breach of peace resulting in a breach of peace, refuse to comply with the ~~command~~ order of Jon Lewis, a law enforcement officer who had the authority to then and there arrest any person for a violation of the law, to move from the apartment in which she was being evicted.

against the peace and dignity of the State of Mississippi.

Witness my hand this the 3 day of July, 07.

Affiant's Address

407 Pascagoula St.
Jackson MS.

Phone

PATRICIA T. WOODS
Hinds County Justice Court Clerk
407 East Pascagoula Street - Suite 333
P.O. Box 3490
Jackson, Mississippi 39207
(601) 965-8800

BY _____ D.C.

JCVAFF1

NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE OF SUMMONS

TO: (A) Jon C. Lewis

as (B) _____ of (C) _____

A lawsuit has been commenced against you (or the entity on whose behalf you are addressed). A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the (D) Southern District of Mississippi (Jackson) and has been assigned docket number (E) 3:07-cv-00099.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within (F) 30 days after the date designated below as the date on which this Notice and Request is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth at the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this 26th day of April, 2007.

Vogt Henson

Signature of Plaintiff's Attorney
or Unrepresented Plaintiff

NOTE: To *save cost in litigation* this *Notice of Lawsuit and Request for Waiver of Service of Summons* and *Waiver of Service of Summons* is being provided you. Plaintiff has also attached to form document entitled, "***Notification Accompanying Waiver Request***" which she believes contains pertinent information regarding Answering of Complaint.

A—Name of individual defendant (or name of officer or agent of corporate defendant)
B—Title, or other relationship of individual to corporate defendant
C—Name of corporate defendant, if any
D—District
E—Docket number of action
F—Addressee must be given at least 30 days (60 days if located in foreign country) in which to return waiver

NOTIFICATION ACCOMPANYING WAIVER REQUEST

You are hereby **NOTIFIED** that your responsive pleading shall comply with Federal Rules of Civil Procedure Rule 8[1] and/or other applicable laws governing said matters and those responses to Complaint shall:

1. State in short and plain terms the your defenses to each claim asserted and shall admit or deny averments upon which you rely;

2. If you are without knowledge or information sufficient to form a belief as to the truth of an averment, you shall so state and this has the effect of a denial. However, said denials shall fairly meet the substance of the averments denied;

3. If you intend in ***good faith*** to deny only a part or a qualification of an averment, then you shall specify so much of it as is true and material and shall deny only the remainder; and

4. Be subject to the provisions of Federal Rules of Civil Procedure Rule 11. Your *"failure to comply with Rule 11 may be attacked by a motion to strike." "An attorney who willfully violates Rule 11 is subject to possible disciplinary action."* Your signing of pleading constitutes a certificate of the following:

    a. That the attorney (or party) has conducted a reasonable inquiry;

    b. That he or she is satisfied that the paper is well grounded in fact;

    c. That the pleading has a basis in existing law or that the attorney (or party) has a good faith argument to amend or reverse existing law;

    d. *That the pleading* ***is not*** *interposed for any improper purpose, such as harassment, delay or needless increase of his opponent's costs of litigation.*

    . . . *If the pleading or other paper is signed in violation of this Rule,* **appropriate sanctions** *shall be imposed by the court on motion or on its own initiative.* Sanctions may include an order to pay the other party the amount of reasonable expenses caused by the violation, including reasonable attorney's fees.[2]

You are hereby further **NOTIFIED** that:

5. That you are to familiarize and/or acquaint yourself with the Rules governing responsive pleadings. Answers such as "failure to state a claim," "lack of

[1] Reference Purposes: See **Exhibit "A"** attached hereto and incorporated by reference Rule 8 General Rules of Pleadings - *Wright & Miller Federal Practice and Procedure* Civil 3d.

[2] Reference Purposes: See **Exhibit "B"** attached hereto and incorporated by reference - *Niles Federal Civil Procedure* 7.530 Signing of Pleadings, Motions and Other Papers.

subject matter jurisdiction," provided for purposes of misrepresentation, delay of proceedings, obstruction of justice, etc., will be subject to the provisions of Rule 11 – excerpts of pleading requirements of the Complaint are ***attached*** hereto;[3]

6. If your answer is not sufficiently definite in nature to give reasonable notice of the allegations in the Complaint sought to be placed in issue, the Plaintiff's averments may be treated as admitted (i.e. a corporate defendant's denial of "each and every allegation" did not give "plain notice.").[4]

7. A denial of knowledge or information requires that you not only lack first-hand knowledge of the necessary facts involved, but also that you lack information upon which you reasonably could form a personal belief concerning the truth of the Plaintiff's allegations.[5]

8. Normally, you may not assert lack of knowledge or information if the necessary facts or data involved are within your knowledge or easily brought within your knowledge – (i.e. An answer denying information as to the truth or falsity of a matter necessarily within the knowledge of the party's managing officers is a sham, and will be treated as an admission of allegation of the complaint.[6])

9. An averment, that you are without knowledge or information sufficient to form a belief as to matters that are of common knowledge or of which you can inform yourself with the slightest effort, ***will be treated as patently false and the effect and purpose will be taken as such to merely delay justice***.[7]

10. If the Answer to the Complaint is not in compliance with the rules and/or laws governing said matters, the applicable Motion to Strike the Answer will be filed and request for proper relief (i.e. sanctions against you and or attorney [if applicable]) will be sought.

You are **NOTIFIED** that unless you serve and file a written responsive pleading within the specified time, the Plaintiff will take judgment against you by default for the relief demanded in the Complaint.

Respectfully submitted,

Vogel Newsome

Vogel Newsome, Plaintiff *Pro Se*
Post Office Box 14731
Cincinnati, Ohio 45250
(601) 885-9536

[3] Reference Purposes: See **Exhibit "C"** attached hereto and incorporated by reference which includes, *Niles Federal Civil Procedure* 7.100 Pleadings Allowed through 7.262 Effect of Failure to Deny.

[4] Reference Purposes: *Wright & Miller Federal Practice and Procedure* Civil 3d § 1261.

[5] Reference Purposes: *Wright & Miller Federal Practice and Procedure* Civil 3d § 1262.

[6] For Reference Purposes: *Wright & Miller Federal Practice and Procedure* Civil 3d § 1262 and also, *Harvey Aluminum (Inc.) v. NLRB*, 335 F2d 749, 758 (9th Cir. 1964).

[7] For Reference Purposes: See *Reed v. Turner*, 2 F.R.D. 12; and *Squire v. Levan*, 32 F.Supp. 437.

FEDERAL PRACTICE AND PROCEDURE

WRIGHT AND MILLER

FEDERAL RULES OF CIVIL PROCEDURE

Exhibit A

RULE 8. GENERAL RULES OF PLEADING

Analysis

A. PLEADING—IN GENERAL

Sec.
1201. History of Rule 8.
1202. Objectives and Functions of Pleadings Under the Federal Rules.
1203. Relationship Between Rule 8 and Other Federal Rules.
1204. Law Governing Pleading in the Federal Courts.
1205. Pleading a Claim for Relief—In General.

B. PLEADING JURISDICTION

1206. Pleading Jurisdiction—In General.
1207. ___ Pleadings Beyond the Initial Complaint.
1208. ___ Diversity of Citizenship Cases.
1209. ___ Federal Question Cases.
1210. ___ Special Federal Question Cases.
1211. ___ Admiralty Cases.
1212. ___ When the United States Is a Party.
1213. ___ Jurisdictional Amount.
1214. ___ Consequences of Failure to Comply With Rule 8(a)(1).

C. PLEADING A CLAIM FOR RELIEF

1215. Statement of the Claim—In General.
1216. ___ Significance of "Claim for Relief."
1217. ___ "Short and Plain."
1218. ___ "Ultimate Facts," "Evidence," and "Conclusions."
1219. ___ Theory of the Pleadings Doctrine.
1220. ___ Dioguardi v. Durning.
1221. ___ No Special Rules for Certain Cases.
1222. ___ Use of the Common Counts.
1223. ___ The Official Pleading Forms.
1224. ___ Pleading on Information and Belief.
1225. ___ Effect on the Doctrines of Res Judicata and Collateral Estoppel.
1226. ___ Built-In Defenses.
1227. Statement of Particular Matters—Admiralty and Maritime Claims.
1228. ___ Antitrust, Monopoly, and Restraint of Trade.
1229. ___ Bankruptcy.
1230. ___ Civil Rights.
1231. ___ Class Actions and Shareholder Derivative Suits.
1232. ___ Condemnation Proceedings.
1233. ___ Conspiracy.
1234. ___ Constitutional Rights.
1235. ___ Contracts.

Sec.
1236. ___ Conversion.
1237. ___ Copyrights, Trademarks, and Unfair Competition.
1238. ___ Declaratory Judgments.
1239. ___ Fair Labor Standards and Portal-to-Portal Acts.
1240. ___ False Imprisonment.
1241. ___ Fraud, Mistake, and Conditions of Mind.
1241.1 ___ Habeas Corpus Proceedings.
1242. ___ Housing and Rent Disputes.
1243. ___ Insurance.
1244. ___ Labor–Management Disputes.
1245. ___ Libel and Slander.
1246. ___ Malicious Prosecution.
1247. ___ Money Lent, Paid by Mistake, or Had and Received.
1248. ___ Multiple Claims and Parties.
1249. ___ Negligence.
1250. ___ Ownership and Title.
1251. ___ Patents.
1251.1 ___ Racketeer Influenced and Corrupt Organizations Act (RICO).
1252. ___ Reapportionment.
1253. ___ State or Foreign Law.
1254. ___ Miscellaneous Actions.

D. PLEADING A DEMAND FOR JUDGMENT

1255. Demand for Judgment—In General.
1256. ___ Particular Remedies.
1257. Relief in the Alternative or of Several Different Types.
1258. Amendment of Demand.
1259. Specific Allegation of Amount of Damages.
1260. Relationship Between the Demand for Judgment and Jury Trial.

E. DENIALS

1261. Denials—In General.
1262. Denials Based on Lack of Knowledge or Information.
1263. Denials Upon Information and Belief.
1264. Denial Must Meet Substance of Averment Denied.
1265. General Denials.
1266. Specific and Qualified General Denials.
1267. Negative Pregnants.
1268. Argumentative Denials.
1269. Denial Improperly Labeled as an Affirmative Defense.

F. AFFIRMATIVE DEFENSES

1270. Affirmative Defenses—In General.
1271. ___ Defenses Not Mentioned in Rule 8(c).
1272. ___ Diversity Cases.
1273. Partial Defenses and Mitigation of Damages.
1274. Pleading Affirmative Defenses.
1275. Mistaken Designation.

NILES

FEDERAL CIVIL PROCEDURE

Exhibit B

NOTE: Most federal courts allow only an attorney admitted in that federal jurisdiction to file and appear. The general rule is that to be admitted to a district, the attorney must be a member of the bar of that state. Be sure to check Local Rules, *e.g.*, Rule 2.2.1 of Central District of California.

7.530 Signing of Pleadings, Motions, and Other Papers

Effective August 1, 1983, Rule 11 was amended. It now governs the signing of all pleadings, motions and other papers and states that the signing of such documents by an attorney constitutes a certificate of the following:

(1) That the attorney (or party) has conducted a reasonable inquiry;
(2) That he or she is satisfied that the paper is well grounded in fact;
(3) That the pleading has a basis in existing law or that the attorney (or party) has a good faith argument to amend or reverse existing law;
(4) That the pleading is not interposed for any improper purpose, such as harassment, delay or needless increase of his opponent's costs of litigation.

Non-signing of the pleadings and other papers, may result in the document being stricken. If the pleading or other paper is signed in violation of this Rule, appropriate sanctions shall be imposed by the court on motion or on its own initiative. Sanctions may include an order to pay the other party the amount of reasonable expenses caused by the violation, including reasonable attorney's fees.

7.540 Verification

Some states allow verification of all pleadings whether required or not. Where a pleading is verified, the response must likewise be verified, *e.g.*, California Code of Civil Procedure § 446. Rule 11 provides that except where specifically required by statute or rule, pleadings need not be verified. Under *Hanna v. Plumer, supra,* the rule or statute referred to is federal not state. Some of the Federal Rules which require verification are Rules 23.1, 27(a), 65(b), and 66. For a listing of statutes requiring verification, see 5 Wright & Miller § 1335.

NOTE: The rules applicable to captions, signing and other matters of form of pleadings apply to all motions and other papers provided for in the Federal Rules. (See, Rule 7(b)(2)).

NILES

FEDERAL CIVIL PROCEDURE

Exhibit C

formulate the issues to be tried. Thus, only ultimate facts are allowed while conclusions of law and evidentiary statements are not. *Black v. First Nat'l Bank*, 255 F2d 373 (5th Cir. 1958).

7.100 PLEADINGS ALLOWED

Rule 7(a) sets out those pleadings which are allowed in the district courts:

(1) Complaint;
(2) Answer;
(3) Reply to a counterclaim denoted as such;
(4) Answer to a cross-claim if the answer contains a cross-claim;
(5) Third party complaint if a party who was not an original party is summoned under Rule 14;
(6) Third party answer if a third party complaint is served.

No other pleadings are allowed unless the court orders a reply to an answer or third party answer.

Note that a reply is mandatory only where the answer contains a counterclaim designated as such (*See*, Counterclaims § 9.200 et. seq.).

Rule 7(c) specifically abolishes "demurrers, pleas and exception to sufficiency of a pleading . . .". Although the demurrer is abolished, a motion to strike an insufficient answer under Rule 12(f) and a motion to dismiss the complaint for failure to state a claim under Rule 12(b)(6) perform functions similar to a demurrer (*See*, Motion Practice § 11.450 and 11.575).

7.200 GENERAL RULES OF PLEADING

The general rules of pleading in the district courts are provided by Rule 8. Briefly summarized they provide the following:

(1) That all claims and defenses are to be stated in short and plain terms (*See*, Rule 8(a) & (b)). Averments are to be simple, concise and direct and no technical forms of pleadings or motions are required (*See*, Rule 8(e)(1)). Accordingly, the degree of particularity will depend on the complexity of the matter. However, except for Rule 9 which requires pleading of special matter, such averments can be made in general terms.
(2) Under Rule 8(e)(2), pleadings can be alleged in the alternative or

hypothetical and do not have to be consistent subject to the obligations of Rule 11 (*See*, Signing § 7.500).

(3) A general denial to the entire pleading is allowed provided Rule 11 is not violated (*See*, Rule 8(b)).

(4) The pleader is not bound by any theory of pleading and there is no longer any distinction between law and equity insofar as pleadings are concerned (*See*, Rule 8(e)(2)).

(5) Pleadings are to be construed to do substantial justice (*See*, Rule 8(f)).

NOTE: The FRCP govern the details of pleading in the district courts, *Hanna v. Plumer*, 380 US 460, 85 S Ct 1136 (1965). In addition, they control the allocation of the burden of pleading and signing of pleadings.

Under Rule 8(a), any pleading which sets forth a claim for relief whether an original claim, counterclaim, cross-claim or third party claim must contain the following:

(1) A short and plain statement of the ground upon which the court's jurisdiction depends unless the court already has jurisdiction;

(2) A short and plain statement of the claim showing that the pleader is entitled to relief;

(3) A demand for judgment for the relief to which the pleader deems himself entitled;

(4) Relief in the alternative, or of several different types, may be demanded.

7.210 Pleading Jurisdictional Grounds

Because federal courts are of limited jurisdiction, it is mandatory that the complaint aver the subject matter jurisdiction of the court. *Rotolo v. Burough of Chareroi*, 532 F2d 920 (3rd Cir. 1976) (*See*, Subject Matter Jurisdiction § 2.200 et. seq.).

7.211 *Federal Question*

If jurisdiction is based on a general federal question under 28 USC § 1331, then jurisdiction should be pleaded as follows:

> The action arises under (the Constitution of the United States Article . . . section . . .); (the . . . Amendment to the Constitution, section . . .); (The Act of . . . , . . . Stat . . . : USC, Title . . . , § . . .); (the Treaty of the United States with (here describe treaty),[1] as hereinafter more fully appears.[2]

1. "Use the appropriate phrase or phrases. The general allegation of the existence of a Federal question is ineffective unless the matters constituting the claim for relief as set forth in the complaint raise a Federal question."
2. As of December 1980, it is no longer necessary to allege a minimal jurisdictional amount. The Form and note 1 are taken from Official Form 2(b) (*See*, § 7.1103). The Official Forms found at the end of the FRCP will be referred to from time to time including their examples of acceptable pleading in the district courts.

NOTE: Rule 84 makes the Official Forms "sufficient under the rules."

7.212 *Special Federal Question*

If a specific federal statute is the basis of subject matter jurisdiction, then the following adopted from Form 2(c) should be used:

> The action arises under the Act of . . . , . . . Stat . . . ; USC, Title . . . § . . . as hereinafter more fully appears.

7.213 *Diversity and Alienage Cases*

The party invoking diversity jurisdiction must plead the existence of diversity. *Christy v. Atlantic Int'l Oil Corp.*, 59 FRD 651 (SD Ohio 1972). Official Form 2(a) sets out such an averment:

> Plaintiff is a (citizen of the State of Connecticut) (corporation incorporated under the laws of the State of Connecticut having its principal place of business in the State of Connecticut) and defendant is a corporation incorporated under the laws of the State of New York having its principal place of business in a state other than the State of Connecticut. The matter in controversy exceeds, exclusive of interest and costs, the sum of ten thousand dollars.

(a) *Form for Natural Person*

Since residency is not the same as citizenship, an averment that a party is a resident of a certain state or foreign country is not sufficient. *DeVries v. Starr*, 393 F2d 9 (10th Cir. 1968). Nor is an averment that a natural person is a citizen of the United States without alleging that he is a citizen of a certain state. *Clapp v. Stearns Co.*, 229 F Supp 305 (SD NY 1964). Rather the averment should be that a natural person is a

citizen of a specific state as shown in the Form above, or in the case of an alien, that the alien is a subject of or citizen of a foreign country.

Since corporations may have dual citizenship for purposes of diversity, *i.e.*, a citizen of the state of its incorporation, as well as a citizen of the place where its principal place of business is, both must be pleaded to show diversity exists. *Moore v. Sylvania Elec. Prods. Inc.*, 454 F2d 81 (3rd Cir. 1972) (*See*, Diversity § 2.230 et. seq.).

(b) *Allegation of Jurisdictional Amount*

In diversity cases the jurisdictional amount in controversy must be alleged (*See*, 28 USC § 1332). The last sentence of Form 2(a) above meets this requirement. Although general federal questions no longer require that there be an amount in controversy, certain federal statutes may require the pleading of same. For example, statutory interpleader has a requirement that the amount in controversy exceed $500 (*See*, 28 USC § 1335).

The failure to allege jurisdictional grounds will result in the dismissal of the action unless the defect can be cured by amendment. Lack of jurisdiction can be raised at any time, even on appeal. *Ramsey v. Mellon Nat'l Bank & Trust*, 350 F2d 874 (3rd Cir. 1965). If defendent attacks the jurisdictional grounds, then the burden is on the plaintiff to show its existence. *Krasnov v. Dinan*, 465 F2d 1298 (3rd Cir. 1972).

7.220 Statement of Claim

Under Rule 8(a)(2), the complaint need only consist of a short and plain statement of the claim showing that the pleader is entitled to relief. Unlike code pleading, all the pleader is required to do is to give the opposing party fair notice of the claim and an indication of the type of litigation involved. *Banco Continental v. Curtiss Nat'l Bank*, 406 F2d 510 (5th Cir. 1969). A complaint is sufficient if plaintiff would be entitled to relief under any state of facts that could be proven in support of the claim alleged. *Arthur Richland Co. v. Harper*, 302 F2d 324 (5th Cir. 1962). A complaint is sufficient so long as some legal theory is presented even though it was not the one in the mind of the pleader. A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. *Conley v. Gibson*, 355 US 41, 78 S Ct 90 (1957).

NOTE: While the FRCP are less stringent than those for code pleading, there is no excuse for sloppy pleading. In simple cases the Official Forms may suffice. For specific matters see 5 Wright & Miller §§ 1222–1254.

7.230 Demand

Rule 8(a)(3) provides that there must be a demand for judgment of the relief which the pleader believes that he is entitled to contained in his claim. Only one demand is required regardless of the number of claims asserted. *Liberty Mutual Ins. Co. v. Wetzel*, 424 US 737, 96 S Ct 1202 (1976). However, the demand for judgment is not considered a part of the claim for purposes of testing the sufficiency of the claim. *Schoonover v. Schoonover*, 172 F2d 526 (10th Cir. 1949).

Even if an improper remedy is selected in the demand, so long as the claim indicates entitlement to some type of relief, the pleadings are not defective. *Kansas City, St. L. & C. R. Co. v. Alton R. Co.*, 124 F2d 780 (7th Cir. 1941). For examples of alleging demands see Official Forms 3, 9 and 13 (*See*, §§ 7.1104, 7.1110, 7.1113).

NOTE: Default judgments are limited to the demand prayed for (*See*, Default Judgments § 15.900 et. seq.).

7.240 Alternative, Hypothetical, and Inconsistent Pleadings

Under Rule 8(e)(2) a party may plead a claim or defense in the alternative or hypothetically, either in one count or defense or in separate counts or defenses. It further provides that separate claims or defenses may be inconsistent. This Rule is supplemented by Rule 8(a)(3) which states that relief in the alternative may be demanded and by Rule 18(a) which permits joinder of claims as independent or alternative claims (*See*, Joinder of Claims § 9.120).

Alternative and hypothetical pleadings are, by their nature, inconsistent. However, such pleading is allowed. The only restriction on inconsistent pleadings is that it meet the good faith and honesty requirements of Rule 11 (Rule 8(e)(2)) (*See*, Signing of Pleadings § 7.500 et. seq.).

7.250 Standards of Pleading

Rule 8(e)(1) states that averments must be simple, concise and direct. This Rule supplements Rules 8(a), (b) and (c) which deal more with the substantive content of pleadings. What is "simple and concise" depends on the nature of the litigation. The more complex the action the more details will be required to be pleaded, particularly in fraud actions, as a result of Rule 9(b). This Rule applies to all pleadings.

7.260 Denials

Under Rule 8(b), "[a] party shall state in short and plain terms his defenses to each claim asserted and shall admit and deny the averments upon which the adverse party relies. . . ." Rule 8(b) applies to any pleading where a defense or denial can be set out. Thus, in addition to an answer to a complaint, it applies to answers to cross-claims or an answer to a third party claim as well as a reply to a claim. Under Rule 8(d), failure to deny an averment in a pleading, except as to the amount of damages, is an admission (*But see*, Rule 12(h) for defenses which are reserved). However, where no responsive pleadings are required, then the averments in the pleadings are deemed denied or avoided.

Under Rule 8(e)(2), the answer may contain as many defenses which the party can raise which may be pleaded alternatively, hypothetically, or inconsistently. An example of how to plead an answer, including affirmative defenses, is found in Official Form 20 (*See*, § 7.1119).

A party who is without information or belief sufficient to form a belief as to the truth of an averment is allowed to so plead under Rule 8(b). Such a pleading has the effect of a denial. The third defense of Official Form 20, *infra*, is an example of such a pleading.

Although not provided for in Rule 8, a party may deny on information and belief. However, if the information is within the personal knowledge of the pleader or within the general knowledge of the community or is a matter of public record, then this type of denial cannot be used. *Oregon Mesabi Corp. v. C. D. Johnson Lumber Co.*, 166 F2d 997 (9th Cir. 1947), cert. den. 334 US 837 (1948). A form of denial on information and belief is as follows:

> Defendant is informed and believes that the allegations of paragraph _____ of the complaint are untrue and basing his denial on that ground denies each and every allegation contained in such paragraph _____.

Under Rule 9(a) and (c), there are two situations where specific pleading of denials are required:

(1) in order to put into issue the capacity of a party and
(2) the responding party must make a specific denial to an averment of performance or occurance of conditions precedent.

Pleading affirmative defenses under Rule 8(c) is discussed at § 7.270.

7.261 *Types of Denials*

A defendant can make a general denial to the entire complaint subject to Rule 11 (Rule 8(b)). (*See*, Signing of Pleadings § 7.500 et. seq.). An example of such a denial is, "Defendant denies each and every allegation in the complaint."

(a) *Specific and Qualified Denials*

If a party in good faith cannot deny each and every averment of the complaint, then that party may make ". . . specific denials of designated averments or paragraphs . . ." under Rule 8(b). See the Third Defense of Official Form 20 (*See*, § 7.1119) for such a denial.

If the defendant wants to controvert almost all of the averments except such designated averments or paragraphs which he expressly admits, such a pleading would be, "Defendant denies each and every paragraph contained in the complaint except that Defendant admits paragraph. . . ."

(b) *Negative Pregnants and Argumentative Denials*

Under Code Pleading, if plaintiff pleads that defendant is indebted to him in the sum of $15,000 and defendant generally denies such an allegation, then technically defendent has admitted that he is indebted to plaintiff in a sum greater or lesser than $15,000. This is called a negative pregnant. In Code pleading states, to avoid a negative pregnant, defendant's denial would be, "Defendant is not indebted to plaintiff in the sum of $15,000 or any other sum."

An argumentive denial is not a denial but an affirmative statement of facts inconsistent with the truth of the averment sought to be controverted.

Under the FRCP, the failure to avoid a negative pregnant or pleading an argumentive denial should not be fatal to the pleading since under Rule 8(f) pleadings are to be construed to do substantial justice. However, it is recommended that code pleading practice may avoid any potential problems.

7.262 *Effect of Failure to Deny*

Under Rule 8(d), when a responsive pleading is required, the failure of a responding party to deny an averment is deemed an admission of such averment except as to the amount of damages. Of course, where no responsive pleading is required, the averments are deemed denied.

AO 399 (Rev. 10/95)

WAIVER OF SERVICE OF SUMMONS

TO: _____
(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, _____, acknowledge receipt of your request
(DEFENDANT NAME)

that I waive service of summons in the action of Newsome v. Crews, et al.,
(CAPTION OF ACTION)

which is case number 3:07-cv-00099-TSL-JCS in the United States District Court
(DOCKET NUMBER)

for the Southern District of Mississippi (Jackson Division).

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after _____,
(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

_____ _____
(DATE) (SIGNATURE)

Printed/Typed Name: _____

As _____ of _____
(TITLE) (CORPORATE DEFENDANT)

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

UNITED STATES POSTAL SERVICE

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Label/Receipt Number: 2300 2730 0001 3810 1074
Detailed Results:

- Delivered, May 01, 2007, 11:18 am, JACKSON, MS 39205
- Arrival at Unit, April 28, 2007, 6:27 am, JACKSON, MS 39201
- Acceptance, April 26, 2007, 8:18 am, CINCINNATI, OH 45214

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AO 398 (Rev. 12/93)

NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE OF SUMMONS

TO: (A) William L. Skinner, II

as (B) _____ of (C) _____

A lawsuit has been commenced against you (or the entity on whose behalf you are addressed). A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the (D) Southern District of Mississippi (Jackson) and has been assigned docket number (E) 3:07-cv-00099.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within (F) 30 days after the date designated below as the date on which this Notice and Request is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth at the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this 26th day of April, 2007.

Signature of Plaintiff's Attorney
or Unrepresented Plaintiff

NOTE: To *save cost in litigation* this *Notice of Lawsuit and Request for Waiver of Service of Summons* and *Waiver of Service of Summons* is being provided you. Plaintiff has also attached to form document entitled, "***Notification Accompanying Waiver Request***" which she believes contains pertinent information regarding Answering of Complaint.

A—Name of individual defendant (or name of officer or agent of corporate defendant)
B—Title, or other relationship of individual to corporate defendant
C—Name of corporate defendant, if any
D—District
E—Docket number of action
F—Addressee must be given at least 30 days (60 days if located in foreign country) in which to return waiver

5

NOTIFICATION ACCOMPANYING WAIVER REQUEST

You are hereby **NOTIFIED** that your responsive pleading shall comply with Federal Rules of Civil Procedure Rule 8[1] and/or other applicable laws governing said matters and those responses to Complaint shall:

1. State in short and plain terms the your defenses to each claim asserted and shall admit or deny averments upon which you rely;

2. If you are without knowledge or information sufficient to form a belief as to the truth of an averment, you shall so state and this has the effect of a denial. However, said denials shall fairly meet the substance of the averments denied;

3. If you intend in ***good faith*** to deny only a part or a qualification of an averment, then you shall specify so much of it as is true and material and shall deny only the remainder; and

4. Be subject to the provisions of Federal Rules of Civil Procedure Rule 11. Your *"failure to comply with Rule 11 may be attacked by a motion to strike." "An attorney who willfully violates Rule 11 is subject to possible disciplinary action."* Your signing of pleading constitutes a certificate of the following:

   a. That the attorney (or party) has conducted a reasonable inquiry;

   b. That he or she is satisfied that the paper is well grounded in fact;

   c. That the pleading has a basis in existing law or that the attorney (or party) has a good faith argument to amend or reverse existing law;

   d. *That the pleading* ***is not*** *interposed for any improper purpose, such as harassment, delay or needless increase of his opponent's costs of litigation.*

   . . . *If the pleading or other paper is signed in violation of this Rule,* **appropriate sanctions** *shall be imposed by the court on motion or on its own initiative.* Sanctions may include an order to pay the other party the amount of reasonable expenses caused by the violation, including reasonable attorney's fees.[2]

You are hereby further **NOTIFIED** that:

5. That you are to familiarize and/or acquaint yourself with the Rules governing responsive pleadings. Answers such as "failure to state a claim," "lack of

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[1] Reference Purposes: See **Exhibit "A"** attached hereto and incorporated by reference Rule 8 General Rules of Pleadings - *Wright & Miller Federal Practice and Procedure* Civil 3d.

[2] Reference Purposes: See **Exhibit "B"** attached hereto and incorporated by reference - *Niles Federal Civil Procedure* 7.530 Signing of Pleadings, Motions and Other Papers.

subject matter jurisdiction," provided for purposes of misrepresentation, delay of proceedings, obstruction of justice, etc., will be subject to the provisions of Rule 11 – excerpts of pleading requirements of the Complaint are ***attached*** hereto;[3]

6. If your answer is not sufficiently definite in nature to give reasonable notice of the allegations in the Complaint sought to be placed in issue, the Plaintiff's averments may be treated as admitted (i.e. a corporate defendant's denial of "each and every allegation" did not give "plain notice.").[4]

7. A denial of knowledge or information requires that you not only lack first-hand knowledge of the necessary facts involved, but also that you lack information upon which you reasonably could form a personal belief concerning the truth of the Plaintiff's allegations.[5]

8. Normally, you may not assert lack of knowledge or information if the necessary facts or data involved are within your knowledge or easily brought within your knowledge – (i.e. An answer denying information as to the truth or falsity of a matter necessarily within the knowledge of the party's managing officers is a sham, and will be treated as an admission of allegation of the complaint.[6])

9. An averment, that you are without knowledge or information sufficient to form a belief as to matters that are of common knowledge or of which you can inform yourself with the slightest effort, ***will be treated as patently false and the effect and purpose will be taken as such to merely delay justice***.[7]

10. If the Answer to the Complaint is not in compliance with the rules and/or laws governing said matters, the applicable Motion to Strike the Answer will be filed and request for proper relief (i.e. sanctions against you and or attorney [if applicable]) will be sought.

You are **NOTIFIED** that unless you serve and file a written responsive pleading within the specified time, the Plaintiff will take judgment against you by default for the relief demanded in the Complaint.

Respectfully submitted,

Vogel Newsome

Vogel Newsome, Plaintiff *Pro Se*
Post Office Box 14731
Cincinnati, Ohio 45250
(601) 885-9536

[3] Reference Purposes: See **Exhibit "C"** attached hereto and incorporated by reference which includes, *Niles Federal Civil Procedure* 7.100 Pleadings Allowed through 7.262 Effect of Failure to Deny.

[4] Reference Purposes: *Wright & Miller Federal Practice and Procedure* Civil 3d § 1261.

[5] Reference Purposes: *Wright & Miller Federal Practice and Procedure* Civil 3d § 1262.

[6] For Reference Purposes: *Wright & Miller Federal Practice and Procedure* Civil 3d § 1262 and also, *Harvey Aluminum (Inc.) v. NLRB*, 335 F2d 749, 758 (9th Cir. 1964).

[7] For Reference Purposes: See *Reed v. Turner*, 2 F.R.D. 12; and *Squire v. Levan*, 32 F.Supp. 437.

FEDERAL PRACTICE AND PROCEDURE

WRIGHT AND MILLER

FEDERAL RULES OF CIVIL PROCEDURE

Exhibit A

RULE 8. GENERAL RULES OF PLEADING

Analysis

A. PLEADING—IN GENERAL

Sec.
1201. History of Rule 8.
1202. Objectives and Functions of Pleadings Under the Federal Rules.
1203. Relationship Between Rule 8 and Other Federal Rules.
1204. Law Governing Pleading in the Federal Courts.
1205. Pleading a Claim for Relief—In General.

B. PLEADING JURISDICTION

1206. Pleading Jurisdiction—In General.
1207. ___ Pleadings Beyond the Initial Complaint.
1208. ___ Diversity of Citizenship Cases.
1209. ___ Federal Question Cases.
1210. ___ Special Federal Question Cases.
1211. ___ Admiralty Cases.
1212. ___ When the United States Is a Party.
1213. ___ Jurisdictional Amount.
1214. ___ Consequences of Failure to Comply With Rule 8(a)(1).

C. PLEADING A CLAIM FOR RELIEF

1215. Statement of the Claim—In General.
1216. ___ Significance of "Claim for Relief."
1217. ___ "Short and Plain."
1218. ___ "Ultimate Facts," "Evidence," and "Conclusions."
1219. ___ Theory of the Pleadings Doctrine.
1220. ___ Dioguardi v. Durning.
1221. ___ No Special Rules for Certain Cases.
1222. ___ Use of the Common Counts.
1223. ___ The Official Pleading Forms.
1224. ___ Pleading on Information and Belief.
1225. ___ Effect on the Doctrines of Res Judicata and Collateral Estoppel.
1226. ___ Built-In Defenses.
1227. Statement of Particular Matters—Admiralty and Maritime Claims.
1228. ___ Antitrust, Monopoly, and Restraint of Trade.
1229. ___ Bankruptcy.
1230. ___ Civil Rights.
1231. ___ Class Actions and Shareholder Derivative Suits.
1232. ___ Condemnation Proceedings.
1233. ___ Conspiracy.
1234. ___ Constitutional Rights.
1235. ___ Contracts.

Sec.
1236. ___ Conversion.
1237. ___ Copyrights, Trademarks, and Unfair Competition.
1238. ___ Declaratory Judgments.
1239. ___ Fair Labor Standards and Portal-to-Portal Acts.
1240. ___ False Imprisonment.
1241. ___ Fraud, Mistake, and Conditions of Mind.
1241.1 ___ Habeas Corpus Proceedings.
1242. ___ Housing and Rent Disputes.
1243. ___ Insurance.
1244. ___ Labor–Management Disputes.
1245. ___ Libel and Slander.
1246. ___ Malicious Prosecution.
1247. ___ Money Lent, Paid by Mistake, or Had and Received.
1248. ___ Multiple Claims and Parties.
1249. ___ Negligence.
1250. ___ Ownership and Title.
1251. ___ Patents.
1251.1 ___ Racketeer Influenced and Corrupt Organizations Act (RICO).
1252. ___ Reapportionment.
1253. ___ State or Foreign Law.
1254. ___ Miscellaneous Actions.

D. PLEADING A DEMAND FOR JUDGMENT

1255. Demand for Judgment—In General.
1256. ___ Particular Remedies.
1257. Relief in the Alternative or of Several Different Types.
1258. Amendment of Demand.
1259. Specific Allegation of Amount of Damages.
1260. Relationship Between the Demand for Judgment and Jury Trial.

E. DENIALS

1261. Denials—In General.
1262. Denials Based on Lack of Knowledge or Information.
1263. Denials Upon Information and Belief.
1264. Denial Must Meet Substance of Averment Denied.
1265. General Denials.
1266. Specific and Qualified General Denials.
1267. Negative Pregnants.
1268. Argumentative Denials.
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1270. Affirmative Defenses—In General.
1271. ___ Defenses Not Mentioned in Rule 8(c).
1272. ___ Diversity Cases.
1273. Partial Defenses and Mitigation of Damages.
1274. Pleading Affirmative Defenses.
1275. Mistaken Designation.

NILES

FEDERAL CIVIL PROCEDURE



NOTE: Most federal courts allow only an attorney admitted in that federal jurisdiction to file and appear. The general rule is that to be admitted to a district, the attorney must be a member of the bar of that state. Be sure to check Local Rules, *e.g.*, Rule 2.2.1 of Central District of California.

7.530 Signing of Pleadings, Motions, and Other Papers

Effective August 1, 1983, Rule 11 was amended. It now governs the signing of all pleadings, motions and other papers and states that the signing of such documents by an attorney constitutes a certificate of the following:

(1) That the attorney (or party) has conducted a reasonable inquiry;
(2) That he or she is satisfied that the paper is well grounded in fact;
(3) That the pleading has a basis in existing law or that the attorney (or party) has a good faith argument to amend or reverse existing law;
(4) That the pleading is not interposed for any improper purpose, such as harassment, delay or needless increase of his opponent's costs of litigation.

Non-signing of the pleadings and other papers, may result in the document being stricken. If the pleading or other paper is signed in violation of this Rule, appropriate sanctions shall be imposed by the court on motion or on its own initiative. Sanctions may include an order to pay the other party the amount of reasonable expenses caused by the violation, including reasonable attorney's fees.

7.540 Verification

Some states allow verification of all pleadings whether required or not. Where a pleading is verified, the response must likewise be verified, *e.g.*, California Code of Civil Procedure § 446. Rule 11 provides that except where specifically required by statute or rule, pleadings need not be verified. Under *Hanna v. Plumer, supra*, the rule or statute referred to is federal not state. Some of the Federal Rules which require verification are Rules 23.1, 27(a), 65(b), and 66. For a listing of statutes requiring verification, see 5 Wright & Miller § 1335.

NOTE: The rules applicable to captions, signing and other matters of form of pleadings apply to all motions and other papers provided for in the Federal Rules. (See, Rule 7(b)(2)).

NILES

FEDERAL CIVIL PROCEDURE

Exhibit C

formulate the issues to be tried. Thus, only ultimate facts are allowed while conclusions of law and evidentiary statements are not. *Black v. First Nat'l Bank*, 255 F2d 373 (5th Cir. 1958).

7.100 PLEADINGS ALLOWED

Rule 7(a) sets out those pleadings which are allowed in the district courts:

(1) Complaint;
(2) Answer;
(3) Reply to a counterclaim denoted as such;
(4) Answer to a cross-claim if the answer contains a cross-claim;
(5) Third party complaint if a party who was not an original party is summoned under Rule 14;
(6) Third party answer if a third party complaint is served.

No other pleadings are allowed unless the court orders a reply to an answer or third party answer.

Note that a reply is mandatory only where the answer contains a counterclaim designated as such (*See*, Counterclaims § 9.200 et. seq.).

Rule 7(c) specifically abolishes "demurrers, pleas and exception to sufficiency of a pleading . . .". Although the demurrer is abolished, a motion to strike an insufficient answer under Rule 12(f) and a motion to dismiss the complaint for failure to state a claim under Rule 12(b)(6) perform functions similar to a demurrer (*See*, Motion Practice § 11.450 and 11.575).

7.200 GENERAL RULES OF PLEADING

The general rules of pleading in the district courts are provided by Rule 8. Briefly summarized they provide the following:

(1) That all claims and defenses are to be stated in short and plain terms (*See*, Rule 8(a) & (b)). Averments are to be simple, concise and direct and no technical forms of pleadings or motions are required (*See*, Rule 8(e)(1)). Accordingly, the degree of particularity will depend on the complexity of the matter. However, except for Rule 9 which requires pleading of special matter, such averments can be made in general terms.
(2) Under Rule 8(e)(2), pleadings can be alleged in the alternative or

hypothetical and do not have to be consistent subject to the obligations of Rule 11 (*See*, Signing § 7.500).

(3) A general denial to the entire pleading is allowed provided Rule 11 is not violated (*See*, Rule 8(b)).

(4) The pleader is not bound by any theory of pleading and there is no longer any distinction between law and equity insofar as pleadings are concerned (*See*, Rule 8(e)(2)).

(5) Pleadings are to be construed to do substantial justice (*See*, Rule 8(f)).

NOTE: The FRCP govern the details of pleading in the district courts, *Hanna v. Plumer*, 380 US 460, 85 S Ct 1136 (1965). In addition, they control the allocation of the burden of pleading and signing of pleadings.

Under Rule 8(a), any pleading which sets forth a claim for relief whether an original claim, counterclaim, cross-claim or third party claim must contain the following:

(1) A short and plain statement of the ground upon which the court's jurisdiction depends unless the court already has jurisdiction;

(2) A short and plain statement of the claim showing that the pleader is entitled to relief;

(3) A demand for judgment for the relief to which the pleader deems himself entitled;

(4) Relief in the alternative, or of several different types, may be demanded.

7.210 Pleading Jurisdictional Grounds

Because federal courts are of limited jurisdiction, it is mandatory that the complaint aver the subject matter jurisdiction of the court. *Rotolo v. Burough of Chareroi*, 532 F2d 920 (3rd Cir. 1976) (*See*, Subject Matter Jurisdiction § 2.200 et. seq.).

7.211 *Federal Question*

If jurisdiction is based on a general federal question under 28 USC § 1331, then jurisdiction should be pleaded as follows:

> The action arises under (the Constitution of the United States Article . . . section . . .); (the . . . Amendment to the Constitution, section . . .); (The Act of . . . , . . . Stat . . . : USC, Title . . . , § . . .); (the Treaty of the United States with (here describe treaty),[1] as hereinafter more fully appears.[2]

1. "Use the appropriate phrase or phrases. The general allegation of the existence of a Federal question is ineffective unless the matters constituting the claim for relief as set forth in the complaint raise a Federal question."
2. As of December 1980, it is no longer necessary to allege a minimal jurisdictional amount. The Form and note 1 are taken from Official Form 2(b) (*See*, § 7.1103). The Official Forms found at the end of the FRCP will be referred to from time to time including their examples of acceptable pleading in the district courts.

NOTE: Rule 84 makes the Official Forms "sufficient under the rules."

7.212 *Special Federal Question*

If a specific federal statute is the basis of subject matter jurisdiction, then the following adopted from Form 2(c) should be used:

> The action arises under the Act of . . . , . . . Stat . . . ; USC, Title . . . § . . . as hereinafter more fully appears.

7.213 *Diversity and Alienage Cases*

The party invoking diversity jurisdiction must plead the existence of diversity. *Christy v. Atlantic Int'l Oil Corp.*, 59 FRD 651 (SD Ohio 1972). Official Form 2(a) sets out such an averment:

> Plaintiff is a (citizen of the State of Connecticut) (corporation incorporated under the laws of the State of Connecticut having its principal place of business in the State of Connecticut) and defendant is a corporation incorporated under the laws of the State of New York having its principal place of business in a state other than the State of Connecticut. The matter in controversy exceeds, exclusive of interest and costs, the sum of ten thousand dollars.

(a) *Form for Natural Person*

Since residency is not the same as citizenship, an averment that a party is a resident of a certain state or foreign country is not sufficient. *DeVries v. Starr*, 393 F2d 9 (10th Cir. 1968). Nor is an averment that a natural person is a citizen of the United States without alleging that he is a citizen of a certain state. *Clapp v. Stearns Co.*, 229 F Supp 305 (SD NY 1964). Rather the averment should be that a natural person is a

citizen of a specific state as shown in the Form above, or in the case of an alien, that the alien is a subject of or citizen of a foreign country.

Since corporations may have dual citizenship for purposes of diversity, *i.e.*, a citizen of the state of its incorporation, as well as a citizen of the place where its principal place of business is, both must be pleaded to show diversity exists. *Moore v. Sylvania Elec. Prods. Inc.*, 454 F2d 81 (3rd Cir. 1972) (*See*, Diversity § 2.230 et. seq.).

(b) *Allegation of Jurisdictional Amount*

In diversity cases the jurisdictional amount in controversy must be alleged (*See*, 28 USC § 1332). The last sentence of Form 2(a) above meets this requirement. Although general federal questions no longer require that there be an amount in controversy, certain federal statutes may require the pleading of same. For example, statutory interpleader has a requirement that the amount in controversy exceed $500 (*See*, 28 USC § 1335).

The failure to allege jurisdictional grounds will result in the dismissal of the action unless the defect can be cured by amendment. Lack of jurisdiction can be raised at any time, even on appeal. *Ramsey v. Mellon Nat'l Bank & Trust*, 350 F2d 874 (3rd Cir. 1965). If defendent attacks the jurisdictional grounds, then the burden is on the plaintiff to show its existence. *Krasnov v. Dinan*, 465 F2d 1298 (3rd Cir. 1972).

7.220 Statement of Claim

Under Rule 8(a)(2), the complaint need only consist of a short and plain statement of the claim showing that the pleader is entitled to relief. Unlike code pleading, all the pleader is required to do is to give the opposing party fair notice of the claim and an indication of the type of litigation involved. *Banco Continental v. Curtiss Nat'l Bank*, 406 F2d 510 (5th Cir. 1969). A complaint is sufficient if plaintiff would be entitled to relief under any state of facts that could be proven in support of the claim alleged. *Arthur Richland Co. v. Harper*, 302 F2d 324 (5th Cir. 1962). A complaint is sufficient so long as some legal theory is presented even though it was not the one in the mind of the pleader. A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. *Conley v. Gibson*, 355 US 41, 78 S Ct 90 (1957).

NOTE: While the FRCP are less stringent than those for code pleading, there is no excuse for sloppy pleading. In simple cases the Official Forms may suffice. For specific matters see 5 Wright & Miller §§ 1222–1254.

7.230 Demand

Rule 8(a)(3) provides that there must be a demand for judgment of the relief which the pleader believes that he is entitled to contained in his claim. Only one demand is required regardless of the number of claims asserted. *Liberty Mutual Ins. Co. v. Wetzel*, 424 US 737, 96 S Ct 1202 (1976). However, the demand for judgment is not considered a part of the claim for purposes of testing the sufficiency of the claim. *Schoonover v. Schoonover*, 172 F2d 526 (10th Cir. 1949).

Even if an improper remedy is selected in the demand, so long as the claim indicates entitlement to some type of relief, the pleadings are not defective. *Kansas City, St. L. & C. R. Co. v. Alton R. Co.*, 124 F2d 780 (7th Cir. 1941). For examples of alleging demands see Official Forms 3, 9 and 13 (*See*, §§ 7.1104, 7.1110, 7.1113).

NOTE: Default judgments are limited to the demand prayed for (*See*, Default Judgments § 15.900 et. seq.).

7.240 Alternative, Hypothetical, and Inconsistent Pleadings

Under Rule 8(e)(2) a party may plead a claim or defense in the alternative or hypothetically, either in one count or defense or in separate counts or defenses. It further provides that separate claims or defenses may be inconsistent. This Rule is supplemented by Rule 8(a)(3) which states that relief in the alternative may be demanded and by Rule 18(a) which permits joinder of claims as independent or alternative claims (*See*, Joinder of Claims § 9.120).

Alternative and hypothetical pleadings are, by their nature, inconsistent. However, such pleading is allowed. The only restriction on inconsistent pleadings is that it meet the good faith and honesty requirements of Rule 11 (Rule 8(e)(2)) (*See*, Signing of Pleadings § 7.500 et. seq.).

7.250 Standards of Pleading

Rule 8(e)(1) states that averments must be simple, concise and direct. This Rule supplements Rules 8(a), (b) and (c) which deal more with the substantive content of pleadings. What is "simple and concise" depends on the nature of the litigation. The more complex the action the more details will be required to be pleaded, particularly in fraud actions, as a result of Rule 9(b). This Rule applies to all pleadings.

7.260 Denials

Under Rule 8(b), "[a] party shall state in short and plain terms his defenses to each claim asserted and shall admit and deny the averments upon which the adverse party relies. . . ." Rule 8(b) applies to any pleading where a defense or denial can be set out. Thus, in addition to an answer to a complaint, it applies to answers to cross-claims or an answer to a third party claim as well as a reply to a claim. Under Rule 8(d), failure to deny an averment in a pleading, except as to the amount of damages, is an admission (*But see*, Rule 12(h) for defenses which are reserved). However, where no responsive pleadings are required, then the averments in the pleadings are deemed denied or avoided.

Under Rule 8(e)(2), the answer may contain as many defenses which the party can raise which may be pleaded alternatively, hypothetically, or inconsistently. An example of how to plead an answer, including affirmative defenses, is found in Official Form 20 (*See*, § 7.1119).

A party who is without information or belief sufficient to form a belief as to the truth of an averment is allowed to so plead under Rule 8(b). Such a pleading has the effect of a denial. The third defense of Official Form 20, *infra*, is an example of such a pleading.

Although not provided for in Rule 8, a party may deny on information and belief. However, if the information is within the personal knowledge of the pleader or within the general knowledge of the community or is a matter of public record, then this type of denial cannot be used. *Oregon Mesabi Corp. v. C. D. Johnson Lumber Co.*, 166 F2d 997 (9th Cir. 1947), cert. den. 334 US 837 (1948). A form of denial on information and belief is as follows:

> Defendant is informed and believes that the allegations of paragraph _____ of the complaint are untrue and basing his denial on that ground denies each and every allegation contained in such paragraph _____.

Under Rule 9(a) and (c), there are two situations where specific pleading of denials are required:

(1) in order to put into issue the capacity of a party and
(2) the responding party must make a specific denial to an averment of performance or occurance of conditions precedent.

Pleading affirmative defenses under Rule 8(c) is discussed at § 7.270.

7.261 *Types of Denials*

A defendant can make a general denial to the entire complaint subject to Rule 11 (Rule 8(b)). (*See*, Signing of Pleadings § 7.500 et. seq.). An example of such a denial is, "Defendant denies each and every allegation in the complaint."

(a) *Specific and Qualified Denials*

If a party in good faith cannot deny each and every averment of the complaint, then that party may make ". . . specific denials of designated averments or paragraphs . . ." under Rule 8(b). See the Third Defense of Official Form 20 (*See*, § 7.1119) for such a denial.

If the defendant wants to controvert almost all of the averments except such designated averments or paragraphs which he expressly admits, such a pleading would be, "Defendant denies each and every paragraph contained in the complaint except that Defendant admits paragraph. . . ."

(b) *Negative Pregnants and Argumentative Denials*

Under Code Pleading, if plaintiff pleads that defendant is indebted to him in the sum of $15,000 and defendant generally denies such an allegation, then technically defendent has admitted that he is indebted to plaintiff in a sum greater or lesser than $15,000. This is called a negative pregnant. In Code pleading states, to avoid a negative pregnant, defendant's denial would be, "Defendant is not indebted to plaintiff in the sum of $15,000 or any other sum."

An argumentive denial is not a denial but an affirmative statement of facts inconsistent with the truth of the averment sought to be controverted.

Under the FRCP, the failure to avoid a negative pregnant or pleading an argumentive denial should not be fatal to the pleading since under Rule 8(f) pleadings are to be construed to do substantial justice. However, it is recommended that code pleading practice may avoid any potential problems.

7.262 *Effect of Failure to Deny*

Under Rule 8(d), when a responsive pleading is required, the failure of a responding party to deny an averment is deemed an admission of such averment except as to the amount of damages. Of course, where no responsive pleading is required, the averments are deemed denied.

WAIVER OF SERVICE OF SUMMONS

TO: _____
(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, _____, acknowledge receipt of your request
(DEFENDANT NAME)

that I waive service of summons in the action of Newsome v. Crews, et al.,
(CAPTION OF ACTION)

which is case number 3:07-cv-00099-TSL-JCS in the United States District Court
(DOCKET NUMBER)

for the Southern District of Mississippi (Jackson Division).

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after _____,
(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

_____ _____
(DATE) (SIGNATURE)

Printed/Typed Name: _____

As _____ of _____
(TITLE) (CORPORATE DEFENDANT)

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

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Status: **Delivered**

Your item was delivered at 11:18 AM on May 1, 2007 in JACKSON, MS 39205 to HINDS CTY TAX COLLEC. The item was signed for by E HAYES JR..

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Proof of Delivery

Verify who signed for your item by email, fax, or mail. Go >

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Search Results

Label/Receipt Number: 2300 2730 0001 3810 1081
Detailed Results:

- **Delivered, May 01, 2007, 11:18 am, JACKSON, MS 39205**
- **Arrival at Unit, April 28, 2007, 6:27 am, JACKSON, MS 39201**
- **Acceptance, April 26, 2007, 8:17 am, CINCINNATI, OH 45214**

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Verify who signed for your item by email, fax, or mail. Go >

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Vogel Newsome

From: Vogel Newsome
Sent: Friday, March 31, 2006 8:36 AM
To: Linda Thomas
Subject: FW: Conflict Check
Importance: High

Linda:

FYI.

From: Vogel Newsome
Sent: Thursday, March 30, 2006 3:38 PM
To: Lawson Hester
Subject: FW: Conflict Check
Importance: High

Lawson:

I recently had a matter occur with a Constable of Hinds County, where I am presently considering. Would this present a conflict?

Thanks.

From: Cristie White
Sent: Thursday, March 30, 2006 3:21 PM
To: PKH All
Subject: Conflict Check

Billing, please assign a PKH number

Thanks

CASE FILE INFORMATION

RE: Notice of Claim – Jason [redacted] v. Hinds County Sheriff's Department

PK&H FILE NO:

INSURED: Hinds County Sheriff Department

CARRIER: **Mr. Blair [redacted]**
[redacted] Specialty Co., Inc.
[redacted] Insurance
Post Office Box [redacted]
Indianapolis, IN 46240-0096
Main #317-[redacted]



Main Fax #317-[redacted]

CHRIS[redacted]

Claim #E[redacted]

PLAINTIFF'S ATTYS: Pro Se

CLERK:

JUDGES:

BILLING INFO:
Rates: $135.00 and $55.00

ATTORNEY: J. Lawson Hester
ASSOCIATE:

Contact Us
- Your Local FBI Office
- Overseas Offices
- Submit a Crime Tip
- Report Internet Crime
- More Contacts

Learn About Us
- Quick Facts
- What We Investigate
- Natl. Security Branch
- Information Technology
- Fingerprints & Training
- Laboratory Services
- Reports & Publications
- History
- More About Us

Get Our News
- Press Room
- E-mail Updates
- News Feeds

Be Crime Smart
- Wanted by the FBI
- More Protections

Use Our Resources
- For Law Enforcement
- For Communities
- For Researchers
- More Services

Visit Our Kids' Page

Apply for a Job

Headline Archives

INVESTIGATIONS OF PUBLIC CORRUPTION: Rooting Crookedness Out of Government

03/15/04

OPERATION GREYLORD



Today marks an important anniversary in the annals of public corruption investigations in the U.S.

Twenty years ago today, in a federal courtroom in Chicago, a jury found Harold Conn (top center in photo) guilty on all 4 counts of accepting bribes to be passed on to Cook County judges as payment for fixing tickets. The evidence? He had been caught live on FBI tapes.

This "bagman" had been Deputy Traffic Court Clerk in the Cook County judicial system, and he was the first defendant to be found guilty in a mammoth sting investigation of crooked officials in the Cook County courts.

It was called OPERATION GREYLORD, named after the curly wigs worn by British judges. And in the end -- through undercover operations that used honest and very courageous judges and lawyers posing as crooked ones... and with the strong assistance of the Cook County court and local police -- 92 officials had been indicted, including 17 judges, 48 lawyers, 8 policemen, 10 deputy sheriffs, 8 court officials, and 1 state legislator. Nearly all were convicted, most of them pleading guilty (just a few are shown in our photo). It was an important first step to cleaning up the administration of justice in Cook County.

That's really the whole point. Abuse of the public trust cannot and must not be tolerated. Corrupt practices in government strike at the heart of social order and justice. And that's why the FBI has the ticket on investigations of public corruption as a top priority.

Headline Archives

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How'd that happen? Historically, of course, these cases were considered local matters. A county court clerk taking bribes? Let the county handle it.

But in the 1970s, state and local officials asked for help. They didn't have the resources to handle such intense cases, and they valued the authority and credibility that outside investigators brought to the table. By 1976, the Department of Justice had created a Public Integrity Section, and the FBI was tasked with the investigations, focusing on major, systemic corruption in the body politic.

Who's investigated? Public servants: members of Congress and state legislatures; members of the Administration and governors' offices; judges and court staffs; all of law enforcement; all government agencies. Plus everyone who works with government and is willing to pay for "special favors": lobbyists, contractors, consultants, lawyers, U.S. businesses in foreign countries, you name it.

What kind of crimes? Bribery, kickbacks, and fraud. Vote buying, voter intimidation, impersonation. Political coercion. Racketeering and obstruction of justice. Trafficking of illegal drugs.

How serious of a problem is it? Last year the FBI investigated 850 cases; brought in 655 indictments/informations; and got 525 who were either convicted or chose to plead.

Last words: Straight from Teddy Roosevelt: "Unless a man is honest we have no right to keep him in public life, it matters not how brilliant his capacity, it hardly matters how great his power of doing good service on certain lines may be... No man who is corrupt, no man who condones corruption in others, can possibly do his duty by the community."

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HINDS COUNTY JUSTICE COURT

ABSTRACT OF COURT RECORD

STATE OF MISSISSIPPI DOCKET 1180 PAGE 584

COUNTY OF HINDS AGENCY CODE 999 TICKET NO. 0049429

10/15/07 9:04 AM

DEFENDANT

NAME NEWSOME VOGEL RACE ___ SEX M

ADDRESS 1434 HAWTHORNE CV

CITY JACKSON STATE MS ZIP CODE 39286

DRIVER'S LICENSE NUMBER ___ STATE ___ DATE OF BIRTH ___

VEHICLE INFORMATION

REGISTRATION (TAG) NO. ___ STATE ___ YEAR ___

VEHICLE MODEL YEAR ___ MAKE ___ TYPE ___

VIOLATION %BAC ___

CHARGED WITH : DISORDERLY CONDUCT-FAILURE TO SPEED/ZONE ___

DATE OF VIOLATION 02-14-06 COURT DATE 10-12-07 HWY. OR STREET ___

CHARGES WERE FILED BY : LEWIS JON - CON BADGE NO. ___

DEFENDANT ENTERED A PLEA OF : ___

JUDGMENT OF COURT REMANDED TO FILE

BY JUDGE : STEVEN PICKETT

REMARKS BY COURT ___

DEFENDANT WAS FINED $ .00 PLUS ASSESSMENTS OF $ .00

SENTENCED TO : ___

BAIL FORFEITED ( ) APPEALED ( ) FINE PAID ( )

I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF MY COURT RECORD AS RECORDED IN :

DOCKET 1180 PAGE 584

PATRICIA T. WOODS
Hinds County Justice Court Clerk

By ___ D.C.

JCVABS1

EXHIBIT 44

HINDS COUNTY JUSTICE COURT
ABSTRACT OF COURT RECORD

STATE OF MISSISSIPPI DOCKET 1180 PAGE 585

COUNTY OF HINDS AGENCY CODE 999 TICKET NO. 0049430

10/15/07 9:05 AM

DEFENDANT

NAME NEWSOME VOGEL RACE ___ SEX M

ADDRESS 1434 HAWTHORNE CV

CITY JACKSON STATE MS ZIP CODE 39286

DRIVER'S LICENSE NUMBER ___ STATE ___ DATE OF BIRTH ___

VEHICLE INFORMATION

REGISTRATION (TAG) NO. ___ STATE ___ YEAR ___

VEHICLE MODEL YEAR ___ MAKE ___ TYPE ___

VIOLATION

%BAC ___

CHARGED WITH : RESISTING ARREST 97-9-73 SPEED/ZONE ___

DATE OF VIOLATION 02-14-06 COURT DATE 10-12-07 HWY. OR STREET ___

CHARGES WERE FILED BY : LEWIS JON - CON BADGE NO. ___

DEFENDANT ENTERED A ~~PLEA OF~~ : ___

JUDGMENT OF COURT REMANDED TO FILE

BY JUDGE : STEVEN PICKETT

REMARKS BY COURT ___

DEFENDANT WAS FINED $ .00 PLUS ASSESSMENTS OF $ .00

SENTENCED TO : ___

BAIL FORFEITED ( ) APPEALED ( ) FINE PAID ( )

I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF MY COURT RECORD AS RECORDED IN :

DOCKET 1180 PAGE 585

PATRICIA T. WOODS
Hinds County Justice Court Clerk

By ___ D.C.

JCVABS1

COMPLAINT and REQUEST FOR INVESTIGATION
TO THE UNITED STATES DEPARTMENT OF JUSTICE and
FEDERAL BUREAU OF INVESTIGATIONS
FILED BY VOGEL D. NEWSOME
JUNE 26, 2006

Ms. Newsome Vogel Newsome, hereby submit the following Complaint and request an investigation into this matter and that a report of your agency's findings in regards to the issues raised below:

1. On January 23, 2006, a Summons to Tenant issued by the Justice Court of Hinds County was left posted to Ms. Newsome's door. This Summons was in regards to a matter styled *Spring Lake Apartments v. Vogel Newsome*; Docket No. 2150, Page 539. This Summons was to be served by the Constable, Jon Lewis. A copy of the Summons left on Ms. Newsome's door is attached hereto as **Exhibit "A."**

2. On or about January 27, 2006, while at the Justice Court of Hinds County, Ms. Newsome requested a copy of the "Proof of Service" of the Summons to see when and how service was perfected. Ms. Newsome was advised by one of the Justice Court representatives that no "Proof of Service" had been filed and the only document they have was the Summons noting when it posted. A copy of the Summons filed with the Justice Court by Constable Jon Lewis is attached hereto as **Exhibit "B."**

3. Upon review of the copy of the Summons filed with the Justice Court by Constable Jon Lewis, Ms. Newsome noticed that he indicated that the Summons in the Justice Court action was posted on Ms. Newsome's door on January 21, 2006. However, such a statement and/or affirmation is false. The Summons was not posted and/or left for Ms. Newsome until January 23, 2006. **Therefore, Ms. Newsome will need to know when the Summons was actually posted.** There was no Proof of Service filed by Constable Jon Lewis to provide testimony as to how service of said Summons was made on Ms. Newsome. The laws of the State of Mississippi governing said matters require that a Proof of Service/Service of Process, etc. be provided by Constable Jon Lewis. Constable Jon Lewis failed to abide by the laws governing said matters. Furthermore, the laws of the State of Mississippi prohibits the posting of Summons on residents who reside in a multi-family dwelling – Ms. Newsome resided in a multi-family dwelling at the time of the unlawful and illegal violations rendered her. Also, important to note, the posting of Summons for citizens/residents who live in multi-family dwelling can only be used as a *last* resort after diligent efforts have been made to personally serve the person on which Summons is issued.

4. While the copy of the Summons filed by Constable Jon Lewis reflects that it was posted on January 21, 2006 (when in fact it was not); however, left/posted on January 23, 2006, **Ms. Newsome will need to know what happened to the Summons in between January 21, 2006 (if posted then), and January 23, 2006.** If indeed the Summons was posted on that date, then it is apparent that someone ***tampered*** with the Summons Constable Jon Lewis attested to

EXHIBIT 45

being posted. If the Summons was not posted as Constable Jon Lewis attested to, then he falsified the information regarding when the Summons was posted. Moreover, there are concerns that Constable Jon Lewis may have ***conspired*** with employee(s) of Spring Lake Apartments to ***obstruct the administration of justice*** and to *deprive* Ms. Newsome *equal protection and due process of laws.* Said actions which are a violation of Ms. Newsome's *constitutional* and *civil rights* as well as other laws governing said matters. Therefore, Ms. Newsome, believes that action taken by Constable Jon Lewis and other(s) was deliberately done to cause her injury and harm.

5. On February 13, 2006, upon returning to her residence, Ms. Newsome had a "Warrant of Removal" left on her door. A Warrant of Removal which cannot be enforced under the laws of Mississippi in that Service of Process was not perfected on Ms. Newsome as required by the laws governing said matters, neither was Proof of Service/Service of Process, etc. to support the steps taken by Constable Jon Lewis filed with Court. Therefore, as a matter of law – in the State of Mississippi – the Justice Court/Judge William Skinner **never** had jurisdiction over the Ms. Newsome or the case filed by Spring Lake Apartments. Neither did Ms. Newsome, as a matter of law, ever waive service of process in this matter. Therefore, any judgment rendered by Judge Skinner/the Justice Court **cannot,** *as a matter of law,* ***be enforced*** and/or ***upheld.***

6. On February 14, 2006, Ms. Newsome timely, properly and adequately notified Spring Lake Apartments that she would be seeking to get an Injunction and Restraining Order against it. Spring Lake Apartments was notified via facsimile. Moreover, Spring Lake Apartments was timely, properly, and adequately notified of the defects, improper and/or unlawful means used in the service of Summons upon Ms. Newsome. Spring Lake Apartments was timely, properly and adequately placed on notice that they should seek legal advice from their attorney regarding their handling the matter against Ms. Newsome. However, Spring Lake Apartments elected to evade the laws and subject Ms. Newsome to the unlawful actions initiated by them.

7. On February 14, 2006, upon returning to her residence, Ms. Newsome found Spring Lake Apartment representatives, Melody Crews and others, along with Constable Jon Lewis and his Assistant, unlawfully and illegally removing her personal possessions from her residence. Ms. Newsome requested that Spring Lake Apartments representatives and Constable Jon Lewis and others cease from their unlawful actions. Moreover, Ms. Newsome provided Constable Jon Lewis with a copy of the Injunction and Restraining Order she had filed with the Courts earlier that day. Ms. Newsome advised Constable Lewis and others that they were violating her rights. To no avail. Constable Lewis and others insisted on proceeding in subjecting Ms. Newsome to further injury and harm. As a direct and proximate result of the actions taken by Constable Jon Lewis and others, Ms. Newsome's Constitutional and Civil Rights were violated, her privacy invaded and items unlawfully and illegally seized and removed.

8. While Ms. Newsome had a right to be at her residence and it was Constable Jon Lewis and others who were in violation of the laws, Constable Jon Lewis told Ms. Newsome to

wait outside. Constable Lewis doing so while conversing with someone on his cell phone. Later Constable Lewis exited the apartment and placed Ms. Newsome under arrest stating she was being arrested for *disorderly conduct*. He proceeded to handcuff and force her into his car where he took her to the Hinds County Detention Center in Raymond, Mississippi.

9. On several occasions Ms. Newsome advised Constable Lewis that he was violating her rights. On several occasions Constable Lewis and others had an opportunity to cease from the unlawful and illegal actions they were subjecting Ms. Newsome to; however, elected not to do so.

10. On February 14, 2006, Ms. Newsome was taken to the Hinds County Detention Center where she was booked. Bond had to be posted before she was released. While in the custody of the Hinds County Detention Center, Ms. Newsome was held against her will, never read her rights, refused a phone call, subjected to very hostile, abusive treatment, threats, shackled in chains (around wrist and ankles), etc. where she sustained further injury and/or harm. Ms. Newsome repeatedly requested to speak to Sheriff McMillan; however, such requests were scoffed, laughed at and/or mocked.

11. This is just a synopsis of some of the unlawful and illegal actions taken against Ms. Newsome. The issues addressed herein are **not** to be taken as *all* of the facts in the matter and ***is not*** to be limited to this information only. Ms. Newsome should be contacted should additional information and/or facts are needed during this investigation.

12. Ms. Newsome request the investigation into Judge William Skinner's handling of this matter. Ms. Newsome has concerns that Judge Skinner knew and/or should have known that he violated the Constitutional Rights, Civil Rights, and other laws governing said matters. Moreover, may have conspired with Constable Jon Lewis and others to subject Ms. Newsome to such unlawful and illegal actions rendered against her.

13. Ms. Newsome has serious beliefs that Judge Skinner may have also knowingly abused and violated that laws relying on his ties to the community and the fact that the "William L. Skinner Training Academy" located in Jackson, Mississippi was named after his late father. See **Exhibit "C"** attached hereto.

14. Ms. Newsome believes that Judge Skinner was also prejudice towards her because she is African-American and educated.

15. It is important to note that Judge Skinner may also be prejudice towards African-Americans that are educated and not lawyers – such belief has been formed based on the conduct, statements and behavior exhibited towards Ms. Newsome by Judge Skinner. Moreover, from research, it appears that Judge Skinner's father was killed during the FBI's raid on the Republic of New Africa in 1971. See **Exhibit "D"** attached hereto. Thus, leaving concerns that Judge Skinner, has become a Judge to seek revenge and hide his racial prejudice and animosity behind the judicial robe he wears.

16. In February 2006, Ms. Newsome filed a Complaint with the Mississippi Commission on Judicial Performance ("MCJP") regarding Judge Skinner. However, to date, the MCJP has failed to produce to Ms. Newsome the information she is requesting regarding its investigation. Ms. Newsome also believes that the MCJP may fail to perform the duties owed to Ms. Newsome because of any favors it may try to render to Judge Skinner out of their relationship and sympathy for his father. Thus, it appears to Ms. Newsome from the unlawful and illegal actions rendered her by Judge Skinner, he is indeed riding and/or playing on the sympathy and his connections to evade justice and the laws governing said matters. Moreover, Ms. Newsome has concerns as to the agency's ability to remain fair and impartial in investigating complaints filed against Judge Skinner, Judge Skinner or others, as such agencies may feel a duty to accommodate such illegal and/or unlawful practices out of guilt for the death of Judge Skinner's father and the need to render him favors to hide/mask such guilt.

17. It is such unlawful actions, such as those rendered against Ms. Newsome, that leaves a bad taste in the mouth of African-Americans that justice is also prejudice and the laws are not equally applied with it involves criminal actions taken by white citizens against African-American citizens. Moreover, white citizens are most likely to be given special treatment because of the color of their skin, economic status, etc., than that of African-Americans.

18. On May 15, 2006, Ms. Newsome was terminated from her place of employment. Her employer, Page Kruger & Holland ("PKH"), advised her that they were contacted by someone and notified of the lawsuit she filed in the County Court of Hinds County. PKH advised Ms. Newsome they verified the filing of the Complaint she filed against Spring Lake Apartments. As a direct and proximate result of Ms. Newsome's filing of the complaint in the Hinds County Court and PKH being notified of said filing, Ms. Newsome's employment with PKH was terminated.

19. It is important to note that during Ms. Newsome's employment with PKH, PKH represented and/or is counsel for Hinds County. Thus, Ms. Newsome believes her employment was terminated as a result that PKH knew that she would be filing legal actions against the Constable, Hinds County and other applicable parties. PKH was notified by Ms. Newsome several months back during a conflict check by PKH, of possible conflict. However, PKH did nothing. It was not until they were contacted and notified of the lawsuit I filed against Spring Lake Apartments that PKH terminated my employment. The action taken by PKH is in furtherance of the conspiracy to deprive Ms. Newsome of Constitutional Rights, Civil Rights and other laws governing said matters. Moreover, PKH's action was done to cause Ms. Newsome further harm and injury because she elected, as a citizen of the United States and the State of Mississippi to pursue the course of justice to correct such injustice/wrongs rendered her.

20. Ms. Newsome believes that she has been subjected to a conspiracy formed by individuals to cause her harm and injury as a direct and proximate result of her exercising her Constitutional Rights, Civil Rights and enforcement of other laws governing said matters.

THEREFORE, Ms. Newsome is requesting that the applicable department of the United States Department of Justice and the Federal Bureau of Investigations investigate the allegations raised in this Complaint and produce to her their findings.

RESPECTFULLY submitted this the **26th** day of **June, 2006**.

Vogel Newsome

Vogel D. Newsome
Post Office Box 31265
Jackson, Mississippi 39286
601/885-9536

SUMMONS TO TENANT

STATE OF MISSISSIPPI
COUNTY OF HINDS

DOCKET 2150 PAGE 539
JON C. LEWIS

TO ANY LAWFUL OFFICER OF HINDS COUNTY :

You are commanded to summon NEWSOME VOGEL

_____, Defendant,

now in possession of the premises at 1434 HAWTHORNE COVE

JACKSON, MS 39272

without the permission of SPRING LAKE APARTMENTS

601-372-9966, Landlord,

and who refuses to vacate said premises or to pay rent due of $ 379.50.

COUNT ONE

To appear and show why possession of said premises should not be delivered to the said Landlord.

COUNT TWO

To appear and answer the suit of the Landlord for rent due in the amount of $ 379.50, together with all costs of Court.

You are to summon said Defendant to appear before the Justice Court of Hinds County at 407 East Pascagoula Street Jackson, Mississippi, at 1:30PM on the 27TH day of JANUARY, 2006.

Witness my hand, this the 17TH day of JANUARY, 2006.

By _____ D.C.

Hinds County Justice Court Clerk
407 East Pascagoula Street - Suite 333
P.O. Box 3490
Jackson, Mississippi 39207
(601) 965-8800

JAN 2 0 2006

HINDS COUNTY JUSTICE COURT CLERK

NOTICE

YOU ARE BEING SUED. SHOULD YOU FAIL TO APPEAR AND FILE YOUR ANSWER TO SAID SUIT ON OR BEFORE THE DATE SHOWN, A MONEY JUDGMENT BY DEFAULT WILL BE ENROLLED AGAINST YOU.

"A"

AFFIDAVIT TO REMOVE TENANT

Docket 214 Page 39
1-27-06
1:30 pm

STATE OF MISSISSIPPI
HINDS COUNTY

Plaintiff's Name Spring Lake Apartments

Address 1000 Spring Lake Blvd.

City & Zip Code: Jackson, MS 39272

Telephone Number: (601) 372-9966

Before me, the undersigned Justice Court Clerk in Hinds County, Mississippi, Landlord Melody Crews, makes oath to the best of his/her knowledge and belief that Defendant, Vogel Newsome whose telephone number is _____ refuses to deliver possession of the following described property, to wit 1434 Hawthorne Cove Jackson MS 39272 in said County and State; that there is now due from said Defendant the sum of $ 379 50 rent and the necessary notice according to law has been given to terminate such tenancy, and that satisfaction of said rent cannot be obtained by distress of the goods, ware and chattels of the said tenant. The affiant demands:

COUNT ONE That the said Vogel Newsome be removed from the premises.

COUNT TWO That a money judgement for the rent now due in the amount of $ 379 50 plus the rent to become due to the date of removal judgement, be rendered against the said tenants plus all cost in this cause to accrue.

Rent amount to become due: $_____

Melody A Crews
Plaintiff

Sworn to and subscribed before me, this the 16th day of January, 06.

_____ D.C.
Justice Court Clerk

$ 24 COURT COST
PAID BY PLAINTIFF
DATE 1/17/06 RECEIPT NO. 15/9761

Spring Lake Apartment Community

THREE-DAY NOTIC TO PAY RENT OR QUIT
(Mississippi Code of Civil Procedure 1161(2))

TO: VOGEL NEWSOME AND ALL OTHER PERSONS IN POSSESSION OF
ADDRESS OF PREMISES: 1434 Hawthorne Cove.; Jackson, MS 39272

Demand is hereby made upon you for full payment of rent in the amount stated below for the premises located at the above address.

WITHIN THREE (3) DAYS after service of on you of this Notice, you are required to pay said rent in full or to deliver up possession of said premises to the undersigned. You are further notified that the Landlord has elected to, and hereby does, declare the rental agreement or lease under which you hold the premises to be forfeited in the event that you fail to pay the rent in full as required herein.

If you fail to pay all such rent, or to surrender up possession of the premises within three (3) days after service on you of this Notice, the Landlord will institute legal proceedings against you to recover possession of said premises, to declare such rental agreement or lease forfeited, to recover treble rents and damages for unlawful detention of the premises, and to recover attorney's fees and court costs.

AMOUNT DUE (NOT INCLUDING LATE CHARGES): $379.50

DATE OF SERVICE: January 6, 2006

Melody J Creed
OWNER/ AGENT

PROOF OF SERVICES:

On Jan. 12, 2006, I served the above Three-Day Notice to Pay Rent or Quit in the following manner:

_____ By delivering a copy personally to the tenant (s).
_____ By leaving a cop with a person over the age of 18 years, AND sending a copy by mail to the tenants.
✓ By posting a copy in a conspicuous place on the property, AND sending a copy by mail to the tenants.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on Jan. 12, 2006 at Jackson, Mississippi.

Melody J Creed
NAME

SUMMONS TO TENANT

RECEIVED
JAN 24 2006
HINDS COUNTY JUSTICE COURT

STATE OF MISSISSIPPI
COUNTY OF HINDS

DOCKET 2150 PAGE 539
JON C. LEWIS

TO ANY LAWFUL OFFICER OF HINDS COUNTY :

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By _____ D.C.

Hinds County Justice Court Clerk
407 East Pascagoula Street - Suite 333
P.O. Box 3490
Jackson, Mississippi 39207
(601) 965-8800

FILED
JAN 20 2006
HINDS COUNTY JUSTICE COURT-CLERK
BY _____ D.C.

PROCESS RECEIVED
JAN 2[illegible]
CONSTABLE JON LEWIS
BY _____

"B"

NOTICE

YOU ARE BEING SUED. SHOULD YOU FAIL TO APPEAR AND FILE YOUR ANSWER TO SAID SUIT ON OR BEFORE THE DATE SHOWN, A MONEY JUDGMENT BY DEFAULT MAY BE ENROLLED AGAINST YOU.

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May 18, 2006

Jackson officers remembered

- City pays tribute to those who died in line of duty

By Jimmie E. Gates
jgates@clarionledger.com



Vickie D. King/The Clarion-Ledger

Suzanne Walters is escorted by Lt. Steve Sansom on Wednesday to the memorial honoring Jackson's fallen police officers. There, she placed a carnation in memory of her father, Rickey Joe Simmons, who was killed on Feb. 4, 1992. Thirteen officers were memorialized at the ceremony.

Thirteen Jackson police officers, including two killed 113 years ago, were memorialized Wednesday during the annual Jackson Police Memorial Day program at the William L. Skinner Training Academy.

"They had been forgotten about," Police Chief Shirlene Anderson said of officers Walker Guice and Percy Clifton Hines. They were killed Jan. 14, 1893, while attempting to arrest two men.

Anderson said police staffers found out about Hines and Guice while doing research for this year's program.

"I thought I was the only person who knew," said Hines' great-great-niece, Linda Hines Goff of Ridgeland. "I'm truly thankful."

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SUNDAY

Related Items:
- Gallery: JPD honors slain officers

Sales & Auctions

Central Mississippi Medical Center

Everyone knew Hines as "Turk," said Goff, who attended the service and placed a flower in memory of her uncle at the base of the granite memorial bearing the name of JPD officers killed in the line of duty.

JPD is the largest Police Department in the state with 477 sworn officers.

Southern District U.S. Attorney Dunn Lampton, speaker for the program, told the families and law officers from throughout the metro area that about 200 officers statewide have been killed in the line of duty.

"It is a fitting and proper program meant to be a sterling tribute to those heroes," Lampton said of the memorial.

Thomas Catchings was the last JPD officer killed in the line of duty. Catchings died March 17, 2005, in a shootout with carjacking suspect Omar Hampton, 18, of Jackson, who also died.

Catchings' widow, Yolanda, said it meant more than life to share in the memorial for her husband and the other fallen officers.

"It's honor, respect, love, dignity and history in the making," Catchings said.

Slain officer Brian Kinsey's 10-year-old daughter, Lauryn, and his widow, Shanna Kinsey Adams, laid a flower on the memorial stone for fallen officers.

Although she has remarried, Adams said the memorial means no one has forgotten Brian Kinsey, who was killed Oct. 22, 1997.

Adams said she wants her daughter to know about her dad, who she said was a great person.

Lauryn was 22 months old when her father was killed while answering a domestic-disturbance call.

IN THE LINE OF DUTY

Jackson Police officers killed in the line of duty:

- Patrolman Walker Guice, Jan. 14, 1893
- Patrolman Percy Clifton Hines, Jan. 14, 1893
- Patrolman Wilburn Burleson Jr., March 10, 1961
- Patrolman Charles Buckley Jr., March 14, 1965
- Intelligence Officer William L. Skinner, Aug. 19, 1971
- Patrolman Floyd Seaton, May 23, 1979

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CRAFTS / SKILLS / TRADES
SALES
ADMINISTRATIVE / CLERICAL

- Patrolman William Hickman, April 13, 1981
- Patrolman Bobby J. Biggert, Feb. 24, 1989
- Patrolman Rickey Joe Simmons, Feb. 4, 1992
- Patrolman John R. Sandifer, Sept. 18, 1994
- Patrolman Robert Washington, Nov. 14, 1995
- Patrolman Brian Kinsey, Oct. 22, 1997
- Patrolman Thomas Catchings, March 17, 2005

Source: Jackson Police Department

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Ex-Republic of New Africa leader denounced as terrorist, praised as role model

By Jack Mazurak
jmazurak@clarionledger.com



Brian Albert Broome

Judge William Skinner today criticized Jackson Councilman Kenneth Stokes for inviting convicted felon Imari Obadele to speak at Jackson's City Hall and Jackson attorney Chokwe Lumumba for supporting the action. Obadele, the former leader of the Republic of New Africa, was convicted of conspiracy in the 1971 slaying of Skinner's father, Jackson police Lt. William Louis Skinner.

Former Republic of New Africa president Imari Obadele, who served time for conspiracy in the 1971 slaying of Jackson police Lt. William Louis Skinner, was described today as terrorist by the officer's son.

In another meeting, he was lauded as a role model by Jackson City Council member Kenneth Stokes, who is hosting Obadele tonight during a Black History Month speech at Jackson City Hall.

Obadele appeared this morning at the Jackson City Council's regular meeting, signing up to speak before the panel as regular citizens are allowed to do.

Obadele said the RNA is a peaceful group, not a terrorist organization, that wanted to establish an independent country that included Mississippi.

[redacted]' he said, referring to the August 1971 shootout between law enforcement officers and RNA members that resulted in Skinner's death.

But minutes before Obadele spoke to the council, Hinds County Justice Court Judge Bill Skinner blasted the former RNA leader and Stokes.

Obadele had as much told Lt. William Louis Skinner that he was going to kill him, Skinner's son said.

"This man is a terrorist," [redacted] "He ran a terrorist organization, and there is no difference between him and Osama bin Laden."

He chastised Jackson Mayor Harvey Johnson Jr. and the council members who did not speak out against Obadele.

[redacted] Bill Skinner said.
Only two council members, Ben Allen and Marshand Crisler, have publicly said Obadele has no place speaking in City Hall.

Allen, on his WJNT-1180 talk-radio show this morning, blasted Stokes for independently bringing Obadele to City Hall.

Obadele's speech tonight at City Hall, an opener for Black History Month, has stirred strife in city officials and community members through the last five days.

Accusations and cutting comments have only become thicker in the hours before his controversial speech.

During the council's 10 a.m. meeting, a face off between both sides roiled emotions. Obadele and local lawyers Chokwe

Ex-Republic of New Africa leader denounced as terrorist, praised as role model

By Jack Mazurak
jmazurak@clarionledger.com



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"D"

COMPLAINT AND REQUEST FOR INVESTIGATION FILED BY DENISE NEWSOME WITH THE FEDERAL BUREAU OF INVESTIGATION – LOUISVILLE, KENTUCKY OCTOBER 13, 2008[1]

COMES NOW, Denise Newsome ("Newsome") and files this **Criminal** Complaint and Request for Investigation with the Federal Bureau of Investigation of and against the following persons:

Person(s)/Conspirator(s):

1) Gary M. Martin ("Martin)
2) Bernice Martin
3) Dennis Donnelan
4) Betty Donnelan
5) GMM Properties - Its owners, shareholders insurer(s) and/or representatives (persons in Nos. 1 - 5 collectively known as "GMM Parties")
6) James Moberly West ("West")
7) Gailen Wayne Bridges, Jr. ("Bridges")
8) Judge Ann Ruttle - In her Individual Capacity ("Judge Ruttle" or "Ruttle")
9) Judge Gregory Bartlett - In his Individual Capacity ("Judge Bartlett" or "Bartlett")
10) Sheriff/Deputy _____ - In his Individual and/or Official Capacity
11) Officer Craig (sp?) - Covington Police Department in his Individual and/or Official Capacity
12) Locksmith used (name(s) to be determined during this investigation)
13) John/Jane Doe(s) – Provide names upon receipt through investigation

for the following criminal acts and/or charges:

I. **CONSPIRACY:**[2]

> Conspiracy - An agreement by two or more persons to commit an unlawful act, coupled with an intent to achieve the agreement's objective, and (in most states) action or conduct that furthers the agreement; a combination for an unlawful purpose. 18 USC ~371. . . .

[1] Boldface, Italics, Underline, etc. added for emphasis.

[2] Definition taken from Blacks Law Dictionary – Eighth Edition.

EXHIBIT 46

> "When two or more persons combine for the purpose of inflicting upon another person an injury which is unlawful in itself, or which is rendered unlawful by the mode in which it is inflicted, and in either case the other person suffers damage, they commit the tort of conspiracy." P.H. Winfield, *A Textbook of the Law of Tort* ~128, at 434 (5th ed. 1950)

> Chain Conspiracy - A single conspiracy in which each person is responsible for a distinct act within the overall plan. . . .*All participants are interested in the overall scheme and liable for all other participants' acts in furtherance of that scheme. (Conspiracy ~24(3) C.J.S. Conspiracy ~~~117-118.

> Conspire - To engage in conspiracy; to join in a conspiracy.

> Conspirator - A person who takes part in a conspiracy.

1. Through this instant Complaint, Newsome is requesting an investigation into the claims and allegations set forth herein to determine whether any and/or all of the above referenced person(s)/conspirator(s) engaged in a conspiracy toward Newsome. If so, that the proper prosecution and indictments be rendered and the applicable punish permissible and/or required by statutes/laws be had against any of the person(s)/conspirator(s) found to be guilty of said crime and/or unlawful/illegal action.

2. Newsome believes that an investigation into allegations and claims against the above referenced person(s)/conspirator(s) will support that two or more of said person(s)/conspirator(s) agreed to commit unlawful/illegal acts coupled with the intent to achieve the agreements' objectives: **(a)** to discriminate against Newsome in housing; **(b)** subject Newsome to harassment, threats, hostile treatments, intimidation, discrimination, malicious prosecution, corruption, hatred, hostility, etc.; **(c)** interfere with Civil Rights of Newsome through the obstruction of justice; **(d)** subject Newsome to unlawful entries, theft, burglary, larceny, invasion/invasion of privacy, etc.; **(e)** conspiracy against rights; **(f)** and any such unlawful/illegal acts found during the handling of this investigation.

3. The above referenced person(s)/conspirator(s) conspired for the purpose of inflicting upon Newsome intentional and deliberate injury/harm which they knew was unlawful/illegal and inflicted in a manner known to said person(s)/conspirator(s) to be unlawful/illegal and prohibited by statutes/laws. Such actions which resulted in criminal wrong doing of and against Newsome by person(s)/conspirator(s) as a direct and proximate result of the conspiracy leveled against her.

4. Each of the above referenced person(s)/conspirator(s) were responsible for a distinct act within the overall plan of the conspiracy in which they were willing participants. Said person(s)/conspirator(s) having an interest in the overall scheme and the outcome of said scheme/conspiracy and is therefore, liable for their action and/or those of other's in the carrying

out of their role in the illegal/unlawful actions against Newsome in furtherance of the conspiracy alleged.

II. BURGLARY:

> Burglary - (2) The modern statutory offense of breaking and entering any building - not just a dwelling, and not only at night - with the intent to commit a felony.
>
> Burglar - One who commits burglary.
>
> Burglarized - To commit burglary.
>
> Breaking - (Criminal Law): In the law of burglary, the act of entering a building without permission.
>
> > "[T]o constitute a breaking at common law, there had to be the creation of a breach or opening; a mere trespass at law was insufficient. If the occupant of the dwelling had created the opening, it was felt that he had not entitled himself to the protection of the law, as he had not properly secured his dwelling . . . In the modern American criminal codes, only seldom is there a requirement of breaking. This is not to suggest, however, that elimination of this requirement has left the 'entry' element unadorned, so that any type of entry will suffice. Rather, at least some of what was encompassed within the common law 'breaking' element is reflected by other terms describing what kind of entry is necessary. The most common statutory term is 'unlawfully,' but some jurisdictions use other language, such as '**unauthorized**,' by '**trespass**,' '**without authority**,' '**without consent**,' or '**without privilege**.' Wayne R. LaFave & Austin W. Scott Jr., *Criminal Law* ~8.13 at 793-94 (2d ed. 1986).

1. As a matter of law, certain of the person(s)/conspirator(s) (i.e. Martin, Sheriff/Deputy, Locksmith, John/Jane Does) - to be determined through the investigation of this Complaint, acted as burglars in the burglarizing of Newsome's residence located at 128 East 5th Street - Apartment 5, Covington, Kentucky 41011. Therefore, Newsome is requesting through this instant Complaint that an investigation into the claims and allegations set forth herein and that those found to have acted in such unlawful/illegal manner be prosecuted and indicted for said legal wrongs.

2. Newsome learned of the criminal actions of person(s)/conspirator(s) upon being contacted at her place of employment by Gailen Bridges, attorney for GMM parties.

3. Newsome on **October 9, 2008,** contacted the Covington Police Department; wherein, said department dispatched Officer Craig (sp?) - correct spelling of name to be determined through investigation. Said Officer refused to take Newsome's Criminal Complaint. *Advising Newsome that the Kenton County Police Department was contacted by another individual and they were provided with information which authorized the unlawful/illegal action taken against Newsome.* Newsome requested production of the documentation relied upon in that she did not have any legal document to support the actions taken by certain person(s)/conspirator(s) was legally authorized by statutes/laws. Newsome request through this instant investigation that the Kenton County Police Department be required to identify who contacted them and provided them with information which led to Officer Craig's refusal to take Newsome's Complaint. *Newsome made it clear that she wanted to press charges; however, Officer Craig **refused** to take her Complaint.* Newsome made it clear to Officer Craig that she believed him to be engaging in a ***conspiracy*** to deprive her of said rights. Newsome making it known to Officer Craig that she is college educated, work for a law firm in Cincinnati and a member of the NAACP. Even with such concerns being made to Officer Craig, said Officer **refused** to take Newsome's Complaint and left the scene of the crime. Officer Craig making a willful and conscious decision to deprive Newsome the right of filing criminal charges. **IT IS IMPORTANT TO NOTE** – Officer Craig advised Newsome that there was a hearing held on September 18, 2008. Newsome advise Officer Craig that she was not aware of any such hearing neither did she receive notice of such. Thus, supporting a conspiracy and meeting of the mind by certain person(s)/conspirator(s) as they laid the groundwork for the crime committed against Newsome.

4. Certain person(s)/conspirator(s) - to be determined through investigation; beginning with Gary Martin, Bridges - committed a criminal offense and/or modern statutory offense of burglary wherein they used, participated and/or unlawfully authorized excessive force and breaking force in entering Newsome's residence with deliberate, willful and malicious intent to commit a felony. Said person(s)/conspirator(s) knowingly and deliberately with malicious intent entered the residence of Newsome without her permission. Prior to such unlawful/excessive use of force by certain person(s)/conspirator(s), they were put on notice from the **posting** Newsome left on the doors entering her apartment that there was a Court Ordered Injunction and Restraining Order in place against the unlawful/illegal removal/eviction of Newsome from her residence. Newsome's residence was properly secured upon her leaving on October 9, 2008, to prevent the unlawful/illegal entry by GMM Parties and/or person(s)/conspirator(s) engaging in the unlawful/illegal eviction/removal. Newsome taking the necessary steps to secure her privacy, protect her property, life, liberties and pursuit of happiness. To no avail.

5. On October 9, 2008, despite Newsome's ***efforts to protect*** her residence and property/possession, she was subjected to burglary, theft, larceny, unauthorized entry, illegal/unlawful warrant of possession, unlawful/illegal seizure of her property/possession and residence; trespassing, and an unlawful/illegal Warrant of Possession executed by Judge Ruttle who lacked jurisdiction in the matter and neither had authority and/or jurisdiction to execute such action, etc. taken against Newsome - all being done **without *prior* notice** *to Newsome* and **without** *Newsome's consent* and **without** *privilege* afforded under the statutes/laws governing said matters.

6. Newsome through the filing of this instant Complaint seeks the prosecution and indictment of person(s)/conspirator(s) found through an investigation to be guilty of the crime of burglary, conspiracy to commit burglary, and/or their participation in such burglary set forth herein against Newsome's residence/property. Moreover, all person(s)/conspirator(s) that knew and/or had knowledge that said burglary was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglects or refuses to do so.

III. THEFT:

> *Theft* - (1) The felonious taking and removing of another's personal property with the intent of depriving the true owner of it; larceny [Cases: Larceny ~1. C.J.S. Larceny ~~1(1,2), 9.] (2) Broadly, any act or instance of stealing, including larceny, burglary, embezzlement, and false pretenses.
>
> Under such a statute it is not necessary for the indictment charging theft to specify whether the offense is larceny, embezzlement or false pretenses." Rollin M. Perkins & Ronald N. Boyce, Criminal Law 389-90 (3d ed. 1982).
>
> *Theft by Deception* - The use of trickery to obtain another's property, esp. by (1) creating or reinforcing a false impression . . . (2) preventing one from obtaining information that would affect one's judgment about a transaction, or (3) failing to disclose, in a property transfer, a known lien or other legal impediment.
>
> *Theft by Extortion* - Larceny in which the perpetrator obtains property by threatening to (1) inflict bodily harm on anyone or commit any other criminal offense. . . (4) take or withhold action as an official, or cause an official to take or withhold action, (5) bring about . . .collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act, (6) testify or provide information or withhold testimony or information with respect to another's legal claim or defense, or (7) inflict any other harm that would not benefit the actor.
>
> *Theft of Services* - The act of obtaining services from another by deception, threat, coercion, stealth, mechanical tampering, or using a false token or device.

1. As a matter of law, certain of the person(s)/conspirator(s) (i.e. Martin, Sheriff/Deputy, Locksmith, John/Jane Does) - to be determined through the investigation of this Complaint, acted as thieves in the theft of Newsome's property/possessions located at 128 East 5th Street - Apartment 5, Covington, Kentucky 41011. Therefore, Newsome is requesting through this instant Complaint that an investigation into the claims and allegations set forth

herein and that those found to have acted in such unlawful/illegal manner be prosecuted and indicted for said legal wrongs.

2. Certain person(s)/conspirator(s) - to be determined through investigation (i.e. beginning with Martin, Bridges, etc.) - unlawfully/illegally feloniously stole Newsome's property/possessions and took her residence away from her. Upon committing such theft, dumped Newsome's property/possession on the street in efforts to rid themselves of the criminal activities committed against Newsome. Deliberate actions done to destroy and get rid of the evidence. Certain person(s)/conspirator(s) having foresight and knowledge that they were committing a crime and that theft of Newsome's property/possession was prohibited by statutes/laws. In an effort to prevent from getting caught with Newsome's property/possession, they tossed it out on the street. Certain person(s)/conspirator(s) committed such criminal acts of theft with the purpose of depriving Newsome of her property/possession and residence. Certain person(s)/conspirator(s) changing the locks of the apartment building and on Newsome's residence and then advising Newsome not to return to her residence nor to try and enter the building.

3. Newsome's residence and property/possessions were unlawfully/illegally seized through false pretenses.

4. While certain person(s)/conspirator(s) relied upon "theft by deception" to burglarize Newsome's residence and steal her residence and property/possession from her, said acts were done for purposes of **(a)** creating or reinforcing a false impression; **(b)** obstruct, prevent and/or withhold information from one that would affect one's judgment about the action and services requested - however, it is important to note that such a one may or may not have had knowledge that Newsome had an Injunction and Restraining Order against such unlawful/illegal activity, they had a duty to inquire and obtain information as to whether the action they were about to take was legal and/or in compliance with the laws; **(c)** failed to reveal or disclose that they were acting in violation of a Court Order entered prohibiting the removal/eviction of Newsome from her residence.

5. Certain person(s)/conspirator(s) committed "theft by extortion" by larceny to obtain Newsome's residence/property: **(a)** to subject her to further injury/harm, harassment, humiliation, duress, oppression, discrimination, prejudices, threats, coercion - all which were foreseeable; **(b)** coerced other officials/persons to engage and/or participate in the theft of Newsome's property/possessions and to help themselves to same; **(c)** brought about unwarranted/unauthorized action by distorting and/or ignoring the laws/statutes prohibiting such criminal actions; (d) deliberately withholding information to obtain unlawful/illegal entry of Newsome's residence and to steal and/or commit burglary and theft of her residence and property/possession.

6. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of person(s)/conspirator(s) found through said investigation to be guilty of the crime of theft, conspiracy to commit theft, and/or their participation in such theft set forth herein against Newsome's property/possessions. Moreover, all person(s)/conspirator(s) that knew and/or had knowledge that said theft was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

IV. LARCENY:

Larceny - The unlawful taking and carrying away of someone else's personal property with the intent to deprive the possessor of it permanently. *Common-law larceny has been broadened by some statutes to include embezzlement and false pretense, all three of which are often subsumed under the statutory crime of "theft."

> "The criminal offence of larceny or theft in the Common Law was intimately connected with the civil wrong of trespass. 'Where there has been no trespass,' said Lord Coleridge, 'there can at law be no larceny.' Larceny, in other words, is merely a particular kind of trespass to goods which, by virtue of the trespasser's intent, is converted into a crime. Trespass is a wrong, not to ownership but to *possession*, and theft, therefore, is not the violation of a person's right to ownership, but the infringement of his possession, accompanied with a particular criminal intent."

Aggravated Larceny - Larceny accompanied by some aggravating factor (as when the theft is from a person).

Grand Larceny - Larceny of property worth more than a statutory cutoff amount, usu. $100.

Mixed Larceny - (1) Larceny accompanied by aggravation or violence to the person. (2) Larceny involving a taking from a house.

1. As a matter of law, certain of the person(s)/conspirator(s) (i.e. Martin, Sheriff/Deputy, Locksmith, John/Jane Does) - to be determined through the investigation of this Complaint, whether said person(s)/conspirator(s) committed larceny by unlawfully/illegally carrying away Newsome's property/possessions located at 128 East 5th Street - Apartment 5, Covington, Kentucky 41011 and the taking away of her residence with full intent to deprive her permanently of said residence. Certain person(s)/conspirator(s) knew and/or should have known that they were trespassing. By committing such legal wrongs person(s)/conspirator(s) infringed upon the Constitutional and Civil Rights of Newsome. Therefore, Newsome is requesting through this instant Complaint that an investigation into the claims and allegations set forth herein and that those found to have acted in such unlawful/illegal manner be prosecuted and indicted for said legal wrongs.

2. Newsome files the instant Complaint and request investigation of and against certain person(s)/conspirator(s) for aggravated larceny. Said criminal actions being committed for purposes of **(a)** unlawfully/illegally depriving Newsome of her residence and property/possession; **(b)** for the theft and/or unlawful/illegal action to take monies to which they are not entitled to in excess of $5,000.00; **(c)** the value of property stolen from Newsome exceeds

$100.00; (d) for the unlawful/illegal taking of Newsome's residence; (e) to commit aggravated larceny, grand larceny and/or mixed larceny against Newsome.

3. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of person(s)/conspirator(s) found through said investigation to be guilty of the crime of larceny, conspiracy to commit larceny, and/or their participation in such larceny set forth herein against Newsome. Moreover, all person(s)/conspirator(s) that knew and/or had knowledge that said larceny was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so. Certain person(s)/conspirator(s) - to be determined through investigation - allowed said crime to committed for their own personal and financial gain.

V. INVASION:

Invasion - (1) A hostile or forcible encroachment on the rights of another.

> Intentional Invasion - A hostile or forcible encroachment on another's interest in the use or enjoyment of property, esp. real property, though not necessarily inspired by malice or ill will.

Invasion of Privacy - An unjustified exploitation of one's personality or intrusion into one's personal activities, actionable under tort law and sometimes under constitutional law.

Invasion of Privacy by Intrusion - An offensive, intentional interference with a person's seclusion or private affairs.

Intrusion - (1) A person entering without permission. (2) In an action for invasion of privacy, a highly offensive invasion of another person's seclusion or private life.

Intruder - A person who enters, remains on, uses, or touches land or chattels in another's possession without the possessor's consent.

1. As a matter of law, certain of the person(s)/conspirator(s) (i.e. Martin, Sheriff/Deputy, Locksmith, John/Jane Does) - for (a) Invasion; (b) Invasion of Privacy; (c) Invasion of Privacy by Intrusion in that (i) certain person(s)/conspirator(s) acted with hostile intent as well as forcible encroachment and/or allowed others to forcibly encroach upon the protected rights of Newsome. Rights secured under the Constitution (Kentucky and United States), Civil Rights Act, Fair Housing Act and other statutes/laws governing said matters; (ii) said invasion was "intentionally" done with hostility, anger, envy, jealousy, prejudice, discrimination, ill intent, malice, corruption, etc. and/or forcible encroachment on Newsome's interest in the use of enjoyment of her property/residence; (iii) said crime was an invasion of

Newsome's privacy and was an unlawful/illegal and unjustified exploitation of Newsome's life, intrusion into Newsome's personal life, liberties and pursuit of happiness, as well as other rights secured/guaranteed under the Constitution, Civil Rights Act and other statutes/laws governing said matters; (iv) said criminal acts being an invasion of privacy by intrusion which being offensive and an intentional interference with Newsome's seclusion and/or private life/affairs; (v) certain person(s)/conspirator(s) intruding and/or unlawfully taking and/or participated in the unlawful taking of Newsome's residence and property/possessions and continue to use her residence to destroy evidence, and cover up their crime.

Said invasion/intrusion took place at Newsome's residence located at 128 East 5th Street - Apartment 5, Covington, Kentucky 41011. Therefore, Newsome is requesting through this instant Complaint that an investigation into the claims and allegations set forth herein and that those found to have acted in such unlawful/illegal manner be prosecuted and indicted for said legal wrongs.

2. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of person(s)/conspirator(s) found through said investigation to be guilty of the intrusion/invasion, conspiracy to commit intrusion/invasion, and/or their participation in such acts set forth herein against Newsome. Moreover, all person(s)/conspirator(s) that knew and/or had knowledge that said invasion/intrusion was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

VI. UNLAWFUL ENTRY/FORCIBLE ACTIONS:

Unlawful Entry - (1) The crime of entering another's real property, by fraud or other illegal means, without the owner's consent.

Forcible - Effected by force or threat of force against opposition or resistance.

Forcible Detainer - (1) The wrongful retention of possession of property by one originally in lawful possession, often with threats or actual use of violence.

Forcible Entry and Detainer - (1) The act of violently taking and keeping possession of lands and tenements without legal authority. (2) A quick and simple legal proceeding for regaining possession of real property from someone who has wrongfully taken, or refused to surrender, possession.

Forcible Entry - (1) The act or an instance of violently and unlawfully taking possession of lands and tenements against the will of those in lawful possession. (2) The act of entering land in another's possession by the use of force against another or by breaking into the premises.

1. As a matter of law, certain of the person(s)/conspirator(s) (i.e. Martin, Sheriff/Deputy, Locksmith, John/Jane Does) - to be determined through the investigation of this Complaint, unlawfully entered Newsome's residence located at 128 East 5th Street - Apartment 5, Covington, Kentucky 41011. Therefore, Newsome is requesting through this instant Complaint that an investigation into the claims and allegations set forth herein and that those found to have acted in such unlawful/illegal manner be prosecuted and indicted for said legal wrongs.

2. Certain person(s)/conspirator(s) committed crime of entering Newsome's residence by fraud, other illegal means and without Newsome's consent. Prior to entering, certain person(s)/conspirator(s) knew and/or should have known that were committing a crime/felony; however, elected to participate in the actual crime itself and/or the allowance of the crime in which they could have prevented.

3. The taking of Newsome's residence being by force and excelled to the vandalizing of Newsome's residence to obtain access and destroy her property/possession and evidence.

4. Newsome was subjected to the violent taking and keeping of certain property/possessions without legal authority.

5. Newsome was subjected to the unlawful entry of her residence by the use of excessive force and the breaking into her residence.

6. GMM parties, their attorneys, Judges knew that such acts were criminal, nevertheless, they made a conscious, deliberate and willful decision to allow said crimes to be committed of and against Newsome.

7. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of person(s)/conspirator(s) found through said investigation to be guilty of the crime of theft, conspiracy to commit theft, and/or their participation in such theft set forth herein against Newsome's property/possessions. Moreover, all person(s)/conspirator(s) that knew and/or had knowledge that said theft was about to be committed and/or being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

VII. OBSTRUCTION OF JUSTICE/PROCESS:

> Obstruction of Justice - Interference with the orderly administration of law and justice, as by giving false information to or withholding evidence from a police officer or prosecutor, or by harming or intimidating a witness or juror. *Obstruction of justice is a crime in most jurisdictions.
>
> Obstruction of Process - Interference of any kind the lawful service or execution of a writ, warrant, or other process. *Most jurisdictions make this offense a crime.

1. Newsome files this instant Complaint and request an investigation to determine whether there has been an obstruction of justice in the carrying out and/or commission of the criminal actions of person(s)/conspirator(s) of and against Newsome. Furthermore, whether person(s)/conspirator(s) interfered with the orderly administration of law and justice, as by giving false information, acting without legal authority, bribery, withholding evidence, **tampering** and/or **obstructing** service of process, withholding evidence from those they engaged to carry out criminal acts on their behalf, furthering the subjection of Newsome to harm/injury, harassment, threats, intimidation, humiliation, discrimination, prejudices, deprivation of protected rights, etc. for her election to exercise her rights under the Constitution, Civil Rights Act and other governing statutes/laws.

2. Obstruction of Process - Investigation into the handling of the Warrant of Possession and/or document certain person(s)/conspirator(s) relied upon on October 9, 2008, to commit the crimes rendered against Newsome. Moreover, to determine whether there was an obstruction of process wherein certain persons(s)/conspirator(s) interfered with service and/or obtained an unlawful/illegal Warrant of Possession and/or the document they relied upon to Newsome unlawfully/illegally removed from her residence. Furthermore, whether said handling of process was in compliance with the statutes/laws governing said matters. Whether said process was handled in a manner to deliberately, willfully and maliciously deprive Newsome equal protection of the laws and due process of laws. Whether said process was handled in a manner to infringe upon the protected rights of Newsome.

3. False Pretense - Investigation into whether a crime was committed through false pretenses - for the purpose of fraud and knowingly obtaining Newsome's residence/property by misrepresenting the facts, clearly violating statutes/laws made known to certain person(s)/conspirator(s), that give them sufficient notice that they were acting in violation of statutes/laws and that said actions were criminal in nature. Therefore, Newsome is requesting through this instant Complaint that an investigation into the claims and allegations set forth herein and that those found to have acted in such unlawful/illegal manner be prosecuted and indicted for said legal wrongs.

4. Newsome through the filing of this instant Complaint seeks an investigation and the prosecution and indictment of person(s)/conspirator(s) found through said investigation to be guilty of obstructing justice and/or their participation in such obstruction of justice set forth in this instant Complaint against Newsome. Moreover, all person(s)/conspirator(s) that knew and/or had knowledge that said justice was being obstructed through criminal acts and/or behavior and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

VIII. COLOR OF LAW:

> The appearance of semblance, without the substance, of a legal right.
> *The term u.s.u. implies a misuse of power made possible because the wrongdoer is clothed with the authority of the state.

1. Through this instant Complaint, Newsome request that an investigation be had to determine whether certain person(s)/conspirator(s) (i.e. Judge Bartlett, Judge Ruttle,

Sheriff/Deputy, Officer Craig, etc. - to be determined through investigation) acting under color of law, misused, abused, usurped, etc. their authority/power for purposes of subjecting Newsome to criminal actions. Moreover, whether those acting under color of law knew and/or should have known they were committing criminal acts and lacked jurisdiction and/or authority to proceed in the manner in which they did. Newsome further seeks through this Complaint that an investigation be had to determine whether certain person(s)/conspirator(s)acting under color of law acted with malice, corrupt motive, ill intent, discrimination, prejudices, etc. towards Newsome for her exercising rights secured/guaranteed under the Constitution and/or statutes/laws governing the matters before them. If any such criminal violations and/or acts are found by those acting under color of law, that said person(s)/conspirator(s) be prosecuted and indicted in accordance with the statutes/laws governing such criminal wrongs and injustices.

IX. CONSPIRACY AGAINST RIGHTS:

1. Newsome requests through the filing of this instant Complaint and investigations as to whether or not there has been a conspiracy against her rights pursuant to 18 U.S.C. § 241. Conspiracy Against Rights:

> If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or
>
> If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—
>
> They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

If so, Newsome through the filing of this instant Complaint and investigation seeks the prosecution and indictment of person(s)/conspirator(s) found through said investigation to be guilty of conspiracy against rights. Moreover, all person(s)/conspirator(s) that knew and/or had knowledge that said conspiracy was being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so.

X. CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS:

1. Newsome requests through the filing of this instant Complaint and investigations as to whether or not there has been a conspiracy against her rights pursuant to 42 U.S.C. § 1985. Conspiracy to Interfere With Civil Rights:

> (2) Obstructing justice; intimidating party, witness, or juror:
>
> If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;
>
> (3) Depriving persons of rights or privileges:
>
> If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or

> deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

Moreover, whether there was a conspiracy to **(1)** deprive Newsome of protected rights; **(2)** injure, oppress, threaten, or intimidate Newsome who resided in the state of Kentucky, County of Kenton, City of Covington in the free exercise or enjoyment of protected rights or privileges secured by her under the Constitution and laws of the United States, or because of her so exercising her right to seek justice for the wrongs complained of in lawsuit and/or actions brought by her. **(3)** whether person(s)/conspirator(s) went into the residence of Newsome with intent to prevent or hinder her from the free exercise or enjoyment of her residence and exercise of right or privilege to live in a place of her choice. Moreover, whether GMM parties, their counsel, Judges and others engaged in criminal activities to force Newsome to abandon her residence and deprive her rights secured under the Fair Housing Act.

If so, Newsome through the filing of this instant Complaint and investigation seeks the prosecution and indictment of person(s)/conspirator(s) found through said investigation to be be guilty of conspiracy against rights. Moreover, all person(s)/conspirator(s) that knew and/or had knowledge that said conspiracy was being committed and did nothing to prevent - having knowledge that any of the wrongs conspired to be done was about to be committed, and having the power to prevent or aid in the preventing of such criminal acts; however, neglected or refused to do so..

XI. POWER/FAILURE TO PREVENT:

1. Newsome requests through the filing of this instant Complaint and investigations as to whether or not there has been negligence to prevent the crime and/or criminal actions taken against her pursuant to 42 USC § 1986:

> **Every** person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, *and having **power** to prevent or **aid** in preventing the commission of the same, **neglects or refuses** so to do*, if such wrongful act be committed, **shall be liable** *to the party injured*, or his legal representatives, *for **all** damages caused by such wrongful act*, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; . . .

Moreover, whether person(s)/conspirator(s) had knowledge of any of the criminal actions committed and/or to be committed by each other, and having the power to prevent or aid in the prevention of the commission of such crimes, neglected or refused to do so. If so, Newsome is requesting that said person(s)/conspirator(s) be prosecuted and indicted from any and/or all criminal wrongs rendered Newsome.

XII. FACTS PERTINENT TO UNDERSTANDING CLAIMS/ALLEGATIONS:

1. On or about **December 4, 2006** at approximately **3:41 p.m.** (emphasis added), Denise Newsome ("Newsome")completed filing of a Civil lawsuit of and against Gary M. Martin, Bernice Martin, Dennis Donnellan and Betty Donnellan, d/b/a GMM Properties. (See Receipt attached hereto and incorporated herein by reference).

2. On or about **December 4, 2006** at approximately **3:51 p.m.** (emphasis added), Gary Martin, Bernice Martin, Dennis Donnellan and Betty Donnellan, d/b/a GMM Properties ("GMM Parties) filed a Forcible Detainer Complaint against Denise Newsome. (See Complaint attached hereto and incorporated by reference).

3. GMM Parties had their December 4, 2006 Forcible Detainer Complaint filed by their attorney Gailen Bridges ("Bridges"). Said filing coming **AFTER** Gailen was notified that Newsome was seen heading to the Courthouse. It so happened that Newsome and Gary Martin ("Martin") met at a three-way stop sign, wherein proceeded first turning down the street that Newsome was turning off - Martin turning left; while Newsome turned left from stop in the direction leading to the Courthouse. Based upon receipt of the information and the time stamped document from GMM Parties regarding their Complaint, Newsome concluded that Martin upon seeing her, immediately contacted his attorney, Bridges, and advised him that he saw Newsome heading to the Courthouse. In a mad dash to beat Newsome in filing a Complaint, Bridges rushed to the Courthouse to file the Forcible Detainer Complaint on behalf of his clients. Such actions by Bridges being done because he have knowledge that should Newsome get her Civil Complaint filed first, the Court (Kenton County Circuit Court) in which she filed would have jurisdiction. Bridges **failed** in his efforts and Newsome succeeded in filing her Civil Complaint in the Kenton County Circuit Court (Case No. 06-CI-03270) before the GMM Parties filing in the Kenton County District Court (Case No. 06-C-5059.

4. Kentucky laws are clear that the Court in which the party which succeeds in filing Complaint first, is the Court which obtains jurisdiction. In this instance, this would be Newsome. Therefore, the Kenton County Circuit Court obtained jurisdiction over this matter and the Kenton County District Court is **without** jurisdiction to proceed or to assert jurisdiction.

JURISDICTIONAL ISSUES

Exclusive Jurisdiction Vested in Another Court.

> 63C Am.Jur2d Prohibition ~43: ***Exclusive Jurisdiction Vested in Another Court*** - A court may be restrained by prohibition from interfering with the exclusive jurisdiction acquired by another court by reason of its being the first court to assume and exercise such jurisdiction in the particular case if both cases are predicated on the same cause of action, between the same parties, and brought in courts of competent jurisdiction of the same state. . . In jurisdictions in which this view prevails, the aggrieved party must raise the defense of former suit pending by an appropriate pleading in the second suit and by an appeal

from the decision of the court in that suit, rather than a writ of prohibition.

KENTUCKY LAW:

Hawes v. Orr, 73 **Ky.** 431 (1874) - The **court first acquiring** jurisdiction has a right to go on until it has performed its office in reference to the subject-matter in litigation, and will not allow itself to be ousted of its jurisdiction or permit the thing in litigation to be wrested from it, so that it cannot execute its judgment.

Akers v. Stephenson, 469 S.W.2d 704 (Ky.,1970) - Where parties and subject matter are the same, once court of concurrent jurisdiction has begun exercise of jurisdiction over case, its authority to deal with action is exclusive and ***no other court of concurrent jurisdiction may interfere with pending proceedings***.

Riddle v. Howard, 357 S.W.2d 705 (Ky.,1962) - When a court of competent jurisdiction acquires jurisdiction of subject matter of a case, its authority and control continue until final disposition, and, as a matter of principle and comity, *another court of concurrent jurisdiction will recognize the prior jurisdiction and* ***will not*** *interfere by taking over the same case*; but to apply such rule it is essential that the first action shall afford the parties in the second action an adequate and complete opportunity for the adjudication of their rights.

Delaney v. Alcorn, 193 S.W.2d 404 (Ky.,1946) - Where two actions between the same parties, on the same subject, and to test the same rights, are brought in different courts having concurrent jurisdiction, ***the court which first acquires jurisdiction***, its power being adequate to the administration of complete justice, retains jurisdiction and may dispose of the whole controversy without interference by any court of coordinate power.

OTHER COURTS:

State ex rel. Phillips v. Polcar, 50 Ohio St.2d 279, 364 N.E.2d 33 (Ohio 1977) - (n. 3) As between courts of concurrent jurisdiction, tribunal whose power is first invoked by institution of proper proceedings acquires jurisdiction, to the exclusion of all other tribunals, to adjudicate upon whole issue and to settle rights of the parties.

Buck v. Colbath, 70 U.S. 334 (U.S.Minn.,1865) - The rule that, among courts of concurrent jurisdiction, that one which first obtains jurisdiction of a case has the exclusive right to decide every question arising in the case, is subject to some limitations, and is confined to suits between the

same parties or privies seeking the same relief or remedy, and to such questions or propositions as arise ordinarily and properly in the progress of the suit first brought, and does not extend to all matters which may by possibility become involved in it.

5. GMM Parties and their counsel, Bridges, were timely, properly and adequately requested to have their Forcible Detainer Complaint withdrawn from the Kenton County District Court; however, refused to do so and to date continues to act upon such malicious filing. (See the Record of the Kenton County District Court - Newsome has a copy of document as well; however, at the time of the filing of this instant Complaint, she is homeless, due to the unlawful eviction/removal and/or warrant for possession, etc. by the GMM Parties and others). Newsome may be able to provide copy of said document from records she retains at another location. The record of the Kenton County District Court as well as the Kenton County Circuit Court will support that both Courts were aware of the actions of GMM Parties and their counsel; however, elected not to correct such unlawful/illegal actions brought to their attention by Newsome.

6. GMM Parties, their counsel and the Judges (Gregory Bartlett and Ann Ruttle) were timely, properly and adequately placed on notice through the pleadings filed by Newsome, that Judge Ruttle lacked jurisdiction over Newsome and the subject-matter in the Forcible Detainer action initiated by the GMM Parties and Bridges. Kentucky laws are clear on this issue.

7. The record evidence in the Kenton County Circuit Court action as well as the Kenton County District Court action will support that Judge Bartlett and Judge Ruttle were timely, properly and adequately placed on notice through the pleadings filed by Newsome that when a judge acts without jurisdiction, any defense of IMMUNITY is **null/void** and cannot and **will not** sustain their actions or claim of immunity. Moreover, for said Judge to act contrary to the laws upon being notified and acting without jurisdiction, affords said Judge(s) to be sued in their individual capacity and be subject to criminal and civil actions filed against them. Kentucky laws are clear on this issue:

KENTUCKY COURTS:

Lynch v. Johnson, 420 F.2d 818 (C.A.6.Ky.,1970) - Defense of judicial immunity is a very broad one **but it does not** *afford any protection to judge acting in clear absence of jurisdiction* nor does it protect him in nonjudicial activities.

Morgan v. Dudley, 57 Ky. 693 (Ky.,1858) - A judicial officer, acting within the jurisdiction conferred on him by law, is not liable for errors of judgment, unless the result of malice or corruption.

Hollon v. Lilly, 38 S.W. 878 (Ky.,1897) - A judge acting within his jurisdiction, is not liable to a suit for damages, however illegal or erroneous his acts may be, *in the absence of a malicious or corrupt motive.*

Pepper v. Mayes, 81 Ky. 673 (Ky.,1884) - No person is liable in a civil action for what he has done as a judge while acting within the limits of his jurisdiction.

Sparks v. Character and Fitness Committee of Kentucky, 818 F.2d 541 (C.A.6.Ky.,1987) - Except for acts in "**clear absence**" of jurisdiction, judicial immunity is absolute.

Reed v. Taylor, 78 S.W. 892 (Ky.,1904) - While a judicial officer will be protected against suits for damages resulting from erroneous judgment, *yet where he acts maliciously, or beyond his jurisdiction, his office is no protection*.

Allsup v. Knox, 508 F.Supp. 57 (E.D.Ky.,1980) - A judge will not be deprived of immunity because action he took was in error, was done maliciously, or was in excess of his authority; rather, ***he will be subject to liability only when he has acted in a clear absence of all jurisdiction***.

Revill v. Pettit, 60 Ky. 314 (Ky.,1861) - One holding a judicial office may be prosecuted in damages for any acts done by him in excess of his proper jurisdiction.

King v. Cawood, 3 S.W.2d 616 (Ky.,1928) - Judge acting illegally and without jurisdiction becomes **trespasser** *and is liable.*

8. The record of the Kenton County Circuit Court will evidence that it was timely, properly and adequately placed on notice that Newsome had filed a Complaint with the United States Legislature/Congress requesting its intervention and investigation, etc. Judge Bartlett, GMM Parties and their counsel, James Moberly West ("West") through the pleadings filed by Newsome obtained knowledge that Bartlett lacked jurisdiction to proceed in the lawsuit filed by Newsome, in that she had elected to take the matter to the United States Legislature/Congress for Constitutional, Civil Rights and other violations under the statutes/laws. Kentucky laws as well as federal laws are clear on the issue that upon Newsome's filing of Complaint with the United States Legislature/Congress, the Kenton County Circuit Court and Judge Bartlett lacked jurisdiction to proceed any further. Nevertheless, Bartlett has elected to usurp jurisdiction and continue to enter Orders in which he knew he lacked judicial power and/or jurisdiction to do so.

Clark v. Board of Ed. of Shelbyville, Ky., 350 F.Supp. 149 (E.D.Ky.,1972) - Courts **may not** *invade the domain of the legislature*; **where a plaintiff is asking for legislative relief or relief** which would encroach on the legislative process the courts *are without* power to act.

Avey Drilling Mach. Co. v. Lukowsky, 261 S.W.2d 432 (**Ky.**,1953) - Court **has no** *constitutional authority* to sit in judgment on proposed legislation, when legislative body is

proceeding within scope of its governmental or corporate power, as no justiciable question arises until after enactment or passage of such ordinance or resolution.

State of Ohio ex rel. Erkenbrecher v. Cox, 257 F. 334 (S.D.Ohio.W.Div.,1919) - The judicial department of the government **cannot** interfere with the proceedings of either the executive department or the legislative department with respect to matters committed by the Constitution to their charge.

Berry v. American Express Pub., Corp., 381 F.Supp. 2d 1118 (2005) – Where source of legal authority is statutory and not constitutional, Congress retains ability to create and direct law, so long as it is consistent with constitutional principles, and it is particularly important for court to follow that directive.

Nixon v. Administrator of General Services, 408 F.Supp. 321 (1976) – Congressional power to investigate, although limited to areas in which Congress possesses legislative authority, is both broad and integral to the legislative process.

McGrain v. Daugherty, 47 S.Ct. 319 (U.S. Ohio 1927) – Congress may inquire into private affairs and compel disclosures only in so far as to make express powers effective.

Marcello v. U.S., 196 F.2d 437 (1952) – A congressional inquiry may be as broad as the legislative purpose requires.

Taylor v. Com. Ex rel. Dummit, 202 S.W.2d 992 (Ky. 1947) – The Legislature may enact any statute it deems necessary for the public interest, unless prohibited by constitutional provisions and in exercise of that authority may frame its enactments and express its intention and purpose as it sees proper.

Manning v. Sims, 213 S.W.2d 577 (Ky.,1948) - The sharp separation of powers of government ***must be preserved*** carefully by the courts, and judicial powers ***must not*** **be *permitted*** to ***encroach*** upon ***legislative powers***. Const. § 27.

Sidell v. Hill, 357 S.W.2d 318 (Ky.,1962) - *Judicial* ***encroachment*** upon other branches of government *is* ***unconstitutional***.

Sullivan v. Brawner, 36 S.W.2d 364 (Ky.,1931) - Court ***may not*** assume legislative function.

9. It is also important to note that Newsome a timely, properly and adequate Recusal pleading objecting to Judge Bartlett presiding of the lawsuit in that it was brought to her attention that Judge Bartlett and West worked at the same law firm prior to Bartlett taking the bench as Judge. Information that neither Bartlett or West made known to Newsome. Newsome having to find out such critical information through another source. Such failure by Bartlett and West was deliberate and done with malicious intent and unlawful/illegal motive.

> *Dean v. Bondurant,* 2005-SC-000872-D , SUPREME COURT OF KENTUCKY, 193 S.W.3d 744; 2006 Ky. LEXIS 163, June 7, 2006 - An attorney's contribution to a judge's campaign was not alone a basis for judicial recusal, but state supreme court justice recused himself; he received numerous contributions from attorneys in firm that was a party, contributions in aggregate were not minimal, and his impartiality could be reasonably questioned under Ky. Sup. Ct. R. 3.130, 4.300.

10. The record evidence in both the Kenton County Circuit Court as well as the Kenton County District Court will support that both Courts, Judge Bartlett, Judge Ruttle, GMM Parties, their attorneys as well as others were timely, properly and adequately notified through the pleadings filed by Newsome when said Courts and Judges lacked jurisdiction. Nevertheless, they made a willful, deliberate and concious decision to proceed anyhow with knowledge that they **could not** claim immunity for any liability that may arise from their unlawful/illegal and unethical practices. While Newsome filed the proper Writ proceedings, Courts to which said pleadings were filed elected to deprive Newsome rights guaranteed under the Constitution (Kentucky and United States), Civil Rights Act and other governing statutes/laws. Therefore, Newsome based on information provided her, proceeded to file a Complaint with the United States Legislature/Congress.

> In *Hargis v. Parker,* Ky., 85 S.W. 704 (1905), a case decided only fourteen years after the adoption of Section 110 of the 1891 Constitution, our predecessor court wrote:
>
> > *If it be true that the . . . court* ***is proceeding without jurisdiction,*** *it is not substantial justice that it should be allowed. . . as it might do at its discretion, subject the parties* ***to enormous expense*** *in defending the case, even if it went no further than a trial of the question of jurisdiction, and say to them, "Your remedy is solely by appeal if you have been wronged." We think [Section 110] of the Constitution, though it be deemed only declaratory of the common law on the subject, confers the power and jurisdiction on this court to intervene by the writ of prohibition to stay the inferior courts of the state from proceeding out of their jurisdiction.* ***It may issue whether or not there is an appeal.***

11. Newsome request investigation into Judges handling of said matters to determine if they were motivated to commit such crimes, participate in such crimes and/or authorize the carrying out of such crimes against Newsome which was actuated by malice, corruption, impure motives, discrimination, prejudices, ill intent, etc. If so, Newsome seeks that said Judges be prosecuted and indicted in accordance with the statute/laws governing said matters. Neither Judge Bartlett or Judge Ruttle can assert IMMUNITY in that they were acting without jurisdiction and the evidence will support that they conspired with other person(s)/conspirator(s) to commit the criminal actions complained of herein or is to be made known through an investigation into the claims/allegations of the Complaint.

> *Bryant v. Crossland,* 182 Ky. 556, 1918 Ky. LEXIS 403 - **HN3** - . . . This principle, however, **does not** extend to make a judicial officer immune from damages for **illegal** acts, *which result in injuries* to others or **deprive them of their legal rights**, when his acts are without the scope and limits of his jurisdiction. It follows that if his illegal acts are without the scope and limits of his jurisdiction, **he is liable**, if damages result to others from such acts, whether he is **actuated** by **malice, corrupt** and impure **motives** or not. In the last state of case, the fact that his **motives** are impure and bad are considered, only, as aggravating the damages. When the judge acts illegally, without the limits of his jurisdiction, he becomes a trespasser, and is liable in damages as such. Also see, *Cox v. Perkins,* 299 Ky. 470, 1945 Ky. LEXIS 449 at **HN4**; *King v. Cawood,* 223 Ky. 291, 1928 Ky. LEXIS 317 at **HN1**.

> **Liability of Judges:***Pepper v. Mayes,* 81 Ky. 673, 1884 Ky. LEXIS 29 – HN 2: Where a judicial officer has **jurisdiction of the person** and of the **subject-matter** he is **exempt** from suit by a **private individuals** for damages *so long as he acts within his jurisdiction* and in a **judicial capacity.** **HN3** - Whenever the State of Kentucky **confers** judicial powers upon an individual, it **confers** them with full **immunity** from private suits. In effect, the State says to the officer that these duties are **confided** to his judgment; that he is to exercise his judgment fully, **freely,** and without favor, and he may exercise it without fear; that the duties concern individuals, but they concern more especially the welfare of the State and the peace and **happiness** of society; that ***if he shall fail*** in a **faithful discharge** of *them* ***he shall be called to account as a criminal***. . . Also see *McBurnie v. Sullivan,* 152 Ky. 686, 1913 Ky. LEXIS 698 at **HN4**.

> *McBurnie v. Sullivan,* 152 Ky. 686, 1913 Ky. LEXIS 698 at **HN5:** There are *two* distinct classes of cases to which the principle of judicial protection does not apply: **First**, where a person having special or limited judicial authority *does any act beyond* the scope of his authority. **Second**, where, although acting

within the limits of his jurisdiction, ***he is actuated by malice or corrupt motives***. The rule not only applies to the highest judge in the state or nation, but it also applies to the lowest officer who sits as a court and tries petty causes, and **it applies** not in respect to their judgments merely, but ***to all processes awarded by them for carrying their judgments into effect***.

Ayars v. Cox, 73 Ky. 201, 1874 Ky. LEXIS 30 -**HN4** - . . .There are two distinct classes of cases to which that principle of judicial protection does not apply: first, where a person having a special or limited **judicial authority** does any act beyond the scope of his authority; and secondly, where, although acting within the limits of his jurisdiction, he is **actuated** by malicious or **corrupt motives.** In either case the judge or magistrate renders himself liable as a trespasser to the party injured. Also see, *Revill v. Pettit,* 60 Ky. 314, 1860 Ky. LEXIS 82 at **HN6**.

Henry v. Commonwealth, 126 Ky. 357, 1907 Ky. LEXIS 52 - **HN9** - A judicial officer, from the highest to the **lowest** grade, . . .an officer exercising . . . power is not punishable for any honest mistake of judgment in the exercise of that power, but only for an abuse of his power in proceeding from a **corrupt** or other improper **motive.**

Stephens v. Wilson, 115 Ky. 27, 1903 Ky. LEXIS 67 - **HN5** - If an officer executes a warrant of arrest, invalid on its face, he is liable in damages for false imprisonment. Where, therefore, it appears on the face of the process that the magistrate issuing it has not **jurisdiction of the person** of the plaintiff or the **subject-matter** of the suit, the officer executing it is a trespasser, and is liable in action for damage for false imprisonment. It has been said, indeed, that an officer is bound, or will be presumed, to know the jurisdiction of the court, whose officer he is, and that, if he acts in obedience to a precept which the court has no jurisdiction to issue, he will not be protected in false imprisonment. **HN6** - Where an inferior court has no jurisdiction of the **subject-matter,** or, having it, has not **jurisdiction of the person** of the defendant, all its proceedings are absolutely void. Neither the members of the court nor the plaintiff (if he procured or assented to the proceedings) can derive any protection from them, when prosecuted by a party aggrieved thereby. If a mere ministerial officer executes any process, upon the face of which it appears that the court which issued it had not jurisdiction of the **subject-matter,** or of the person against whom it is directed, such process will afford him no protection for acts done under it.

12. On **October 1, 2008,** (EMPHASIS on dated of ruling) with knowledge that he lacked jurisdiction to act because Newsome had filed a Complaint with the United States Legislature/Congress, Judge Bartlett issued an Order in Newsome's civil lawsuit dismissing it. Bartlett doing so with knowledge that he lacked jurisdiction to do so in that Newsome had notified him and/or the Kenton County Circuit Court that she had filed a Complaint with the United States Legislature/Congress. Prior to the October 1, 2008 ruling by Bartlett, he was timely, properly and adequately placed on notice that he lacked jurisdiction to act and/or proceed in further in the lawsuit. In said Order, Judge Bartlett acknowledges Newsome having filed a Complaint with the United States Legislature/Congress. In fact he states, "she **objected** to the hearing and stated that she had filed an official complaint with the United States Congress. " Therefore, a reasonable mind may conclude that entry of said Order was done and/or actuated with malice, corrupt intent, and improper motive, etc. (See Order attached hereto and incorporated by reference).

13. On or about **October 1, 2008** (EMPHASIS on date) GMM Parties had their Warrant of Possession and/or document relied upon to have Newsome unlawfully/illegally removed executed by Judge Ruttle. A reasonable mind may conclude that Judge Bartlett and Judge Ruttle conspired with GMM Parties and their attorneys (Bridges and West and/or other persons not known to Newsome) to proceed to unlawfully/illegally take her residence away from her.

14. Judge Bartlett and Judge Ruttle doing so with full knowledge and Court documents to sustain that there was *a legal and binding* **Injunction and Restraining Order** issued by the Kenton County Circuit Court in Newsome's civil lawsuit (Case No. 06-C-03270) which precluded GMM Properties and their representatives from removing and/or evicting Newsome.

15. Judge Bartlett and Judge Ruttle doing so with full knowledge and Court documents to sustain that there was a legal and binding Order issued that Newsome was to pay her rent into Escrow in which Newsome complies with each month given the difficulty the Court imposed in how payment is to be made. It is important to note that Newsome is current with said obligations ordered and that Kenton County Circuit Court and GMM Parties and their counsel was notified that payment was made. (See October 6, 2008 Correspondence to the Court as well as Receipt(s) obtained for payment attached hereto and incorporated by reference).

16. Newsome believes an investigation will yield that Judge Bartlett and Judge Ruttle, with knowledge that they lacked jurisdiction to act and/or execute any Orders and/or Warrants conspired with GMM Parties, their counsel and others to unlawfully/illegal obtain Newsome's residence and/or property.

17. On October 9, 2008, Newsome was contacted at her place of employment by GMM Parties' attorney, Gailen Bridges, and advised that her property had been set out on the street and that if she wanted it, she needed to come and retrieve it. Bridges doing so with knowledge that Newsome **was not** timely, adequately or properly notice of the unlawful/illegal actions he, GMM Parties, Judges and others were going to take against her.

18. The actions GMM Parties, their counsel, Judge Bartlett, Judge Ruttle and others was willful, malicious and wanton and done with the purposes of causing Newsome injury/harm.

19. Prior to the unlawful/illegal actions of GMM Parties, their counsel and Judges (Bartlett and Ruttle), GMM Parties **stalked** the premises and inquired of other tenant(s) whether they have seen Newsome. Newsome was advised on October 9, 2008, that Martin specifically inquired a few times as to whether she has been seen. Doing so as they conspired to unlawfully/illegally seize her property/residence and wanting to be certain she was not around. **(EMPHASIS added)**. Goes to mindset of GMM Parties, their counsel and others participating in conspiracy; moreover, deliberate, willful and malicious acts to cause Newsome harm/injury.

20. Newsome inquired of Bridges why she was not notified prior to the unlawful/illegal taking of her residence/property. Bridges advised her that the only notice given was the one prior to taking her residence/property. That he was acting upon a document executed by Judge Ruttle. He doing so with knowledge that Ruttle had no jurisdiction to act and/or execute any warrant of and against Newsome.

21. **IT IS IMPORTANT TO NOTE:** That the Warrant of Possession (document relied upon by the Kenton County Sheriff's Department) on the backside has written notation that prior to unlawfully/illegally breaking into and burglarizing Newsome's residence, that it acknowledged the **POSTING** Newsome had posted on her door advising that there is an ***Injunction and Restraining Order*** in place which prohibits the removal or eviction of Newsome from her residence. (Newsome is willing to provide a copy of document she obtained from the Kenton County Sheriff's Department). Thus, pertinent in that it goes to support and prove willful, malicious and wanton acts of the Kenton County Sheriff's Department, GMM Parties, their counsel, Judge Bartlett and Judge Ruttle and/or certain person(s)/conspirator(s). Moreover, Newsome hopes that an investigation will determine whether upon reading and noting that there is an Injunction and Restraining Order, whether authorization to proceed was obtained by Judge Bartlett, Judge Ruttle and/or any other Judge advising that it was okay to proceeding in the unlawful entry, burglary, theft, unlawful entry of Newsome's residence.

22. Newsome files this instant Complaint and Request for Investigation in good faith in that she seeks vindication and justice for the criminal and civil wrongs rendered her.

23. Newsome reserves the right to reserve this instant Complaint in that it has been prepared under duress and for purposes of expedition to see that the proper government authority has been timely, properly and adequately notified of the criminal activities of person(s)/conspirator(s).

24. In July 2008, Newsome filed an Official Complaint with the United States Legislature/Congress. This is presently pending before for said government body.

RELIEF SOUGHT

Newsome prays for the following relief:

A. **Immediate** return of the residence at 128 East 5th Street – Apartment 5, Covington, Kentucky 41011 be returned to Denise Newsome;

B. **Immediate** issuance of Injunction, Restraining and Protective Order of and against Person(s)/ Conspirator(s) and their legal representatives and/or representative from subjecting Newsome to any further criminal and civil wrongs;

C. **Immediate** payment of $3,500.00 to compensate Newsome for the replacement of stolen and damaged property/possession. Any such property Newsome was able to salvage has been stored away as evidence and in preparation of **criminal** actions being brought. Moreover, Newsome has suffered irreparable injury/harm and such criminal actions have had a mental, physical and emotional impact on her life and she should not be required to have to endure any more humiliation, frustration, exertion, etc. to try and determine where items are.

D. Criminal prosecution of Person(s)/Conspirators and the proper indictment rendered for those who may be found guilty;

E. Any and all other relief allowed under the statutes/laws governing said matters.

Respectfully submitted this **13th** day of **October, 2008**.

Denise Newsome

Denise Newsome
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

Documents Attached

1) Docket Sheet of Kenton County Circuit Court
   Case # 06-CI-03270
   Injunction/Restraing Order Issued 2/08/07
2) October Rent Pmt Receipt + Correspondence
3) Proof of filings of Complaint to support
   Kenton County Circuit Court Complaint filed first; and
4) October 1, 2008 Order by Judge Bartlett in
   the Kenton County Circuit Court Matter.

cc: Copy Personal File

DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

November 8, 2008

VIA PRIORTY MAIL – Signature Confirmation Tracking No. 2305 1590 0001 6380 5079
Governor Steve Beshear
Commonwealth of Kentucky
700 Capitol Avenue, Suite 100
Frankfort, Kentucky 40601

RE: REQUEST FOR *CONFERENCE* WITH YOU

Dear Governor Beshear:

As you know a HISTORICAL milestone was reached on November 4, 2008, in the election of the United States first African-American President, Barack Obama. I am contacting you in hopes that under your administration as the Governor of the State of Kentucky you will join in the requests of the President-Elect, Senator John McCain and many others to work with the incoming President and his Administration to bring about the CHANGE and UNITY the President-Elect and this nation is seeking.

Therefore, based upon such requests, I am contacting you to see whether you will have time to meet with me in that I, as a citizen of Kentucky, have some concerns in which I would like to address in assisting in bringing about the CHANGE and UNITY amongst other things that the majority of the citizens of the United States voiced on Tuesday, November 4, 2008. To assist you in understanding the issues I would like to address with you and work towards these goals, I present to you the following information:

1. That in the October 8, 2007 Release from the Corporate Crime Reporter, Kentucky ranked as **No. 3** for Most *Corrupt* State. A copy of this document is attached for your review at **EXHIBIT "1."** According to this article, "*The Justice Department is reporting only public corruption convictions that result from a federal prosecution*" (see pg. 2). This article going on to mention, "*Mokhiber said that in the most corrupt states, corruption is undermining public trust in politicians and government*" (see pg. 2).

2. In that I have only been a resident of Kentucky for approximately two (2) years, I was not aware of the State's reputation regarding the Ku Klux Klan ("KKK") which I find disappointing; nevertheless they are subject to the laws/statutes of this Country. Neither do I allow such groups scare or intimidate me. Finding such literature regarding their activities and seeing how they still are hiding behind the hoods, yet wanting to be known for their activities in Kentucky, are actions I believe are outdated and a group "out-of-touch" with life and the CHANGE the majority on November 4, 2008 voted for. See websites at:

   http://appalachiankkk.blogspot.com/2007_11_25_archive.html
   http://appalachiankkk.blogspot.com/search/label/Kentucky%20KK

EXHIBIT 47

See document attached at **EXHIBIT "2."**

3. It appears from the onset of my moving to Kentucky – City of Covington, Kentucky – there were certain whites that were determined on engaging in corrupt and criminal wrongs against me. Such actions going as far to include public officials that are supposed to be upholding the laws/statutes of Kentucky as well as the United States; however, have repeatedly engaged in corrupt and unlawful/illegal practices for the purposes of destroying my life and depriving me rights secured under the Constitution (Kentucky and United States), Civil Rights Act, Housing laws, Landlord and Tenant laws and many other statutes/laws.

4. On October 9, 2008, I was subjected to horrendous acts carried out by public officials (Judge(s), Sheriff/Deputy(s)), by attorney(s); Landlords and their cohorts and willing participants to the criminal and civil wrongs executed against me on said date. I have filed Criminal Charges against parties for such actions with the Federal Bureau of Investigations ("FBI") on or about October 13, 2008. A copy of the FBI Complaint is attached hereto as **EXHIBIT "3"** to assist you with an understanding as to ***what is taking place under your administration*** and perhaps assist you in seeing why Kentucky has been named **No. 3** on the *Most Corrupt State* listing. I am hoping under your administration that you address such issues and work to see that such public corruption, criminal and civil wrongs are dealt with and not swept under the rug. At the time of the October 9, 2008 actions, there was an ***Injunction and Restraining Order*** in place prohibiting the legal wrongs taken against me. See **EXHIBIT "4"** attached hereto. Also the Court had received the October Rent payment into Escrow. See **EXHIBIT "5"** attached hereto. Therefore, there were no legal grounds and/or justification for the criminal actions taken against me. I believe such wrongs were also racially motivated. While the liability for such criminal and civil wrongs rendered against me are *inevitable*, I do not believe it should interfere with working towards the CHANGE and UNITY the President-Elect and many others share. Moreover, will show the *good faith* approach by the State of Kentucky's leader eliminate such practices/injustices.

5. I have put certain persons in the United States Senate/House of Representatives on notice of the criminal actions of October 9, 2008. I am also looking to go to Washington D.C. once those elected to their seats have had an opportunity to settle in. I filed a Complaint with the United States Legislature/Congress in **July** 2008, at which time I provided my concerns of the corrupt, criminal and illegal/unlawful practices going on. This will be the purpose for the trip to look into the status of the Complaint and I hope to speak to certain Officials of the Senate/House to see where they are also at on working with the President-Elect since it is a known fact that he has a passion for "Civil Rights." I believe as a matter

of laws/statutes the Court(s) actions are automatically stayed in the legal actions pending in the Kenton County Courts.

I have already begun speaking out against such wrongs and have also contacted various sources and people to provide them with information. I am moving forward to let churches and communities know of this matter in that I am approached constantly by people of diverse backgrounds that share their stories of the injustices they have suffered and see the despair in their eyes from becoming victims of the public corruption and/or injustices rendered them. Considering some of the information taken from your website which states:

> *The Dawson Springs native grew up one of five children. Within the Beshear home one always found a powerful sense of values, faith in God and a steadfast work ethic. The Governor's father, Russell, a funeral director, also was a Baptist minister, just like his father. His mother, Mary Elizabeth, dedicated herself to numerous community endeavors – making life better for others.*

it appears you were raised with a great set of values and your parents shared those of my parents (in which my father is also a minister) and our President-Elect and many others. I am a graduate of Florida A&M University (Tallahassee, Florida). I am hoping together and with others that we can begin the healing process in the communities of Kentucky where so many citizens of this State feel battered, beaten, mistreated, unjustly treated, shattered, broken, hopeless, etc. and that nobody cares. As televised, the November 4, 2008 historical election of the first African-American had a clear showing of the diversity (races) of supporters and voters that waited for hours along with foreign countries for the returns to come in as well as to hear President-Elect, Barack Obama's, Acceptance Speech.

Governor Beshear please let me know whether you have time to meet with me to discuss the concerns I have and the need to begin the process of HEALING, UNITY, CHANGE. . . I look forward to meeting you.

Should you have any questions, please do not hesitate to contact me at (513) 680-2922. I am currently employed at a law firm in downtown Cincinnati and my direct dial is (513) 852-6053 and direct fax is (513) 419-6453.

With warmest regards,

Denise Newsome

Enclosures

DunbarMonroe, PLLC

Address: 1855 Lakeland Drive, Suite R-201

City: Jackson

State:

Zip: 39216-4949

Phone: (601) 366-1805

Fax: (601) 366-1885

Website: http://www.dunbarmonroe.com

Profile

With almost 40 years of combined legal experience, we serve clients throughout Mississippi and the Southeast area of the United States.

Utilizing the latest technology to provide efficient and effective capabilities, our practice concentrates primarily on trucking defense, freight claims, insurance and products defense, professional errors and omissions defense, telecommunications, general corporate, commercial litigation, and employment law including workers' compensation and Title VII.

David Dunbar, the firm's managing member, is a member of the Federation of Defense and Corporate Counsel. DunbarMonroe is listed in *Best's Directory of Recommended Insurance Attorneys* for legal ability and general recommendations.

Our members are also active in the Transportation Lawyers Association, Trucking Industry Defense Association, American Trucking Association and the Conference of Freight Counsel which allows us to meet the unique needs of our trucking clients and their insurers.

With a legal team licensed to practice in U.S. District Courts for the Northern and Southern Districts of Mississippi, all state courts in Mississippi and the U.S. Court of Appeals for the Fifth Circuit, our firm has a well-established reputation with our clients for effective legal representation. Our professional staff allows us to provide an additional high level of legal expertise to assist our clients.

The objective of DunbarMonroe is to provide clients with the expertise, experience and personal attention necessary to evaluate, fairly represent and defend the client's best interests at reasonable expense. Any member of our firm is available to discuss your legal representation needs and to further explain the depth and variety of services we provide to our clients.

Clients

Affirmative Risk Management
AFLAC
American Reliable Insurance Company
Anderson Trucking Service, Inc.
Colony Insurance Company
Commercial Casualty Insurance
Consolidated Freightways Corp.
Country Insurance and Financial
C.R. England & Sons, Inc.
E&O Professionals
Exxon Mobil Corp.
GuideOne Insurance Company
Landstar Systems, Inc.
Liberty Mutual
Lincoln General
Murphy Oil U.S.A., Inc.
Nextel Partners
Parker & Associates, L.L.C.

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Fill out this form to be contacted by a lawyer related to:

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EXHIBIT 48

ENTERED
KENTON CIRCUIT/DISTRICT COURT
JAN 11 2007
KAREN M. LINN
BY _____ D.C.

COMMONWEALTH OF KENTUCKY
CIRCUIT COURT OF KENTON COUNTY, KENTUCKY

DENISE NEWSOME — PLAINTIFF

vs. — CIVIL ACTION NO. 06-CI-03270

GARY M. MARTIN, BERNICE MARTIN,
DENNIS DONNELLAN, and BETTY DONNELLAN,
d/b/a GMM PROPERTIES — DEFENDANTS

ORDER

The emergency motion of Plaintiff for injunction and restraining order against Defendants and their representatives was filed in this action on December 19, 2007, having come on for emergency hearing before the Honorable Gregory Bartlett, Circuit Court of Kenton County on January 5, 2007, with Denise Newsome appearing *pro se* and Gailen Bridges and James West appearing as attorneys for Defendant.

Now the Court being notified that a "LAST NOTICE" was rendered on the Plaintiff as a result of an eviction action brought by Defendants in their matter before the Kenton County District Court, having heard the circumstances surrounding such action and duly considered the same together with relevant pleadings, concerns of incomplete District Court file, notification of post judgment pleading being submitted by Plaintiff to vacate the Judgment in the District Court action, finds that this emergency hearing was necessary and/or essential to protect the interest of all parties involved and to prevent irreparable harm to the Plaintiff, within meaning of Rule 65 of the Kentucky Rules of Civil Procedure and other applicable laws governing said matters, and that the same *temporary* injunction and restraining order shall be granted.

EXHIBIT
49

IT IS ORDERED that:

1. Defendants their attorneys and other representatives are hereby temporarily enjoined and restrained from taking any eviction actions against the Plaintiff.

2. Temporary injunction and restraining order against Defendants, their attorneys and representatives is hereby order.

3. Plaintiff is ordered to post bond in the amount of Two Hundred Fifty Dollars ($250.00).

4. Plaintiff is instructed to make inquiry to the Kenton County District Court as to condition of its file and the reasons why pleadings and/or documents submitted by her have not been filed and are not contained in the Court file in that action.

5. This Court will hold a hearing on Plaintiff's Emergency Motion for an Injunction and Restraining Order Against Defendants and Their Representatives on Tuesday, January 16, 2007, at 9:30 a.m. before the Honorable Gregory Bartlett.

Date this 11th day of January, 2007.

Gregory Bartlett
CIRCUIT COURT JUDGE

12513.2 Thor. 10-09-08 0930

AOC-220 Rev. 3-04 Page 1 of 1 Doc. Code: EW

Commonwealth of Kentu
Court of Justice www.courts.ky.gov
KRS 383.245

EVICTION NOTICE: WARRANT FOR POSSESSION

Case No. 06-C-5059
Court District
County Kenton

GMM Properties

PLAINTIFF

VS.

DEFENDANT

Name Denise Newsome
Address 128 E 5th St Apt 5
Cov
Ky 41011

ENTERED
KENTON CIRCUIT/DISTRICT COURT
OCT 2008
JOHN C. MIDDLETON
BY _____ D.C.

To the Sheriff or any other Constable of Kenton **County:**

Defendant on *(date)* 12/14, 2006, was found guilty of a forcible detainer of the premises located at 128 E 5th St Apt 5 Cov Ky 41011

to the injury of the Plaintiff. Defendant having failed to file an appeal on or before the seventh day after the finding, and upon request of the Plaintiff, you are commanded, in the name of the Commonwealth of Kentucky, to put the Plaintiff in possession of the premises, and to make due return to the Court within _____ days showing how you have executed this warrant.

Date: 10-1, 2008

District Court Judge's Signature

Plaintiff's or Attorney's Signature

Contact: Gailen Bridges 431-2222

KENTON COUNTY SHERIFF'S OFFICE
2008 OCT -6 PM 3:17
RICK L. KORZENBORN
SHERIFF

EXECUTION

0932 1145

Executed this 8th day of Oct, 2008, as follows:

Resident not Home, Lock Drilled by Gmm Properties. Inside there was No Bed's, Chairs Tables other Than Clothing & Trash small TV & computer in the Both Room. And 1 Love Chair in Living Room

Deputy Gary Brooks

[X] Sheriff's OR [ ] Constable's Signature
(Check one)

EXHIBIT 50

PAPER ON DOOR CLAIM:

IMPORTANT NOTICE

THE CIRCUIT COURT HAS ORDERED INJUNCTION AND RESTRAINING ORDER AGAINST OWNERS/GMM PROPERTIES FROM TAKING ANY TYPE OF EVICTION (REMOVAL OR OBTAINING POSSESSION) ACTION AGAINST THIS TENANT

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SEARCH

Hamilton County Courthouse
1000 Main Street
Cincinnati, OH 45202

Case Summary

Case Number:	A 0901302
Case Caption:	STOR ALL ALFRED LLC vs. DENISE V NEWSOME
Judge:	JOHN ANDREW WEST
Filed Date:	2/9/2009
Case Type:	H732 - BEYOND JURISDICTION- OC- TAXED IN COSTS
Total Deposits:	$ 270.00 Credit
Total Costs:	$ 2264.00

Case Options

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Case Schedules
Case Documents
Party/Attorney Information
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Case Schedules

Status	Date	Time	Location	Judge	Action
Active	10/22/2010	01:45 PM	H.C. COURT HOUSE ROOM 595	JOHN ANDREW WEST	DECISION
Active	10/22/2010	01:45 PM	H.C. COURT HOUSE ROOM 595	JOHN ANDREW WEST	NO APPEARANCE NECESSARY
Active	9/28/2010	02:15 PM	H.C. COURT HOUSE ROOM 595	JOHN ANDREW WEST	MOTION
Active	9/28/2010	02:15 PM	H.C. COURT HOUSE ROOM 595	JOHN ANDREW WEST	HEARING
Cancel	7/21/2010	02:00 PM	H.C. COURT HOUSE ROOM 595	JOHN ANDREW WEST	MOTION FOR SUMMARY JUDGMENT
Cancel	7/21/2010	02:00 PM	H.C. COURT HOUSE ROOM 595	JOHN ANDREW WEST	AND MOTION TO RECUSE
Cancel	6/15/2010	01:45 PM	H.C. COURT HOUSE ROOM 595	JOHN ANDREW WEST	CASE MANAGEMENT CONFERENCE
Cancel	6/15/2010	01:45 PM	H.C. COURT HOUSE ROOM 595	JOHN ANDREW WEST	ATTORNEY PRESENCE REQUIRED
Active	9/23/2009	01:45 PM	H.C. COURT HOUSE ROOM 595	JOHN ANDREW WEST	REPORT
Active	6/22/2009	01:45 PM	H.C. COURT HOUSE ROOM 595	JOHN ANDREW WEST	REPORT
Cancel	4/29/2009	01:45 PM	H.C. COURT HOUSE ROOM 595	JOHN ANDREW WEST	CMC INITIAL CASE MANAGEMENT
Inactive	4/2/2009	02:30 PM	H.C. COURT HOUSE ROOM 595	JOHN ANDREW WEST	MOTION
Inactive	4/2/2009	02:30 PM	H.C. COURT HOUSE ROOM 595	JOHN ANDREW WEST	TO BIFURCATE/REMAND
Active	3/20/2009	01:45 PM	H.C. COURT HOUSE ROOM 595	JOHN ANDREW WEST	DECISION
Active	3/10/2009	02:30 PM	H.C. COURT HOUSE ROOM 595	JOHN ANDREW WEST	MOTION
Active	3/10/2009	02:30 PM	H.C. COURT HOUSE ROOM 595	JOHN ANDREW WEST	TO BIFURCATE/REMAND

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EXHIBIT 51

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SEARCH

Hamilton County Courthouse
1000 Main Street
Cincinnati, OH 45202

Case Summary

Case Number:	A 0901302
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Case History

Printer Friendly Version

Doc	Image#	Date	Description	Amount
		9/29/2010	NOTICE OF NONATTENDANCE OF DEFENDANT DENISE NEWSOME	
		8/27/2010	JUDGMENT ENTRY ON DEFENDANT'S 8/11/10 MOTION FOR FINAL ENTRY AND STAY	
		8/23/2010	JUDGMENT ENTRY ON DEFENDANTS 7/27/10 MOTION FOR RECONSIDERATION	
		8/13/2010	NOTIFICATION OF INTENT TO FILE EMERGENCY WRIT OF CERTIORARI WITH THE UNITED STATES SUPREME COURT; MOTION TO STAY PROCEEDINGS-REQUEST FOR ENTRY OF FINAL JUDGMENT/ISSUANCE OF MANDATE AS WELL AS STAY OFPROCEEDINGS SHOULD COURT INSIST ON ALLOWING AUGUST 2,2010 JUDGMENT ENTRY TO STAND	
		7/27/2010	MOTION FOR RECONSIDERATION	
		7/20/2010	DEFENDANT'S RESPONSE TO STOR-ALL ALFRED, LLC'S MEMORANDUM IN OPPOSITION TO NEWSOME'S MOTION FOR LEAVE TO FILE OUT OF TIME SERVED JULY 10,2010	
		7/20/2010	VIA HAND DELIVERY	
		7/19/2010	JOURNAL ENTRY	
		7/15/2010	AFFIDAVIT	
		7/15/2010	STOR ALL ALFRED LLCS SECOND SUPPLEMEBTAL MEMORANDUM IN SUPPORT FOR ITS MOTION FOR ATTY FEES AND RULE 11 SANCTIONS ORIGINALLY ENTERED 100609	
		7/15/2010	STOR ALL LLCS MEMORANDUM IN OPPOSITON TO NEWSOMES MOTION FOR LEAVE TO FILE OUT OF TIME SERVED 071010	
		7/12/2010	DEFENDANTS MOTION FOR LEAVE TO FILE OUT OF TIME MOTION FOR FINDINGS OF FACT REGARDING JUNE 7 2010 ORDER LIFTING STAY ENTERED APRIL 08 2009 AND ORDER DENYING DEFENDANTS MOTION FOR DEFAULT JUDGMENT	
		7/12/2010	DEFENDANTS NOTICE OF NONATTENDENCE AND DEFENDANTS NOTICE OF MOTION TO STRIKE PLTF STOR ALL ALFRED LLCS 12B6 MOTION TO DISMISS AND OR MOTION FOR SUMMARY JUDGMENT ON DEFENDANT NEWSOMES COUNTERCLAIM WITH AFFIDAVITS	
		6/9/2010	NOTICE OF NONATTENDANCE OF DEFENDANT DENISE NEWSOME	
		6/7/2010	ORDER DENYING DEFENDANTS MOTION FOR DEFAULT JUDGMENT	
		6/7/2010	ORDER LIFTING STAY ENTERED APRIL 28, 2009	
		6/1/2010	AFFIDAVIT OF DISQUALIFICATION OF DEFENDANT V. DENISE	

		NEWSOME
	12/30/2009	DEFENDANTS NOTIFICATION TO COURTS OF FILING OF CRIMINAL COMPLAINT WITH THE FEDERAL BUREAU OF INVESTIGATION REGARDING WRIT OF PROHIBITION MATTER
	11/2/2009	DEFENDANTS NOTICE OF MOTION TO STRIKE OPPOSITION TO PLAINTIFFS SUPPLEMENTAL MEMORANDUM IN SUPPORT FOR PLAINTIFFS MOTION FOR ATTY FEES AND OR RULE 11 SANCTIONS ORIGINALLY ENTERED 100609
	11/2/2009	DEFENDANT'S MOTION TO STRIKE/OPPOSITION TO PLAINTIFF'S SUPPLEMENTAL MEMORANDUM IN SUPPORT FOR PLAINTIFF'S MOTION FOR ATTY FEES AND/OR RUL E11 SANCTIONS ORGINALLY ENTERED OCT 6 2009-HEARING REQUESTED; AND REQUESTED FOR SANCTIONS OF/AGAINST STOR-ALL COUNSEL
	10/20/2009	PLAINTIFFS SUPPLEMENTAL MEMORANDUM IN SUPPORT FOR PLAINTIFFS MOTION FOR ATTY FEES AND OR RULE 11 SANCTIONS ORIGINALLY ENTERED OCT 6 2009
	10/19/2009	DEFENDANT'S REBUTTAL TO PLAINTIFF'S REPLY TO DEFENDANT'S MOTION TO STRIKE PLAINTIFF'S MOTION TO DISMISS/SUMMARY JUDGMENT (SIC) AND MEMORANDUM IN SUPPORT (SERVED OCTOBER 1, 2009); MOTION FOR ATTORNEY FEES AN/OR RULE 11 SANCTIONS AND HEARING REQUESTS; REQUEST FOR RULE 11 SANCTIONS,FEES COSTS PURSUANT TO OHIO REVISED CODE-2323.51,OHIO RULES OF CIVIL PROCEDURE RULE 56G AND STOR-ALL'S COUNSEL BE FOUND IN CONTEMPT OF COURT. JURY TRIAL DEMANDED IN THIS ACTION.
	10/6/2009	PLAINTIFF'S REPLY TO DEFENDANT'S MOTION TO STRIKE PLAINTIFF'S MOTION TO DISMISS/SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT (SERVED OCTOBER 1, 2009); MOTION FOR ATTORNEY FEES AND/OR RULE 11 SANCTIONS AND HEARING REQUEST
	10/5/2009	MOTION TO STRIKE PLAINTIFF STOR-ALL ALFRED LLC'S 12(B)(6) MOTION TO DISMISS AND/OR MOTION FOR SUMMARY JUDGMENT ON DEFENDANT NEWSOME'S COUNTERCLAIM WITH AFFIDFAVITS OF LESLIE SMART AND LORI WHITESIDE ATTACHED;REQUEST FOR RULE 11 SANCTIONS; AND MEMORANDUM IN SUPPORT - WITH SUPPORTING AFFIDAVIT OF DENISE NEWSOME
	10/5/2009	DEFENDANT'S NOTICE OF INTENT TO BRING WRIT OF MANDAMUS PROHIBITION ACTION
	10/5/2009	DEFGENDANT'S NOTICE OF MOTION TO STRIKE PLAINTIFF STOR-ALL ALFRED LLC'S 12 (B)(6) MOTION TO DISMISS AND/OR MOTION FOR SUMMARY JUDGMENT ON DEFENDANT NEWSOME'S COUNTERCLAIM WITH AFFIDAVIT OF LESLIE SMART AND LORI WHITESIDE ATTACHED; REQUEST FOR RULE 11SANCTIONS; AND MEMORANDUM IN SUPPORT
	9/25/2009	DEFENDANT'S NOTIFICATION TO THE COURT(S) OF FILING OF CRIMINAL COMPLAINT WITH THE FEDERAL BUREAU OF INVESTIGATION
	9/25/2009	DEFENDANT'S NOTIFICATION TO THE COURT(S) OF FILING OF CRIMINAL COMPLAINT WITH THE FEDERAL BUREAU OF INVESTIGATION
	9/25/2009	PLAINTIFFS NOTICE OF SERVICE OF RESPONSES TO DEFENDANTS DISCOVERY REQUESTS
	9/25/2009	DEFENDANTS REBUTTAL RESPONSE TO PLAINTIFFS STOR ALL ALFRED LLCS MOTION TO LIFT COURT ORDERED STAY
	9/25/2009	DEFENDANTS REBUTTAL RESPONSE TO PLAITNIFF STOR ALL ALFRED LLCS MOTION TO LIFT THE COURT ORDERED STAY
	9/21/2009	PLAINTIFF STOR-ALL ALFRED LLC'S 12(B)(6) MOTION FOR SUMMARY JUDGMENT ON DEFENDANT NEWSOME'S COUNTERCLAIM WITH AFFIDAVITS OF LESLIE SMART AND LORI WHITESIDE ATTACHED
	9/14/2009	PLAINTIFF STOR-ALL ALFRED LLC'S MOTION TO LIFT THE COURT ORDERED STAY
	6/26/2009	DEFENDANT'S NOTIFICATION TO THE COURTS OF APPEAL PROCESS BEGUN TRANSFER/REMAND IS IN ERROR-COURT OF COMMON PLEAS ENGAGEMENT IN CRIMINAL ACTIVITY
	6/26/2009	LETTER
	6/18/2009	POSTAL RECEIPT RETURNED, COPY OF SUMMONS AND COMPLAINT DELIVERED TO ^^^^^^^^^^^^^^^^^^^ ON ^/^/^, FILED ****NAME AND DATE NOT GIVEN/LEGIBLE****

	6/18/2009	TRANSFERRED TO CLERK OF COURTS TRANSFERRED TO HAMILTON COUNTY MUNICIPAL COURT	
	6/18/2009	CERTIFIED MAIL SERVICE ISSUED TO HAMILTON COUNTY MUNICIPAL COURT [CERTIFIED MAIL NBR.: 7194 5168 6310 0454 6376]	
	5/11/2009	PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MAY 5, 2009, REQUEST/MOTION FOR FINDINGS OF FACT AND TO VACATE APRIL 29, ORDER GRANTING BIFURCATION AND REMAND; MOTION FOR RULE 11 SANCTIONS	
	5/11/2009	LETTER FROM DENISE NEWSOME	
	5/11/2009	DEFENDANT'S REBUTTAL/OPPOSITION TO PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S APRIL 24, 2009 REQUEST/MOTION FOR FINDINGS OF FACT AND TO VACATE APRIL 17, 2009 ORDER; MOTION FOR RULE 11 SANCTIONS	
	5/11/2009	DEFENDANT'S REBUTTAL/OPPOSITION TO PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MAY 5, 2009, REQUEST/MOTION FOR FINDINGS OF FACT AND TO VACATE APRIL 29, ORDER GRANTING BIFURCATION AND REMAND, MOTION FOR RULE 11 SANCTIONS	
	5/5/2009	LETTER FROM DENISE V NEWSOME	
	5/5/2009	DEFENDANT'S REQUEST/MOTION FOR FINDINGS OF FACT AND CONCLUSION OF LAW; MOTION TO VACATE APRIL 29, 2009 ENTRY GRANTING BIFURCATION AND REMAND	
	4/30/2009	PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANTS APRIL 24, 2009 REQUEST/MOTION FOR FINDINGS OF FACT AND TO VACATE APRIL 17, 2009, ORDER; MOTION FOR RULE 11 SANCTIONS	
	4/29/2009	ENTRY GRANTING BIFURCATION AND REMAND	
	4/24/2009	LETTER FROM DENISE NEWSOME	
	4/24/2009	DEFENDANTS NOTICE TO THIS COURT NOTIFYING OF SAID COURTS FAILURE TO PRIVIDE DEFENDANT WITH ITS RILINGS IN THIS LAWSUIT REQUEST FOR EXPLANATION AND NOTICE OF INTENT TO BRING MANDAMUS ACTION TO COMPEL THIS COURT TO PERFORM MINISTERIAL DUTIES MANDATED BY LAW	
	4/24/2009	DEFENDANTS REQUEST FOR MOTION FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW MOTION TO VACATE APRIL 17 2009 ORDER GRANTING PLAINTIFFS MOTION FOR PARTIAL STAY	
	4/17/2009	ORDER GRANTING PLAINTIFFS MOTION FOR PARTIAL STAY	
	4/6/2009	STOR-ALL'S MEMORANDUM IN OPPOSITION TO DEFENDANT NEWSOME'S MOTION TO STRIKE STOR-ALL'S ANSWER TO DEFENDANT'S COUNTERCLAIM; MOTION FOR RULE 11 SANCTIONS	
	3/26/2009	DEFENDANT'S MOTION TO STRIKE PLAINTIFF'S ANSWER TO DEFENDANT'S COUNTERCLAIM; JURY DEMAND ENDORSED HEREON; REQUESTS FOR RULE 11 SANCTIONS; AND MEMORANDUM IN SUPPORT	
	3/26/2009	LETTER FROM DENISE NEWSOME	
	3/26/2009	DEF REBUT/OPP TO PLAINTIFF MOT FOR PARTIAL STAY	
	3/25/2009	PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION TO STRIKE PLAINTIFF'S MOTION FOR PROTECTIVE ORDER AND REQUEST FOR RULE 11 SANCTIONS; MOTION FOR RULE 11 SANCTIONS	
	3/20/2009	DEFENDANT'S MOTION TO STRIKE PLAINTIFF'S MOTION FOR PROTECTIVE/RESTRAINING ORDER AGAINST DEFENDANT DENISE V. NEWSOME; REQUESTS FOR RULE 11 SANCTIONS; AND MEMORANDUM IN SUPPORT(JURY TRIAL DEMANDED IN THIS ACTION)	
	3/20/2009	DEFENDANT'S MOTION FOR DEFAULT JUDGMENT OF AND AGAINST PLAINTIFF STOR-ALL ALFRED,LLC FOR FAILURE TO ANSWER OR OTHERWISE PLEAD; AND MEMORANDUM IN SUPPORT	
	3/20/2009	LETTER FROM DENISE NEWSOME	
	3/18/2009	JURY DEMAND DEPOSIT BY M & M	270.00-
	3/18/2009	PLAINTIFF'S REPLY TO DEFENDANT'S AMENDED REQUEST/MOTION FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; MOTION TO VACATE MARCH 2, 2009, ENTRY GRANTING MOTION OF STOR-ALL ALFRED, LLC FOR LEAVE TO FILE MEMORANDUM IN OPPOSITION TO MOTION FOR RULE 11 SANCTIONS FILED MARCH 11, 2009	
		PLAINTIFS ANSWER TO DEFENDANTS COUNTERCLAIM WITH JURY	

	3/18/2009	DEMAND
	3/17/2009	NOTIFICATION FORM FILED.
	3/16/2009	NOTICE OF APPERANCE OF CO-COUNSEL
	3/16/2009	PLAINTIFFS MOTION FOR PARTIAL STAY
	3/13/2009	PLAINTIFF'S REPLY TO DEFENDANT'S REQUEST /MOTION FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW; MOTION TO VACATE MARCH 2.2009, ENTRY GRANTING MOTION OF STOR-ALL LAFRED LLC FOR LEAVE FOR ENLARGEMENT OF TIME FILED MARCH 10, 2009
	3/13/2009	PLAINTIFFS MOTIN FOR PROTECTIVE/RESTRAINING ORDER AGAINST DEFENDAT DENISE V NEWSOME
	3/13/2009	PLAINTIFFS REPLY TO DEFENDANTS REQUEST/MOTION FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW MOTIN TO VACATE MARCH 2 2009 ENTRY GRANTING MOTIN OF STORE-ALL ALFRED LLC FOR LEAVE TO FILE MEMORANDUM IN OPPOSITION TO MOTION FOR RULE 11 SANCTIONS FILED MARCH 10 2009
	3/12/2009	DEFENDANTS REQUEST/MOTION FOR FINDINGS OF FACT AND CONCLUSION OF LAW MOTION TO VACATE MARCH 2 2009 ENTRY GRANTING MOTION OF STORE-ALL ALFRED LLC FOR LEAVE TO FILEMEMORANDUM IN OPPOSITION TO MOTION FOR RULE 11 SANCTIONS AND SUPPORTING MEMORANDUM BRIEF
	3/11/2009	AMENDED DEFENANT'S REQUESST/MOTION FIR FINDINGS OF FACT AND CONCLUSION OF LAW; MOTION TO VACATE MARCH 2, 2009 ENTRY GRANTING MOTION OF STOR-ALL ALFRED, LLC FOR ENLARGEMENT OF TIME; AND SUPPORTING MEMORANDUM BRIEF
	3/11/2009	NOTIFICATIN OF CLARIFICATION
	3/10/2009	DEFENDANT'S REQUEST/MOTION FOR FINDINGS OF FACT AND CONCLUSION OF LAW; MOTION TO VACATE MARCH 2, 2009 ENTRY GRANTING MOTION OF STOR-ALL ALFRED, LLC FOR ENLARGEMENT OF TIME; AND SUPPORTING MEMORANDUM BRIEF
	3/10/2009	DEFENDANT'S REQUEST/MOTION FOR FINDINGS OF FACT AND CONCLUSION OF LAW; MOTION TO VACATE MARCH 2,2009 ENTRY GRANTING MOTION OF STOR-ALL ALFRED, LLC FOR LEAVE TO FILE MEMORANDUM IN OPPOSITION TO MOTION FOR RULE 11 SANCTIONS; AND SUPPORTING MEMORANDUM BRIEF
	3/9/2009	NOTIFICATION FORM FILED.
	3/9/2009	NOTICE OF APPERANCE AND SUBSTITUTION OF COUNSEL
	3/2/2009	ENTRY GRANTING MOTION OF STOR-ALL ALFRED, LLC FOR LEAVE TO FILE MEMORANDUM IN OPPOSITION TO MOTION FOR RULE 11 SANCTIONS
	3/2/2009	ENTRY GRANTING STOR-ALL ALFRED, LLC'S MOTION FOR ENLARGEMENT OF TIME
	2/26/2009	DEFENDANTS NOTICE OF MOTIONS TO STRIKE PLAINTIFFS MOTION FOR LEAVE TO FILE MEMORANDUM IN OPPOSITION TO MOTION FOR 11 SANCTINS SUBMITTED BY ATTORNEYS DAVID MERANUS AND MOLLY G VANCE ON BEHALF OF PLAINTIFF AND REQUESTS FOR RULE 11 SANCTIONS
	2/25/2009	DEFENDANT'S OBJECTION TO PLAINTIFF'S MOTION FOR ENLARGEMENT OF TIME
	2/25/2009	DEFENDANT'S MOTION TO STRIKE PLAINTIFF'S MOTION FOR LEAVE TO FILE MEMORANDUM IN OPPOSITION TO MOTION FOR RULE 11 SANCTIONS- SUBMITTED BY ATTORNEYS DAVID MERANUS AND MOLLY G. VANCE ON BEHALF OF PLAINTIFF; AND REQUEST FOR RULE 11 SANCTIONS
	2/19/2009	MOTION FOR LEAVE TO FILE MEMORANDUM IN OPPOSITION TO MOTION FOR RULE 11 SANCTIONS
	2/19/2009	MEMORANDUM OF COUNSEL IN OPPOSITION TO DEFENDANT'S MOTION FOR RULE 11 SANCTIONS
	2/18/2009	PLAINTIFF'S STOR-ALL ALFRED, LLC'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION FOR RULE 11 SANCTIONS
	2/18/2009	DEFENDANT'S NOTICE OF MOTION TO STRIKE PLEADING (STATEMENTS AND SUPPORTING DOCUMENTS) OF PLAINTIFF'S MOTION TO BIFURCATE CLAIM AND REMAND TO MUNICIPAL COURT ; AND MOTION FOR RULE 11 SANCTIONS
	2/18/2009	MOTION OF STOR-ALL ALFRAD LLC FOR ELAVE TO FILE MEMORANDUM IN OPPOSITION TO MOTION FOR RULE 11 SANCTIONS

	2/18/2009	MOTION OF STOR-ALL ALFRED LLC FOR LEAVE TO FILE MEMORANDUM IN OPPOSITION TO MOTION FOR RULE 11 SANCTIONS	
	2/18/2009	DEFENDANT'S MOTION TO STRIKE PLEADING (STATEMENTS AND SUPPORTING DOCUMENTS) OF PLAINTIFF'S MOTION TO BIFURCATE CLAIM AND REMAND TO MUNICIPAL COURT; AND MOTION FOR RULE 11 SANCTIONS	
	2/18/2009	NOTIFICATION FORM FILED.	
	2/17/2009	MOTION FOR ENLARGEMENT OF TIME	
	2/17/2009	ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF NOTICE OF TRANSFER DELIVERED TO DENISE V NEWSOME ON 02/12/09, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0431 5453]	
	2/17/2009	ELECTRONIC POSTAL RECEIPT RETURNED, COPY OF NOTICE OF TRANSFER DELIVERED TO DAVID MERANUS ON 02/11/09, FILED. [CERTIFIED MAIL NBR.: 7194 5168 6310 0431 4968]	
	2/13/2009	PLAINTIFF'S MOTION TO BIFURCATE CLAIM AND REMAND TO MUNICIPAL COURT	
	2/11/2009	JUDGE ASSIGNED CASE ROLLED TO WEST/JOHN/ANDREW PRIMARY	
	2/10/2009	CERTIFIED MAIL SERVICE ISSUED TO DENISE V NEWSOME [CERTIFIED MAIL NBR.: 7194 5168 6310 0431 5453]	
	2/10/2009	CERTIFIED MAIL SERVICE ISSUED TO DAVID MERANUS [CERTIFIED MAIL NBR.: 7194 5168 6310 0431 4968]	
	2/9/2009	CERTIFIED MAIL SENT TO ATTY DAVID MERANUS #55701	
	2/9/2009	TAXED IN COSTS - FILING DAVID MERANUS	0.00
	2/9/2009	CLASSIFICATION FORM FILED.	
	2/9/2009	TRANSCRIPT OF ORIGINAL PAPERS FILED.	

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1 of 1 DOCUMENT

LARRY LYONS, et al., Plaintiff-Appellee -vs- WAYNE LINK, Defendant-Appellant

Case No. 05 CA 23

COURT OF APPEALS OF OHIO, FIFTH APPELLATE DISTRICT, KNOX COUNTY

2005 Ohio 7039; 2005 Ohio App. LEXIS 6339

December 30, 2005, Date of Judgment Entry

PRIOR HISTORY: [1]** CHARACTER OF PROCEEDING: Civil Appeal from the Court of Common Pleas, Case No. 03 OT 090327.
Lyons v. Link, 2004 Ohio 5524, 2004 Ohio App. LEXIS 5030 (Ohio Ct. App., Knox County, Oct. 15, 2004).

DISPOSITION: Affirmed.

CASE SUMMARY:

PROCEDURAL POSTURE: Appellant tenant sought review of a decision from the Knox County Court of Common Pleas (Ohio), which denied his request for a protective order (PO) against appellee landlord. The common pleas court also dismissed the tenant's counterclaim in the parties' protracted dispute.

OVERVIEW: The landlord filed a forcible entry and detainer action against the tenant in a municipal court. The tenant counterclaimed, alleging fraud and abuse of process, and seeking damages in excess of the municipal court's monetary jurisdiction limit. The counterclaim was bifurcated and transferred to the common pleas court. The municipal court found in favor of the landlord and the tenant vacated the premises. Thereafter, the common pleas court dismissed the tenant's action for failure to state a claim, but that order was reversed on appeal. On remand, the common pleas court denied the tenant's motion for a PO against the landlord's notice to take deposition. The tenant eventually appeared for the deposition, but left after only 15 minutes. The common pleas court granted the landlord's motion to dismiss as a sanction under Ohio R. Civ. P. 37(B)(2). On appeal, the court found that as the tenant did not request findings of fact and conclusions of law with respect to the denial of the PO, pursuant to Ohio R. Civ. P. 52, such error was waived on appeal. The common pleas court did not abuse its discretion in declining to issue the PO, as it was relevant to the proceedings.

OUTCOME: The court affirmed the decision of the common pleas court.

CORE TERMS: deposition, counterclaim, protective order, common pleas, discovery, conclusions of law, abuse of discretion, municipal, forcible entry and detainer, requesting, bifurcated, scheduled, eviction, opposing, notice, thereupon, abused

LexisNexis(R) Headnotes

Civil Procedure > Discovery
Civil Procedure > Appeals > Standards of Review > Abuse of Discretion
[HN1] An appellate court reviews a trial court's disposition of discovery matters under an abuse of discretion standard. In order to find an abuse of discretion, the appellate court must determine that the trial court's decision was unreasonable, arbitrary or unconscionable and not merely an error of law or judgment.

Civil Procedure > Discovery > Relevance

EXHIBIT 52

[HN2] See Ohio R. Civ. P. 26(B)(1).

COUNSEL: For Plaintiff-Appellee: WENDI FOWLER, DAVID RAILSBACK, Mt. Vernon, Ohio.

For Defendant-Appellant: WAYNE LINK, Mt. Vernon, Ohio.

JUDGES: Hon. W. Scott Gwin, P. J., Hon. Sheila G. Farmer, J., Hon. John W. Wise, J. By: Wise, J., Gwin, P. J., and Farmer, J., concur.

OPINION BY: John W. Wise

OPINION

Wise, J.

[*P1] Appellant Wayne Link appeals the decision of the Court of Common Pleas, Knox County, which denied his request for a protective order and subsequently dismissed his counterclaim in a protracted dispute with his former landlord, Appellee Larry Lyons. The relevant facts leading to his appeal are as follows.

[*P2] In May 2000, appellant entered into a month-to-month oral lease to rent one-half of a duplex from Appellee Larry Lyons. On December 17, 2002, Appellee Larry Lyons filed a forcible entry and detainer action against appellant. Larry's wife, Appellee Sharon Lyons, was subsequently joined as a real party in interest. On January 6, 2003, appellant filed an answer and counterclaim alleging fraud and abuse of process and requesting damages of $ 70,000. Because **[**2]** the counterclaim exceeded the municipal court's monetary jurisdiction, that court bifurcated the complaint from the counterclaim and transferred the counterclaim to the court of common pleas.

[*P3] By judgment entry filed on January 13, 2003, the municipal court found in favor of appellees in their forcible entry and detainer action and ordered appellant to vacate the premises by January 21, 2003. Appellant complied with the order, but filed a notice of appeal. We affirmed the eviction order, holding that the bifurcation of the claims and counterclaim was proper. See *Lyons v. Link,* Knox App.No. 03CA000006, 2003 Ohio 2706.

[*P4] After appellant's counterclaims were accepted in the Knox County Court of Common Pleas, appellees filed a motion to dismiss pursuant to Civ.R. 12(B)(6). On February 2, 2004, the trial court issued a judgment entry finding appellant's counterclaim failed to state a claim upon which relief could be granted. We reversed the decision of the trial court on October 15, 2004, finding the court's reliance on Civ.R. 12(B)(6) as grounds for dismissal to be erroneous under the circumstances of the **[**3]** case. See *Lyons v. Link,* Knox App.No. 04CA4, 2004 Ohio 5524.

[*P5] After the case was thus remanded to the common pleas court, appellees, on January 13, 2005, filed a notice to take deposition of appellant at appellees' attorney's law offices. Appellant thereupon filed a motion for a protective order, opposing the taking of the deposition. The trial court denied said motion on February 18, 2005.

[*P6] Appellees then notified appellant of the deposition, set for March 11, 2005 at 10 AM. Appellant failed to appear at that time. Appellees thereupon filed a motion to compel appellant to appear for deposition. The trial court conducted a hearing on the motion on April 22, 2005, following which the court ordered that appellant appear for the purpose of taking his deposition.

[*P7] The deposition was scheduled for April 25, 2005, at the Knox County Courthouse. The deposition commenced on that date at 1:30 PM. However, at 1:45 PM, before appellees' counsel had asked all of his questions, appellant stated: "That's it. That is my testimony. You file whatever you have to." Deposition Tr. at 19. He then left the room, and the deposition was adjourned. Id.

[*P8] **[**4]** On May 12, 2005, appellees filed a motion for sanctions, requesting that appellant's counterclaim be dismissed pursuant to Civ.R. 37(B)(2). On June 8, 2005, the trial court issued a judgment entry finding the motion for sanctions to be well-taken and dismissing appellant's counterclaim.

[*P9] Appellant timely appealed, and herein raises the following two Assignments of Error:

[*P10] "I. THE TRIAL COURT DID NOT ISSUE FINDINGS OF FACT AND CONCLUSIONS OF LAW IN ITS

PROTECTIVE ORDER.

[*P11] "II. BY ALLOWING THE PLAINTIFFS-APPELLEES MORE THAN ONE OPPORTUNITY TO DEPOSE THE DEFENDANT-APPELLANT CONCERNING THE SAME CIRCUMSTANCES SURROUNDING THIS CASE, THE TRIAL COURT IS PERMITTING OPPOSING COUNSEL TO ABUSE, OPPRESS AND ANNOY THE DEFENDANT-APPELLANT IN VIOLATION OF OHIO CIVIL RULE 26(C).

I.

[*P12] In his First Assignment of Error, appellant contends the trial court abused its discretion by failing to issue findings of fact and conclusions of law regarding its denial of the protective order.

[*P13] We note appellant failed to file a request for findings of fact and conclusions of law with the trial court pursuant to **[**5]** Civ.R. 52. Accordingly, we hold appellant has waived any error in this regard. See, e.g., *Kager v. Kager* (May 22, 2000), Stark App.No. 1999CA00252, 2000 Ohio App. LEXIS 2175.

[*P14] Appellant's First Assignment of Error is overruled.

II.

[*P15] In his Second Assignment of Error, appellant argues the trial court abused its discretion by declining to block, via a protective order, the deposition of appellant. We disagree.

[*P16] [HN1] We review a trial court's disposition of discovery matters under an abuse of discretion standard. *State ex rel. The V. Cos. v. Marshall* (1998), 81 Ohio St.3d 467, 469, 1998 Ohio 329, 692 N.E.2d 198. In order to find an abuse of discretion, we must determine that the trial court's decision was unreasonable, arbitrary or unconscionable and not merely an error of law or judgment. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219, 5 Ohio B. 481, 450 N.E.2d 1140.

[*P17] Civ.R. 26(B)(1) states: [HN2] "Unless otherwise ordered by the court in accordance with these rules, *** parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense **[**6]** of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence."

[*P18] The gist of appellant's argument is that a protective order was warranted because appellees' counsel supposedly could have deposed him in 2003 when appellant himself took the deposition of Appellee Larry Lyons, and because appellant was subject to cross-examination during the eviction portion of this bifurcated case. We find no merit in appellant's theory. We further find appellant's reliance on *Fireman's Fund American Insurance Co. v. Giglio* (Nov. 1, 1979), Cuyahoga App. No. 39082, 1979 Ohio App. LEXIS 10547, unpersuasive and procedurally inapposite. In that case, the deponent was actually an employee of the appellee insurance company, which had successfully obtained a protective order from the municipal court **[**7]** after counsel for the appellant, Giglio dba Broadway Motors, *who had scheduled the deposition,* failed to go forward with it. Giglio then appealed the trial court's issuance of the protective order, which was ultimately affirmed by the Eighth District Court. Id.

[*P19] In the case sub judice, we find no abuse of discretion in the trial court's denial of appellant's requested protective order. Appellant's Second Assignment of Error is therefore overruled.

[*P20] For the foregoing reasons, the judgment of the Court of Common Pleas, Knox County, Ohio, is hereby affirmed.

By: Wise, J.

Gwin, P. J., and Farmer, J., concur.

JUDGMENT ENTRY

For the reasons stated in our accompanying Memorandum-Opinion, the judgment of the Court of Common Pleas of Knox County, Ohio, is affirmed.

Costs to appellant.

JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ORENTHAL JAMES SIMPSON, #2648927,
WALTER ALEXANDER, #2648888,
CLARENCE STEWART, #2648955,
MICHAEL MCCLINTON, 639531

Defendants

CASE NO: 07F19284A-D

DEPT NO: 9

CRIMINAL COMPLAINT

The Defendants above named having committed the crimes of CONSPIRACY TO COMMIT A CRIME (Gross Misdemeanor - NRS 199.480); CONSPIRACY TO COMMIT KIDNAPPING (Felony - NRS 199.480, 200.310, 200.320); CONSPIRACY TO COMMIT ROBBERY (Felony - NRS 199.480, 200.380); FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (Felony - NRS 200.310, 200.320, 193.165); BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Felony - NRS 205.060); ROBBERY WITH USE OF A DEADLY WEAPON (Felony - NRS 200.380, 193.165); ASSAULT WITH A DEADLY WEAPON (Felony - NRS 200.471) and COERCION WITH USE OF A DEADLY WEAPON (Felony - NRS 207.190, 193.165), in the manner following, to-wit: That the said Defendants, on or about the 13th day of September, 2007, at and within the County of Clark, State of Nevada,

COUNT 1 - CONSPIRACY TO COMMIT A CRIME

Defendants and one or more uncharged confederates, did then and there meet with each other and between themselves, and each of them with the other, wilfully and unlawfully conspire and agree to commit a crime, to-wit: burglary and/or assault and/or assault with use of a deadly weapon, and in furtherance of said conspiracy, Defendants and/or their confederates did commit the acts as set forth in Counts 4, 9 & 10, said acts being

EXHIBIT 53

incorporated by this reference as though fully set forth herein.

COUNT 2 - CONSPIRACY TO COMMIT KIDNAPPING

Defendants and one or more uncharged confederates, did then and there meet with each other and between themselves, and each of them with the other, wilfully, unlawfully, and feloniously conspire and agree to commit a crime, to-wit: kidnapping, and in furtherance of said conspiracy, Defendants and/or their confederates did commit the acts as set forth in Counts 5 & 6, said acts being incorporated by this reference as though fully set forth herein.

COUNT 3 - CONSPIRACY TO COMMIT ROBBERY

Defendants and one or more uncharged confederates, did then and there meet with each other and between themselves, and each of them with the other, wilfully, unlawfully, and feloniously conspire and agree to commit a crime, to-wit: robbery, and in furtherance of said conspiracy, Defendants and/or their confederates did commit the acts as set forth in Counts 7 & 8, said acts being incorporated by this reference as though fully set forth herein.

COUNT 4 - BURGLARY WHILE IN POSSESSION OF DEADLY WEAPON

Defendants did then and there wilfully, unlawfully, and feloniously enter, with intent to commit assault and/or robbery and/or kidnapping, Room No. 1203, of the Palace Station Hotel & Casino, located at 2411 West Sahara, Las Vegas, Clark County, Nevada, occupied by BRUCE FROMONG and/or ALFRED BEARDSLEY, while in possession of one or more handguns, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting one another and/or one or more of their confederates in the commission of this crime with the intent that this crime be committed, by providing counsel and/or encouragement, by Defendants having a confederate broker a deal wherein a buyer not identified as the one of the Defendants was to come a hotel room for the purported purpose of buying of certain items of "O. J. Simpson" and other sports memorabilia, and one or more of the Defendants possessing handgun, and Defendants entering the room occupied by BRUCE FROMONG and/or ALFRED BEARDSLEY intending to commit assault and/or

robbery; and/or, (3) pursuant to a conspiracy to commit this crime.

COUNT 5 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

Defendants did wilfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away BRUCE FROMONG, a human being, with the intent to hold or detain the said BRUCE FROMONG against his will, and without his consent, for the purpose of committing robbery, said Defendants using a deadly weapon, to-wit: one or more handguns, during the commission of said crime, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting one another and/or one or more of their confederates in the commission of this crime with the intent that this crime be committed, by providing counsel and/or encouragement, by Defendants having a confederate inveigle, entice, and/or decoy BRUCE FROMONG to a hotel room under the pretext of brokering a deal wherein a buyer not identified as one of the Defendants was to come to a hotel room for the purported purpose of buying of certain items of "O. J. Simpson" and other sports memorabilia, and one or more of the Defendants possessing, displaying and/or pointing a gun at BRUCE FROMONG and one or more of the Defendants taking the property from BRUCE FROMONG, the Defendants acting in concert throughout; and/or, (3) pursuant to a conspiracy to commit this crime.

COUNT 6 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

Defendants did wilfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away ALFRED BEARDSLEY, a human being, with the intent to hold or detain the said ALFRED BEARDSLEY against his will, and without his consent, for the purpose of committing robbery, said Defendants using a deadly weapon, to-wit: one or more handguns, during the commission of said crime, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting one another and/or one or more of their confederates in the commission of this crime with the intent that this crime be committed, by providing counsel

and/or encouragement, by Defendants having a confederate inveigle, entice, and/or decoy ALFRED BEARDSLEY to a hotel room under the pretext of brokering a deal wherein a buyer not identified as one of the Defendants was to come to a hotel room for the purported purpose of buying of certain items of "O. J. Simpson" and other sports memorabilia, and one or more of the Defendants possessing, displaying and/or pointing a gun at ALFRED BEARDSLEY and one or more of the Defendants taking the property from ALFRED BEARDSLEY, the Defendants acting in concert throughout; and/or, (3) pursuant to a conspiracy to commit this crime.

COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON

Defendants did then and there wilfully, unlawfully, and feloniously take personal property, to-wit: "O. J. Simpson" and/or other sports memorabilia and/or a cellular telephone, from the person of BRUCE FROMONG, or in his presence, by means of force or violence or fear of injury to, and without the consent and against the will of the said BRUCE FROMONG, said Defendants using a deadly weapon, to-wit: one or more handguns, during the commission of said crime, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting one another and/or one or more of their confederates in the commission of this crime with the intent that this crime be committed, by providing counsel and/or encouragement, by Defendants having a confederate broker a deal wherein a buyer not identified as one of the Defendants was to come to a hotel room for the purported purpose of buying of certain items of "O. J. Simpson" and other sports memorabilia, and one or more of the Defendants possessing, displaying and/or pointing a gun at BRUCE FROMONG and one or more of the Defendants taking the property from BRUCE FROMONG, the Defendants acting in concert throughout; and/or, (3) pursuant to a conspiracy to commit this crime.

COUNT 8 - ROBBERY WITH USE OF A DEADLY WEAPON

Defendants did then and there wilfully, unlawfully, and feloniously take personal property, to-wit: a baseball cap and/or sunglasses, from the person of ALFRED

BEARDSLEY, or in his presence, by means of force or violence or fear of injury to, and without the consent and against the will of the said ALFRED BEARDSLEY, said Defendants using a deadly weapon, to-wit: one or more handguns, during the commission of said crime, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting one another and/or one or more of their confederates in the commission of this crime with the intent that this crime be committed, by providing counsel and/or encouragement, by Defendants having a confederate broker a deal wherein a buyer not identified as one of the Defendants was to come to a hotel room for the purported purpose of buying of certain items of "O. J. Simpson" and other sports memorabilia, and one or more of the Defendants possessing, displaying and/or pointing a gun at ALFRED BEARDSLEY and one or more of the Defendants taking the property from ALFRED BEARDSLEY, the Defendants acting in concert throughout; and/or, (3) pursuant to a conspiracy to commit this crime.

COUNT 9 - ASSAULT WITH A DEADLY WEAPON

Defendants did then and there wilfully, unlawfully, feloniously and intentionally place another person, to-wit: BRUCE FROMONG, in reasonable apprehension of immediate bodily harm with use of a deadly weapon, to-wit: one or more handguns, by pointing one or more handguns at BRUCE FROMONG, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting one another and/or one or more of their confederates in the commission of this crime with the intent that this crime be committed, by providing counsel and/or encouragement, by Defendants having a confederate broker a deal wherein a buyer not identified as one of the Defendants was to come to a hotel room for the purported purpose of buying of certain items of "O. J. Simpson" and other sports memorabilia, and one ore more or the Defendants possessing handgun, and Defendants entering the room of BRUCE FROMONG, one or more of the Defendants pointing a gun at BRUCE FROMONG, the Defendants acting in concert throughout; and/or

(3) pursuant to a conspiracy to commit this crime.

COUNT 10 - ASSAULT WITH A DEADLY WEAPON

Defendants did then and there wilfully, unlawfully, feloniously and intentionally place another person, to-wit: ALFRED BEARDSLEY, in reasonable apprehension of immediate bodily harm with use of a deadly weapon, to-wit: one or more handguns, by pointing one ore more handguns at ALFRED BEARDSLEY, the Defendants being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting one another and/or one or more of their confederates in the commission of this crime with the intent that this crime be committed, by providing counsel and/or encouragement, by Defendants having a confederate broker a deal wherein a buyer not identified as one of the Defendants was to come to a hotel room for the purported purpose of buying of certain items of "O. J. Simpson" and other sports memorabilia, and one ore more or the Defendants possessing handgun, and Defendants entering the room of BRUCE FROMONG, one or more of the Defendants pointing a gun at ALFRED BEARDSLEY, the Defendants acting in concert throughout; and/or (3) pursuant to a conspiracy to commit this crime.

COUNT 11 - COERCION WITH USE OF A DEADLY WEAPON

Defendant ORENTHAL JAMES SIMPSON, did then and there wilfully, unlawfully, and feloniously use physical force, or the immediate threat of such force, against BRUCE FROMONG, with intent to compel him to do, or abstain from doing, an act which he had a right to do, or abstain from doing, with use of a deadly weapon, to-wit: one or more handguns, by preventing BRUCE FROMONG from using his phone and/or call for help and/or 911, by ripping it out of BRUCE FROMONG's hand and preventing him from using his phone, one or more of his confederates possessing, displaying and/or pointing one or more handguns.

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All of which is contrary to the form, force and effect of Statutes in such cases made and provided and against the peace and dignity of the State of Nevada. Said Complainant makes this declaration subject to the penalty of perjury.

9/18/2007

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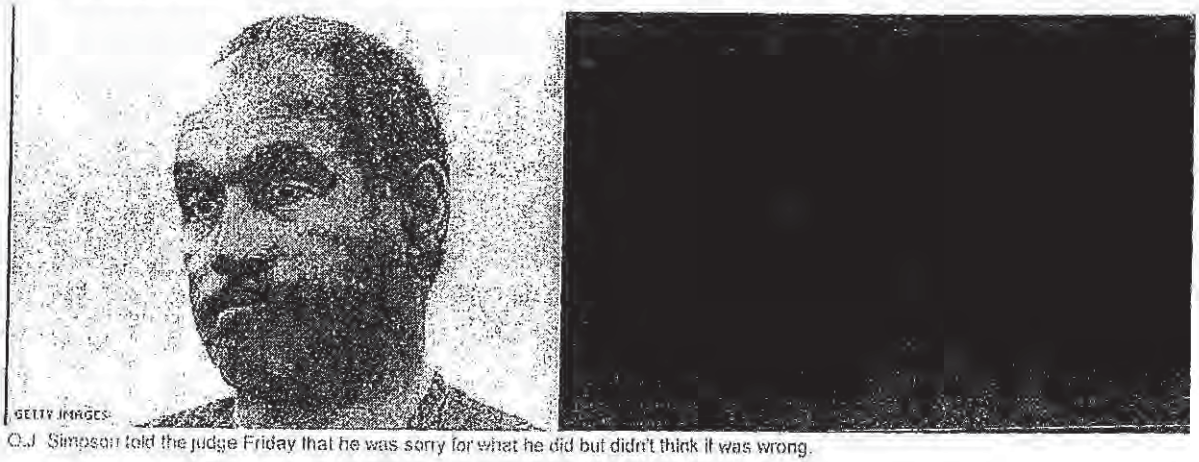
O.J. Simpson to serve at least nine years in prison

LAS VEGAS, Nevada (CNN) -- Former gridiron great O.J. Simpson will serve at least nine years in prison for his role in an armed confrontation with sports memorabilia dealers in a Las Vegas hotel in 2007.



O.J. Simpson told the judge Friday that he was sorry for what he did but didn't think it was wrong.

Simpson was sentenced to a maximum of 33 years with the possibility of parole after nine. Before the sentence, he offered a rambling, emotional apology in which he told District Judge Jackie Glass, his voice shaking, that he was sorry for his actions but believed he did nothing wrong. Glass, however, brushed his apology aside, saying his actions amounted to "much more than stupidity," and calling him both arrogant and ignorant.

"Earlier in this case, at a bail hearing, I said to Mr. Simpson, I didn't know if he was arrogant, ignorant or both," Glass said. "During the trial and through this proceeding, I got the answer, and it was both."

She stressed that the sentence was not "payback for anything else," apparently referring to Simpson's acquittal 13 years ago in the slayings of his former wife, Nicole Brown Simpson, and her friend Ron Goldman. **Watch the judge say the sentence isn't about the past »**

Grimacing, Simpson was escorted from the courtroom in shackles.

Defense attorneys said Glass' sentence was appropriate.

Don't Miss

Possible sentences: 6 years, 18 years, life
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FindLaw: **Read the complaint (pdf)**

"It could have been a lot worse," Yale Galanter said, noting that Simpson and co-defendant Clarence "C.J." Stewart both could have been sentenced to life in prison.

A jury convicted Simpson, 61, and Stewart, 54, on 12 charges including conspiracy to commit a crime, robbery, assault and kidnapping with a deadly weapon stemming from a September 13, 2007, incident at Las Vegas' Palace Station hotel and casino.

Prosecutors alleged that **Simpson** led a group of men who used threats, guns and force to take sports memorabilia from dealers Bruce Fromong and Al Beardsley. Simpson claimed that he was attempting to recover items that belonged to him. All the men except Stewart made deals with prosecutors in exchange for their testimony.

"We're happy that this case is coming to an end," Clark County district attorney David Roger said. "We're satisfied that we presented a good case to a jury, that the jury listened to all the evidence, particularly the audiotapes, and came to the resolution that we asked them to come to." He said he thought the sentence was fair.

Simpson's conviction came October 3, the 13th anniversary of his controversial acquittal in the killings of Nicole Brown Simpson and Goldman. Follow a timeline of Simpson's legal woes »

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Goldman's father and sister were in the courtroom for Friday's sentencing.

"The back of his head looks the same as it did every day that we watched him in the criminal case, and we feel very proud of our efforts," Kim Goldman said. "We feel very strongly that because of our pursuit of him for all these years, that it did drive him to the brink of this."

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"If that pushed him over the edge, great," Fred Goldman said afterward. "Put him where he belongs." Watch Fred and Kim Goldman react »

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Before being sentenced, Simpson told Glass he was "sorry, somewhat confused, apologetic." He said the items he was trying to recover were his late ex-wife's wedding ring for his daughter and family photos for his son. Watch Simpson's apology »

"I just wanted my personal things. I was stupid. I'm sorry," Simpson said. "I didn't know I was doing anything illegal. I thought I was confronting friends. I thought I was retrieving my things. I didn't mean to hurt anybody, and I didn't mean to steal anything."

But Glass rejected those statements in imposing the sentence.

"When you take a gun with you and you take men with you ... in a show of force, that's not just a 'Hey, give me my stuff back,' " Glass said. "That's something else. And that's what went on here, and that's why we're all here.

"I have to tell you, it was much more than stupidity. ... You went to the room, you took guns -- meaning you and the group -- you used force, you took property, whether it was yours or somebody else's, and in this state, that amounts to robbery with the use of a deadly weapon."

The judge said Simpson's contrite words in court were not as powerful as his angry words, as caught on tape, during the confrontation.

"Everything in this case was on tape," Glass said. "The evidence in this case was overwhelming."

Simpson's attorneys asked that he be sentenced to no more than six years. A presentencing report recommended an 18-year term.

Stewart received a sentence similar to Simpson's but will be eligible for parole in 7½ years.

"I am as happy as someone could be when they know their client is going to reside for at least seven years in a cage," said Stewart's attorney, Brent Bryson.

Defense attorneys for both Simpson and Stewart have said they will appeal. On Friday, Glass denied motions asking that both defendants be allowed out on bail while the appeal is pending.

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STORY HIGHLIGHTS

- O.J. Simpson was convicted of robbery, kidnapping, assault in October
- Judge Jackie Glass said evidence in case was overwhelming
- Charges stem from 2007 confrontation in Las Vegas hotel room
- Defense attorneys say they will appeal judge's sentence

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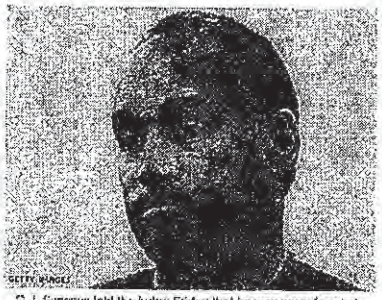

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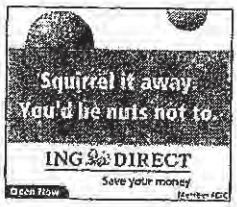

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CNN's Paul Vercammen contributed to this report.

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money in politics

a project of Ohio Citizen Action

Director Catherine Turcer ★ 614.221.6077 ★ cturcer@ohiocitizen.org

Robert Cupp
Judith Lanzinger
Thomas Moyer
Maureen O'Connor
Terrence O'Donnell
Paul Pfeifer
Evelyn Stratton
All Profiles

Thomas J. Moyer

Supreme Court Justice

Republican

Amount Raised 11/15/03-11/30/04:
$1,509,417



Average Individual Contribution: $262.26
Individual Contributions less than $200: 2,103
Individual Contributions $200 or more: 1,318

Top Organizational Contributors to Thomas Moyer

Rank	Organization	Economic Sector	Amount
1	Cincinnati Financial	Insurance	$29,045
2	Vorys, Sater, Seymour & Pease	Lawyers	$23,070
3	Jones Day	Lawyers	$21,525
4	Nationwide	Insurance	$21,237
5	FirstEnergy	Energy & Resources	$20,550
6	Janik & Dorman	Lawyers	$19,000
7	American Financial Group	Insurance	$16,000
8	Baker & Hostetler	Lawyers	$15,800
9	Porter, Wright, Morris & Arthur	Lawyers	$14,530
10	Freund, Freeze & Arnold	Lawyers	$11,540

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

Top Economic Sectors to Thomas Moyer

Rank	Economic Sector	Amount
1	Lawyers	$462,516
2	Insurance	$221,241
3	Health	$194,234
4	Ideological	$109,320
5	Manufacturing	$91,644

EXHIBIT 54

6	Energy & Natural Resources	$63,370
7	Finance	$59,098
8	Real Estate	$42,167
9	Construction	$30,375
10	Food & Beverage	$26,075

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

Amount from Republican Party Committees: $92,912
Amount from Candidate Committees: $11,308
Amount from Leadership PACs: $5,000

Top Political Party & Candidate Committee Contributions to Thomas Moyer

Rank	Party or Candidate Committee	Amount
1	Ohio Republican Party	$60,037
2	Hamilton County Republican Party	$15,000
3	Summit County GOP Judicial Committee	$10,000
4	Cuyahoga County Republican Party Judicial Fund	$7,500
5	Friends of Governor Taft	$5,500
6	America's Majority Trust/Rob Portman Leadership PAC	$5,000
7	Oxley for Congress	$1,000
	Pryce for Congress	$1,000
	Hobson for Congress	$1,000

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

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Maureen O'Connor

Supreme Court Justice

Republican

Amount Raised 2/14/02-10/31/02:
$1,736,852



Average Individual Contribution: $224.90
Individual Contributions less than $200: 2,915
Individual Contributions $200 or more: 1,871

Top Organizational Contributors to Maureen O'Connor

Rank	Organization	Economic Sector	Amount
1	Cincinnati Financial	Insurance	$45,245
2	American Financial Group	Lawyers	$20,900
3	Timken	Manufacturing	$13,350
4	Jones Day	Lawyers	$12,700
5	FirstEnergy	Energy & Resources	$11,600
6	Boich Companies	Energy & Resources	$11,000
7	Vorys, Sater, Seymour & Pease	Lawyers	$10,075
8	Nationwide	Insurance	$9,850
9	Bricker & Eckler	Lawyers	$9,400
10	Fifth Third Bank	Finance	$8,750

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

Top Economic Sectors to Maureen O'Connor

Rank	Economic Sector	Amount
1	Health	$331,830
2	Ideological	$265,234
3	Insurance	$237,071
4	Lawyers	$178,121
5	Manufacturing	$113,890

6	Finance	$74,455
7	Construction	$73,177
8	Energy & Natural Resources	$68,245
9	Transportation	$53,040
10	Real Estate	$38,515

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

Amount from Republican Party Committees: $208,816
Amount from Candidate Committees: $36,700
Amount from Leadership PACs: $8,200

Top Political Party & Candidate Committee Contributions to Maureen O'Connor

Rank	Party or Candidate Committee	Amount
1	Ohio Republican Party Judicial Account	$142,000
2	Ohio Republican Party	$41,341
3	Hamilton County Republican Party	$15,000
4	Taft for Governor	$5,500
	Montgomery Campaign Committee	$5,500
	Citizens for Jim Petro	$5,500
5	Ohio House Republican Campaign Committee	$5,000
6	Ohio's 17 Star PAC/Mike DeWine Leadership PAC	$3,000
7	Hamilton County Republican Party Judicial Campaign Fund	$2,500
	Citizens for Householder	$2,500
8	Buckeye PAC/George Voinovich Leadership PAC	$2,000
	Friends of Carney, Jr.	$2,000
	Committee to Elect Lynn R. Wachtmann	$2,000

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

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Evelyn Stratton
All Profiles

Evelyn Stratton

Supreme Court Justice

Republican

Amount Raised 1/20/02-10/23/02:
$1,899,937



Average Individual Contribution: $239.09
Individual Contributions less than $200: 3,003
Individual Contributions $200 or more: 2,022

Top Organizational Contributors to Evelyn Stratton

Rank	Organization	Economic Sector	Amount
1	Cincinnati Financial	Insurance	$44,445
2	FirstEnergy	Energy & Resources	$32,578
3	Jones Day	Lawyers	$20,750
4	State Farm Insurance	Insurance	$16,795
5	Vorys, Sater, Seymour & Pease	Lawyers	$16,000
6	Nationwide	Insurance	$13,550
7	Timken	Manufacturing	$13,350
8	Norton Manufacturing	Manufacturing	$13,200
9	Cintas	Manufacturing	$12,100
10	Frost Brown Todd	Lawyers	$12,000

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

Top Economic Sectors to Evelyn Stratton

Rank	Economic Sector	Amount
1	Health	$392,229
2	Lawyers	$313,430
3	Ideological	$249,857
4	Insurance	$236,643
5	Manufacturing	$133,342

6	Energy & Natural Resources	$86,730
7	Finance	$82,491
8	Construction	$64,869
9	Real Estate	$46,310
10	Transportation	$41,910

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

Amount from Republican Party Committees: $190,912
Amount from Candidate Committees: $41,027
Amount from Leadership PACs: $6,200

Top Political Party & Candidate Committee Contributions to Evelyn Stratton

Rank	Party or Candidate Committee	Amount
1	Ohio Republican Party Judicial Account	$87,000
2	Ohio Republican Party	$41,291
3	Hamilton County Republican Party Judicial Campaign Fund	$27,500
4	Ohio Republican State & Central Executive Committee	$22,971
5	Montgomery Campaign Committee	$5,500
	Committee to Elect Lynn R. Wachtmann	$5,500
	Pryce for Congress	$5,500
	Taft for Governor	$5,500
	Citizens for Jim Petro	$5,500
6	Columbiana County Republican Party	$4,450
7	Buckeye PAC/George Voinovich Leadership PAC	$2,200
8	Wayne County Republican Party	$2,000
	Citizens for Geoffrey C. Smith	$2,000
	America's Majority Trust/Rob Portman Leadership PAC	$2,000
	Ohio's 17 Star PAC/Mike DeWine Leadership PAC	$2,000

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

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Robert Cupp

Supreme Court Justice

Republican

Amount Raised 1/1/06-12/31/06: $999,150



Average Individual Contribution: $233.86
Individual Contributions less than $200: 1,568
Individual Contributions $200 or more: 854

Top Organizational Contributors to Robert Cupp

Rank	Organization	Economic Sector	Amount
1	Cincinnati Financial Corporation	Insurance	$42,188
2	American Financial Group	Insurance	$18,500
3	Vorys, Sater, Seymour & Pease	Lawyers	$18,350
4	Porter, Wright, Morris & Arthur	Lawyers	$12,610
5	Calfee, Halter & Griswold	Lawyers	$12,000
6	Nationwide Insurance	Insurance	$11,155
7	FirstEnergy	Energy & Natural Resources	$10,367
8	Timken	Manufacturing	$10,100
9	Motorists Mutual Insurance	Insurance	$9,500
10	John J. & Thomas R. Schiff Co.	Insurance	$8,500

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

Top Economic Sectors to Robert Cupp

Rank	Economic Sector	Amount
1	Insurance	$195,814
2	Lawyers	$187,778
3	Health	$137,418
4	Ideological	$112,692

5	Manufacturing	$86,975
6	Energy & Natural Resources	$40,717
7	Finance	$40,215
8	Real Estate	$19,725
9	Food & Beverage	$16,850
10	Transportation	$15,490

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

Amount from Republican Party Committees: $91,060
Amount from Candidate Committees: $15,932

Top Political Party & Candidate Committee Contributions to Robert Cupp

Rank	Party or Candidate Committee	Amount
1	Ohio Republican Party	$82,485
2	Hobson for Congress	$5,500
3	Hamilton County Republican Party	$5,000
4	Citizens for Jim Petro	$4,000
5	Columbiana County Republican Central Committee	$1,150
6	Lake County Republican Party	$1,084
7	Committee to Elect Bill Harris	$1,000
	Citizens for Austria	$1,000
	Citizens for Gillmor	$1,000

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

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Evelyn Stratton
All Profiles

Judith Lanzinger

Supreme Court Justice

Republican

Amount Raised 11/15/03-11/30/04:
$1,646,166



Average Individual Contribution: $248.94
Individual Contributions less than $200: 2,391
Individual Contributions $200 or more: 1,476

Top Organizational Contributors to Judith Lanzinger

Rank	Organization	Economic Sector	Amount
1	Cincinnati Financial	Insurance	$28,051
2	American Financial Group	Insurance	$24,300
3	FirstEnergy	Energy & Resources	$20,550
4	Nationwide	Insurance	$20,137
5	Fifth Third Bank	Finance	$17,400
6	Ohio National Financial Services	Insurance	$13,600
7	Porter, Wright, Morris & Arthur	Lawyers	$12,735
8	State Farm Insurance	Insurance	$11,427
9	RPM International	Manufacturing	$11,000
10	Procter & Gamble	Manufacturing	$10,850

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

Top Economic Sectors to Judith Lanzinger

Rank	Economic Sector	Amount
1	Insurance	$272,889
2	Lawyers	$271,126
3	Ideological	$268,402
4	Health	$262,647

5	Manufacturing	$121,529
6	Energy & Natural Resources	$66,570
7	Finance	$65,758
8	Construction	$45,143
9	Real Estate	$37,267
10	Food & Beverage	$24,125

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

Amount from Republican Party Committees: $237,285
Amount from Candidate Committees: $19,516
Amount from Leadership PACs: $9,500

Top Political Party & Candidate Committee Contributions to Judith Lanzinger

Rank	Party or Candidate Committee	Amount
1	Ohio Republican Party	$199,983
2	Columbiana County GOP Judicial Account	$17,723
3	Hamilton County Republican Party	$10,000
4	Cuyahoga County Republican Party Judicial Fund	$7,500
5	Friends of Governor Taft	$5,500
6	America's Majority Trust/Rob Portman Leadership PAC	$5,000
7	Oxley for Congress	$3,000
8	Ohio's 17 Star PAC/Mike DeWine Leadership PAC	$2,500
	Husted for Ohio	$2,500
9	Care PAC/Ralph Regula Leadership PAC	$2,000

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

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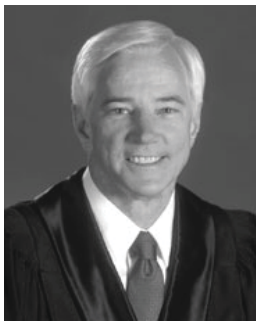
Terrence O'Donnell

Supreme Court Justice

Republican

O'Donnell ran for Supreme Court Justice in three elections: 2000, 2004, and 2006



Amount raised:

11/16/99-11/11/00: $993,739
11/15/03-11/30/04: $1,595,986
1/06/06-12/31/06: $1,031,057

Total: $3,620,782

Average Individual Contribution: $274.14
Individual Contributions less than $200: 4,917
Individual Contributions $200 or more: 3,241

Top Organizational Contributors to Terrence O'Donnell

Rank	Organization	Economic Sector	Amount
1	Cincinnati Financial	Insurance	$123,750
2	American Financial Group	Insurance	$62,895
3	Nationwide	Insurance	$53,067
4	FirstEnergy	Energy & Resources	$40,617
5	Vorys, Sater, Seymour & Pease	Lawyers	$39,925
6	Jones Day	Lawyers	$37,025
7	Calfee, Halter & Griswold	Lawyers	$33,600
8	Squire, Sanders & Dempsey	Lawyers	$30,600
9	Baker & Hostetler	Lawyers	$30,475
10	Procter & Gamble	Manufacturing	$29,000

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

Top Economic Sectors to Terrence O'Donnell

Rank	Economic Sector	Amount
1	Lawyers	$783,562
2	Insurance	$621,011

3	Manufacturing	$386,449
4	Health	$382,062
5	Ideological	$361,548
6	Finance	$203,353
7	Energy & Natural Resources	$164,937
8	Construction	$119,530
9	Real Estate	$106,240
10	Transportation	$75,039

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

Amount from Republican Party Committees: $310,740
Amount from Candidate Committees: $33,200
Amount from Leadership PACs: $10,500

Top Political Party & Candidate Committee Contributions to Terrence O'Donnell

Rank	Party or Candidate Committee	Amount
1	Ohio Republican Party	$223,101
2	Hamilton County Republican Party	$25,125
3	Columbiana County GOP Judicial Account	$17,723
4	Summit County GOP Judicial Committee	$10,000
5	Citizens for Jim Petro	$7,500
	Cuyahoga County Republican Party Judicial Fund	$7,500
6	Columbiana County Republican Party	$7,300
7	Friends of Governor Taft	$5,500
8	Hamilton County Republican Party Judicial Campaign Fund	$5,000
	Montgomery County Republican Party	$5,000
	America's Majority Trust/Rob Portman Leadership PAC	$5,000
	WrightPAC/J. Craig Wright Leadership PAC	$5,000
9	Butler County Republican Party	$4,000
10	Ohio Self Insurers Association	$2,000
	Oxley for Congress	$2,000

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

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Robert Cupp


Judith Lanzinger


Thomas Moyer


Maureen O'Connor

Follow the Money

Ohio Citizen Action today released overviews of campaign contributions to members of the Ohio Supreme Court during the last four election cycles (2000-2006). Chief Justice Thomas J. Moyer received $1.5 million (Election 2000), Justice Robert Cupp nearly $1 million (Election 2006), Judith Lanzinger $1.6 million, Maureen O'Connor $1.7 million (Election 2002), Paul E. Pfeifer nearly $80,000 (Election 2004), and Evelyn Lundberg Stratton $1.9 million (Election 2002). In this same time period, Justice Terrence O'Donnell ran for the Supreme Court three times. In 2000, he raised nearly $1 million in an unsuccessful attempt to defeat Alice Robie Resnick. O'Donnell was appointed by Governor Bob Taft to fill Deborah Cook's seat in 2003, when she left the Ohio Supreme Court for the federal bench. He raised $1.6 million to retain this seat in Election 2004. O'Donnell's seat was up for election again in 2006 and he raised an additional $1 million. In these three elections, O'Donnell raised a combined total of $3,620,782. These campaign finance profiles include an overview of types of donors, large contributors, and money from the political parties. The insurance industry played a prominent role in Supreme Court elections, contributing a total of $1,781,568 to six of the seven Justices. Insurance company Cincinnati Financial Corporation ($312,723) was the top donor to six members of the Ohio Supreme Court: Cupp, Lanzinger, Moyer, O'Connor, O'Donnell, and Stratton. In sharp contrast, Pfeifer did not receive any contributions from the insurance industry.

Methodology

The Money in Politics Project of the Ohio Citizen Action Education Fund analyzed contributions to the Chief Justice and the Justices of the Ohio Supreme Court from Elections 2000, 2002, 2004, and 2006. Totals include contributions from political action committees (PACs), labor unions, and individuals.

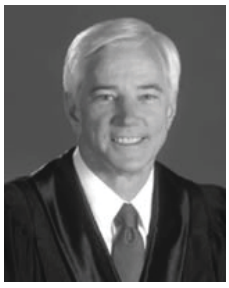
The database is based on the filings of candidates for the Ohio Supreme Court, available in computerized form from the Ohio Secretary of State. These filings were submitted electronically by the candidate committees to the Secretary of State and are available on-line at www.sos.state.oh.us. Candidates for the Ohio Supreme Court are permitted to raise money only during the time period that they are on the ballot. The Justices were given an opportunity to review their campaign finance profiles.

To identify the employers of contributors, the Ohio Citizen Action Education Fund used the following:

1. Databases of architects, doctors, dentists, funeral directors, and certified public accountants registered to do business in Ohio from the Ohio Division of Administrative Services,
2. A database from the Ohio Supreme Court of attorneys in Ohio
3. A list of lobbyists in Ohio from the Joint Legislative Ethics Committee,
4. A list of contributors to political action committees in Ohio,
5. Database of physicians provided by the American Medical Association,
6. Database of attorneys provided by Martindale-Hubble.
7. Search engines like Google.

For each candidate the total amount in this campaign finance database includes the following:

- Contributions received


Terrence O'Donnell


Paul Pfeifer


Evelyn Stratton

Overviews:

- Attorney donors
- Insurance donors
- Manufacturing donors
- Union donors

- Contributions received at a social or fundraising event
- In-kind contributions received
- Contributions the candidate gave to his own campaign

The campaign finance profiles do not include Statement of Other Income, which includes interest, refunds, returns, and other non-contribution income.

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(Frost & Jacobs LLP) (Brown, Todd & Heyburn PLLC)
Cincinnati, Ohio Office
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2200 PNC Center, 201 East Fifth Street
Cincinnati, Ohio 45202-4182
(Hamilton Co.)

Telephone: 513-651-6800
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About this office:

With offices throughout 4 mid-western states, Frost Brown Todd is one of the largest law firms in the country and represents many of America's best-known companies. With over 370 lawyers spanning 60+ integrated practice areas and industry groups, the firm leverages technical and legal knowledge with industry expertise to serve a diverse client base, ranging from global multinationals to small, entrepreneurial companies.

79 Frost Brown Todd lawyers are named to Woodward-White's The Best Lawyers in America (2007).

Frost Brown Todd is listed as a "Go-to" law firm in Corporate Counsel's Directory of In-House Law Departments at the Top 500 Companies (2005, 2006).

The BTI Consulting Group has named Frost Brown Todd one of only 40 law firms "consistently introducing innovative changes into the legal services marketplace" in the Market Front Runners report (2006).

Frost Brown Todd has strategic alliances with Wahlert Rechtsanwälte located in Stuttgart, Germany and is a member of Multilaw and the US Law Firm Group.

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Documents by Lawyers at this office

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Jill P. Meyer, Kevin T. Shook, November 3, 2009
After six years of litigation, the impetus behind the federal CAN-SPAM Act is now more relevant than ever. The next big splash in spamming appears to have arrived in the form of social media. Twitter recently announced a "report as spam" button on user profiles geared toward combating...

Endorse This! New FTC Guidelines on Endorsements and Testimonials
Patricia Foster, November 3, 2009
In an effort to stem false or misleading endorsements, the Federal Trade Commission ("FTC") revised its Guides Concerning the Use of Endorsements and Testimonials in Advertising ("Guides") on October 5, 2009. When the Guides were last updated in 1980, the internet was in its...

Better Pleading of Voidable Transfer Claims is Coming
Kimberly K. Mauer, September 23, 2009
The United States Supreme Court raised the standard for pleading complaints in Bell Atl. Corp. v. Twombly, 550 U.S. 544 (2007). Previously, the rule was that a complaint would not be dismissed for failure to state a claim unless "it appears without a doubt that the plaintiff can prove no set...

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Representative Clients:

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Languages: Afrikaans, Chinese, Cyrillic Script, Dutch, English, Flemish, French, German, Japanese.

Law Firm Affiliations: UNITED STATES LAW FIRM GROUP

The Firm has attorneys licensed to practice in numerous states, including but not limited to Washington, D.C.

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Note Cancellation And Restructuring Agreement

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Sectors:	Materials and Construction
Law Firms:	Jones Day
Governing Law:	Delaware

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Effective Date:	December 05, 2002
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Sectors:	Materials and Construction
Law Firms:	Baker & Hostetler, Blank Rome, Reed Smith, Duane Morris, Jones Day, Kramer Levin Naftalis & Frankel, Saul Ewing, Vorys, Sater, Seymour and Pease

1 of 1 DOCUMENT

In re McDONALD

No. 88-5890

SUPREME COURT OF THE UNITED STATES

489 U.S. 180; 109 S. Ct. 993; 103 L. Ed. 2d 158; 1989 U.S. LEXIS 597; 57 U.S.L.W. 3545

February 21, 1989, Decided

PRIOR HISTORY: ON MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS.

DISPOSITION: Motion denied.

CASE SUMMARY:

PROCEDURAL POSTURE: Petitioner, a former convict, sought leave to proceed in forma pauperis under Sup. Ct. R. 26 and sought a writ of habeas corpus pursuant to 28 U.S.C.S. § 2241(a).

OVERVIEW: Over the 13-year period since his conviction, petitioner had filed four appeals, 33 petitions for certiorari, 19 petitions for extraordinary writs, seven applications for stays and other injunctive relief, and 10 petitions for rehearing. The Court had denied all of his appeals and the various petitions and motions. The Court, however, had never previously denied petitioner leave to proceed in forma pauperis. In the instant matter, the Court determined that petitioner had abused the privilege of seeking extraordinary writs and was unfairly expending the Court's limited resources. He had repeatedly ignored the letter and spirit of Sup. Ct. R. 26, which required a showing that the writ requested would be in aid of the Court's appellate jurisdiction, that there were present exceptional circumstances warranting the exercise of the Court's discretionary powers, and that adequate relief could not be had in any other form or from any other court. The Court held that petitioner remained free under the order to file in forma pauperis requests for relief other than an extraordinary writ, if he qualified to do so under Sup. Ct. R. 46 and did not similarly abuse that privilege.

OUTCOME: The Court denied petitioner's motion. The Court further ordered the Clerk not to accept any further petitions from petitioner for extraordinary writs unless petitioner paid the docketing fee and submitted his petition in compliance with U.S. Supreme Court rules.

CORE TERMS: forma pauperis, extraordinary writs, frivolous, mandamus, writ of habeas corpus, leave to file, habeas corpus, door, common law, leave to proceed, docketing, remains free, paupers, writ of mandamus, interests of justice, reasons stated, false pretenses, right to file, individualized, questionable, repetitious, meritorious, processing, continual, malicious, legality, qualifies, valued, abused, deter

LexisNexis(R) Headnotes

Criminal Law & Procedure > Appeals > Procedures > Costs & Attorney Fees
[HN1] See 28 U.S.C.S. § 1915.

Criminal Law & Procedure > Habeas Corpus > Procedure > General Overview
[HN2] See Sup. Ct. R. 46.1a.

Civil Procedure > Remedies > Writs > General Overview

EXHIBIT 55

Governments > Courts > Clerks of Court
Governments > Courts > Court Records
[HN3] Paupers filing pro se petitions are not subject to the financial considerations -- filing fees and attorney's fees -- that deter other litigants from filing frivolous petitions. Every paper filed with the Clerk of this Court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of the Court's responsibility is to see that these resources are allocated in a way that promotes the interests of justice. The continual processing of frivolous requests for extraordinary writs does not promote that end.

Civil Procedure > Remedies > Writs > General Overview
Criminal Law & Procedure > Appeals > Appellate Jurisdiction > Extraordinary Writs
[HN4] Extraordinary writs are drastic and extraordinary remedies to be reserved for really extraordinary causes in which appeal is clearly an inadequate remedy.

Criminal Law & Procedure > Appeals > Appellate Jurisdiction > Extraordinary Writs
[HN5] See Sup. Ct. R. 26.

DECISION: Convict whose numerous appeals, petitions, and motions had been unanimously rejected by Supreme Court, denied leave to proceed in forma pauperis on new petition or on any further petitions for extraordinary writs.

SUMMARY: A person who had been convicted and sentenced to imprisonment in Tennessee for obtaining title to an automobile under false pretenses, and who was no longer incarcerated, petitioned the United States Supreme Court pro se for a writ of habeas corpus and requested leave to proceed in forma pauperis. During the 13 years since his conviction became final, all of his requests for relief from the conviction were rejected by the Supreme Court and by the Tennessee courts. In connection with the conviction and other matters, he made 73 separate filings with the Supreme Court, including eight during the present term, and all were denied without recorded dissent; these filings included four appeals, 32 petitions for certiorari, 22 petitions for extraordinary writs, five applications for stays and other injunctive relief, and 10 petitions for rehearing. In the present petition for habeas corpus, he raised the same argument that had been raised unsuccessfully in at least four prior filings with the Supreme Court. Although having denied all of his appeals, petitions, and motions, the Supreme Court had never denied him leave to proceed in forma pauperis.

In a per curiam opinion expressing the view of Rehnquist, Ch. J., and White, O'Connor, Scalia, and Kennedy, JJ., the court denied the petitioner leave to proceed in forma pauperis and directed the Clerk of the Supreme Court not to accept any further petitions in forma pauperis from the petitioner for extraordinary writs, because (1) paupers filing pro se petitions are not subject to the costs, such as filing fees and attorneys' fees, that deter other litigants from filing frivolous petitions, (2) the continual processing of the petitioner's frivolous requests for extraordinary writs did not promote the just allocation of the Supreme Court's limited resources, and (3) the petitioner had repeatedly ignored the letter and spirit of Rule 26 of the Supreme Court Rules, which specifies prerequisites to the granting of an extraordinary writ.

Brennan, J., joined by Marshall, Blackmun, and Stevens, JJ., dissented, expressing the view that (1) the habeas corpus petition should have been denied without reaching the merits of the motion to proceed in forma pauperis, and (2) because the Supreme Court lacked authority to disqualify a litigant from future in forma pauperis filings, the Clerk of the Supreme Court should not have been directed not to accept future petitions in forma pauperis from the petitioner for extraordinary writs.

LAWYERS' EDITION HEADNOTES:

[*LEdHN1]**

SUPREME COURT OF THE UNITED STATES §71

leave to proceed in forma pauperis -- extraordinary writs --

Headnote:[1A][1B][1C]

A person who is no longer incarcerated following his conviction and prison sentence for the commission of a state crime will be denied leave to proceed in forma pauperis with his pro se petition to the United States Supreme Court for a writ of habeas

corpus concerning that crime, and the Clerk of the Supreme Court will be directed not to accept any further petitions in forma pauperis from the petitioner for extraordinary writs, where (1) during the 13 years since his conviction became final, all of the petitioner's requests for relief from the conviction have been rejected by the Supreme Court and by the state courts, (2) in connection with the conviction and other matters, he has made 73 separate filings with the Supreme Court, including four appeals, 32 petitions for certiorari, 22 petitions for extraordinary writs, five applications for stays and other injunctive relief, and 10 petitions for rehearing, (3) although the Supreme Court has never denied the petitioner leave to proceed in forma pauperis, all of these appeals, petitions, and applications, including the eight filed during the present term, have been denied without recorded dissent, and (4) the present habeas corpus petition raises the same argument raised unsuccessfully by the petitioner in at least four prior filings with the Supreme Court; the Supreme Court will adopt this approach because (1) paupers filing pro se petitions are not subject to the costs, such as filing fees and attorneys' fees, that deter other litigants from filing frivolous petitions, (2) the continual processing of the petitioner's frivolous requests for extraordinary writs does not promote the just allocation of the Supreme Court's limited resources, and (3) the petitioner has repeatedly ignored the letter and spirit of Rule 26 of the Supreme Court Rules, which provides that to justify the granting of an extraordinary writ, it must be shown that there are present exceptional circumstances warranting the exercise of the Supreme Court's discretionary powers, and that adequate relief cannot be had in any other form or from any other court. (Brennan, Marshall, Blackmun, and Stevens, JJ., dissented from this holding.)

[*LEdHN2]**

SUPREME COURT OF THE UNITED STATES §71

leave to proceed in forma pauperis -- extraordinary writs --

Headnote:[2]

A person from whom the Clerk of the United States Supreme Court has been directed by the Supreme Court not to accept any further petitions in forma pauperis for extraordinary writs, where the person has made repetitious and frivolous filings, in abuse of the privilege of filing extraordinary writs in forma pauperis, remains free to file in forma pauperis requests for relief other than extraordinary relief, so long as he does not similarly abuse that privilege.

SYLLABUS

Pro se petitioner filed a motion for leave to proceed *in forma pauperis* on his petition before this Court for a writ of habeas corpus. Since 1971, he has made 73 other filings with this Court -- including 19 for extraordinary relief -- all of which have been denied without recorded dissent.

Held: Petitioner's motion for leave to proceed *in forma pauperis* is denied, and the Clerk is directed not to accept any further petitions from him for extraordinary writs unless he pays the docketing fee required by this Court's Rule 45(a) and submits his petition in compliance with Rule 33. The continual processing of his frivolous requests for extraordinary writs does not permit the Court to allocate its limited resources in a way that promotes the interests of justice. Paupers filing *pro se* petitions are not subject to the financial considerations that deter other litigants from filing frivolous petitions, and lower courts have issued orders intended to curb serious abuses by persons proceeding *in forma pauperis*. Petitioner remains free to file *in forma pauperis* requests for other relief, if he qualifies and does not similarly abuse that privilege.

JUDGES: Justice Brennan, with whom Justice Marshall, Justice Blackmun, and Justice Stevens join, dissenting.

OPINION BY: PER CURIAM

OPINION

[*180] [*162] [**993] [***LEdHR1A]** [1A]Pro se petitioner Jessie McDonald requests that this Court issue a writ of habeas corpus pursuant to 28 U. S. C. § 2241(a). He also requests that he be permitted to proceed *in forma pauperis* under this Court's Rule 46. We deny petitioner leave **[**994]** to proceed *in forma pauperis*. He is allowed until March 14, 1989, within which to pay the docketing fee required by Rule 45(a) and to submit a petition in compliance with this Court's Rule 33. We also direct the Clerk not to accept any further petitions from petitioner for extraordinary writs pursuant to 28 U. S. C. §§ 1651(a), 2241, and 2254(a), unless he pays the docketing fee required by Rule 45(a) and submits his petition in compliance with Rule 33. We explain below our reasons for taking this step.

Petitioner is no stranger to us. Since 1971, he has made 73 separate filings with the Court, not including this petition, **[*181]** which is his eighth so far this Term. These include 4 appeals, [1] 33 petitions for certiorari, [2] 19 petitions for extraordinary

writs, [3] **[***163]** 7 applications for stays and other **[**995]** injunctive relief, [4] **[*182]** and 10 petitions for rehearing. [5] Without recorded dissent, the Court has denied all of his appeals and denied all of his various petitions and motions. We have never previously denied him leave to proceed *in forma pauperis*. [6]

1 See *McDonald* v. *Alabama*, 479 U.S. 1061 (1987); *In re McDonald*, 466 U.S. 957 (1984); *McDonald* v. *Tennessee*, 432 U.S. 901 (1977); *McDonald* v. *Purity Dairies Employees Federal Credit Union*, 431 U.S. 961 (1977).

2 See *McDonald* v. *Tobey*, 488 U.S. 971 (1988); *McDonald* v. *Metropolitan Government of Nashville and Davidson County*, 481 U.S. 1053 (1987); *McDonald* v. *Tennessee*, 475 U.S. 1088 (1986); *McDonald* v. *Tennessee*, 474 U.S. 951 (1985); *McDonald* v. *Leech*, 467 U.S. 1208 (1984); *McDonald* v. *Humphries*, 461 U.S. 946 (1983); *McDonald* v. *Metropolitan Government of Nashville and Davidson County*, 461 U.S. 934 (1983); *McDonald* v. *Draper*, 459 U.S. 1112 (1983); *McDonald* v. *Thompson*, 456 U.S. 981 (1982); *McDonald* v. *Metropolitan Government of Nashville and Davidson County*, 455 U.S. 957 (1982); *McDonald* v. *Tennessee*, 454 U.S. 1088 (1981); *McDonald* v. *Draper*, 452 U.S. 965 (1981); *McDonald* v. *Tennessee*, 450 U.S. 983 (1981); *McDonald* v. *Draper*, 450 U.S. 983 (1981); *McDonald* v. *Metropolitan Airport Authority*, 450 U.S. 1002 (1981); *McDonald* v. *Metropolitan Government of Nashville and Davidson County*, 450 U.S. 933 (1981); *McDonald* v. *United States District Court*, 444 U.S. 900 (1979); *McDonald* v. *Birch*, 444 U.S. 875 (1979); *McDonald* v. *United States District Court* and *McDonald* v. *Yellow Freight Systems, Inc.*, 444 U.S. 875 (1979); *McDonald* v. *Thompson*, 436 U.S. 911 (1978); *McDonald* v. *Tennessee*, 434 U.S. 866 (1977); *McDonald* v. *Davidson County Election Comm'n*, 431 U.S. 958 (1977); *McDonald* v. *Tennessee*, 431 U.S. 933 (1977); *McDonald* v. *Tennessee*, 429 U.S. 1064 (1977); *McDonald* v. *Tennessee*, 425 U.S. 955 (1976); *McDonald* v. *Tennessee*, 423 U.S. 991 (1975); *McDonald* v. *Tennessee*, 416 U.S. 975 (1974); *McDonald* v. *Tennessee*, 415 U.S. 961 (1974); *McDonald* v. *Wellons*, 414 U.S. 1074 (1973); *McDonald* v. *Metro Traffic and Parking Comm'n*, 409 U.S. 1117 (1973); *McDonald* v. *Wellons*, 405 U.S. 928 (1972); *McDonald* v. *Metropolitan Traffic and Parking Comm'n*, 404 U.S. 843 (1971).

3 *In re McDonald*, 488 U.S. 940 (1988) (mandamus and/or prohibition); *In re McDonald*, 488 U.S. 940 (1988) (mandamus and/or prohibition); *In re McDonald*, 488 U.S. 940 (1988) (mandamus and/or prohibition); *In re McDonald*, 488 U.S. 813 (1988) (common law certiorari); *In re McDonald*, 488 U.S. 813 (1988) (common law certiorari); *In re McDonald*, 488 U.S. 813 (1988) (common law certiorari); *In re McDonald*, 485 U.S. 986 (1988) (mandamus); *In re McDonald*, 484 U.S. 812 (1987) (common law certiorari); *In re McDonald*, 484 U.S. 812 (1987) (habeas corpus); *In re McDonald*, 484 U.S. 812 (1987) (common law certiorari and habeas corpus); *In re McDonald*, 479 U.S. 809 (1986) (habeas corpus); *In re McDonald*, 470 U.S. 1082 (1985) (habeas corpus); *In re McDonald*, 464 U.S. 811 (1983) (mandamus and/or prohibition); *McDonald* v. *Leathers*, 439 U.S. 815 (1978) (leave to file petition for writ of mandamus); *McDonald* v. *Thompson*, 434 U.S. 812 (1977) (leave to file petition for writ of habeas corpus); *McDonald* v. *Tennessee*, 430 U.S. 963 (1977) (motion to consolidate and for leave to file petition for writ of habeas corpus); *McDonald* v. *Thompson*, 429 U.S. 1088 (1977) (leave to file petition for writ of habeas corpus and other relief); *McDonald* v. *United States Court of Appeals*, 420 U.S. 922 (1975) (leave to file petition for writ of mandamus); *McDonald* v. *Mott*, 410 U.S. 907 (1973) (leave to file petition for writ of mandamus and other relief).

4 See *McDonald* v. *Metropolitan Government*, 487 U.S. 1230 (1988) (stay); *McDonald* v. *Metropolitan Government of Nashville and Davidson County*, 481 U.S. 1010 (1987) (stay); *McDonald* v. *Alexander*, 458 U.S. 1124 (1982) (injunction); *McDonald* v. *Draper*, 451 U.S. 978 (1981) (stay); *McDonald* v. *Thompson*, 432 U.S. 903 (1977) (application for supersedeas bond); *McDonald* v. *Tennessee*, 429 U.S. 1012 (1976) (stay and other relief); *McDonald* v. *Tennessee*, 415 U.S. 971 (1974) (stay).

5 See *McDonald* v. *Alabama*, 480 U.S. 912 (1987); *In re McDonald*, 479 U.S. 956 (1986); *McDonald* v. *Tennessee*, 475 U.S. 1151 (1986); *In re McDonald*, 471 U.S. 1062 (1985); *McDonald* v. *Leech*, 467 U.S. 1257 (1984); *McDonald* v. *Draper*, 459 U.S. 1229 (1983); *McDonald* v. *Thompson*, 457 U.S. 1126 (1982); *McDonald* v. *Draper*, 451 U.S. 933 (1981); *McDonald* v. *Tennessee*, 425 U.S. 1000 (1976); *McDonald* v. *Tennessee*, 417 U.S. 927 (1974).

6 In the affidavit in support of his present motion to proceed *in forma pauperis*, petitioner states that he earns approximately $ 300 per month, is self-employed, and has less than $ 25 in his checking or savings account. He states that he has no dependents.

The instant petition for a writ of habeas corpus arises from petitioner's 1974 state conviction for obtaining title to a 1972 Ford LTD automobile under false pretenses, for which he was sentenced to three years' imprisonment. Petitioner appealed to the Tennessee Court of Criminal Appeals, which reversed his conviction on the ground that there was no evidence **[*183]** that the alleged victim relied on petitioner's false statements. In January 1976, the Supreme Court of Tennessee reinstated his conviction. *State* v. *McDonald*, 534 S. W. 2d 650. We denied certiorari, 425 U.S. 955, **[***164]** and rehearing, 425 U.S. 1000 (1976).

In the 13 years since his conviction became final, petitioner has filed numerous petitions and motions for relief in this Court and in the Tennessee courts, all of which have been rejected. In the instant petition, for example, he requests that the Court "set aside" his conviction and direct the State to "expunge" the conviction "from all public records." He is not presently incarcerated. He contends that his constitutional rights were violated by the State's failure to prove that the property to which he obtained title under false pretenses was valued at over $ 100, as required by the statute under which he was convicted. Petitioner has put forward this same argument -- unsuccessfully -- in at least four prior filings with the Court, including a petition for mandamus, which was filed 13 days before the instant petition and was not disposed of by the Court until more than a month after this petition was filed. [7]

7 See *In re McDonald*, 488 U.S. 940 (1988) (petition for mandamus and/or prohibition); *In re McDonald*, 484 U.S. 812 (1987) (petition for common law certiorari or habeas corpus); *McDonald* v. *Tennessee*, 475 U.S. 1088, rehearing denied, 475 U.S. 1151 (1986) (petition for certiorari); *In re McDonald*, 479 U.S. 809 (1986) (petition for habeas corpus).

[996]** Title 28 U. S. C. § 1915 provides that [HN1] "[a]ny court of the United States *may* authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees and costs or security therefor." (Emphasis added.) As permitted under this statute, we have adopted Rule 46.1, which provides that [HN2] "[a] party desiring to proceed in this Court *in forma pauperis* shall file a motion for leave to so proceed, together with his affidavit in the form prescribed in Fed. Rules App. Proc., Form 4 . . . setting forth with particularity facts **[*184]** showing that he comes within the statutory requirements." Each year, we permit the vast majority of persons who wish to proceed *in forma pauperis* to do so; last Term, we afforded the privilege of proceeding *in forma pauperis* to about 2,300 persons. Paupers have been an important -- and valued -- part of the Court's docket, see, *e. g., Gideon* v. *Wainwright*, 372 U.S. 335 (1963), and remain so.

[*LEdHR1B]** [1B]But [HN3] paupers filing *pro se* petitions are not subject to the financial considerations -- filing fees and attorney's fees -- that deter other litigants from filing frivolous petitions. Every paper filed with the Clerk of this Court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of the Court's responsibility is to see that these resources are allocated in a way that promotes the interests of justice. The continual processing of petitioner's frivolous requests for extraordinary writs does not promote that end. Although we have not done so previously, lower courts have issued orders intended to curb serious abuses by persons **[***165]** proceeding *in forma pauperis*. [8] Our order here prevents petitioner from proceeding *in forma pauperis* when seeking extraordinary writs from the Court. [9] It is perhaps worth noting that we have not granted the sort of extraordinary writ relentlessly sought by petitioner to any litigant -- paid or *in forma pauperis* -- for at least a decade. **[*185]** We have emphasized that [HN4] extraordinary writs are, not surprisingly, "drastic and extraordinary remedies," to be "reserved for really extraordinary causes," in which "appeal is clearly an inadequate remedy." *Ex parte Fahey*, 332 U.S. 258, 259, 260 (1947).

8 See, *e. g., Procup* v. *Strickland*, 792 F. 2d 1069 (CA11 1986); *Peck* v. *Hoff*, 660 F. 2d 371 (CA8 1981); *Green* v. *Carlson*, 649 F. 2d 285 (CA5 1981); cf. *In re Martin-Trigona*, 737 F. 2d 1254, 1261 (CA2 1984) ("Federal courts have both the inherent power and constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions").

[*LEdHR1C]** [1C]

9 Petitioner has repeatedly ignored the letter and spirit of this Court's Rule 26, which provides in part that, [HN5] "[t]o justify the granting of [an extraordinary writ], it must be shown that the writ will be in aid of the Court's appellate jurisdiction, that there are present exceptional circumstances warranting the exercise of the Court's discretionary powers, and that adequate relief cannot be had in any other form or from any other court."

[*LEdHR2]** [2]Petitioner remains free under the present order to file *in forma pauperis* requests for relief other than an extraordinary writ, if he qualifies under this Court's Rule 46 and does not similarly abuse that privilege.

It is so ordered.

DISSENT BY: BRENNAN

DISSENT

JUSTICE BRENNAN, with whom JUSTICE MARSHALL, JUSTICE BLACKMUN, and JUSTICE STEVENS join, dissenting.

In the first such act in its almost 200-year history, the Court today bars its door to a litigant prospectively. Jessie McDonald may well have abused his right to file petitions in this Court without payment of the docketing fee; the Court's order documents that fact. I do not agree, however, that he poses such a threat to the orderly administration of justice that we should embark on the unprecedented and dangerous course the Court charts today.

The Court's denial not just of McDonald's present petition but also of his right to file for extraordinary writs *in forma* **[**997]** *pauperis* in the future is, first of all, of questionable legality. The federal courts are authorized by 28 U. S. C. § 1915

to permit filings *in forma pauperis*. The statute is written permissively, but it establishes a comprehensive scheme for the administration of *in forma pauperis* filings. Nothing in it suggests we have any authority to accept *in forma pauperis* pleadings from some litigants but not from others on the basis of how many times they have previously sought our review. Indeed, if anything, the statutory language forecloses the action the Court takes today. Section 1915(d) explains the circumstances in which an *in forma pauperis* pleading may be dismissed as follows: a court "may dismiss *the case* if **[*186]** the allegation of poverty is untrue, or if satisfied that the action is frivolous or malicious." (Emphasis added.) This language suggests an individualized assessment of frivolousness **[***166]** or maliciousness that the Court's prospective order precludes. As one lower court has put it, a court's discretion to dismiss *in forma pauperis* cases summarily "is limited . . . in every case by the language of the statute itself which restricts its application to complaints *found to be* frivolous or malicious." *Sills* v. *Bureau of Prisons*, 245 U. S. App. D. C. 389, 391, 761 F. 2d 792, 794 (1985) (emphasis added). Needless to say, the future petitions McDonald is barred from filing have not been "found to be" frivolous. Even a very strong and well-founded belief that McDonald's future filings will be frivolous cannot render a before-the-fact disposition compatible with the individualized determination § 1915 contemplates.

This Court's Rule 46 governs our practice in cases filed *in forma pauperis*. No more than § 1915 does it grant us authority to disqualify a litigant from future use of *in forma pauperis* status. Indeed, Rule 46.4 would seem to forbid such a practice, for it specifies that when the filing requirements described by Rule 46 are complied with, the Clerk "will file" the litigant's papers "and place the case on the docket." Today we order the Clerk to refuse to do just that. Of course we are free to amend our own rules should we see the need to do so, but until we do we are bound by them.

Even if the legality of our action in ordering the Clerk to refuse future petitions for extraordinary writs *in forma pauperis* from this litigant were beyond doubt, I would still oppose it as unwise, potentially dangerous, and a departure from the traditional principle that the door to this courthouse is open to all.

The Court's order purports to be motivated by this litigant's disproportionate consumption of the Court's time and resources. Yet if his filings are truly as repetitious as it appears, it hardly takes much time to identify them as such. **[*187]** I find it difficult to see how the amount of time and resources required to deal properly with McDonald's petitions could be so great as to justify the step we now take. Indeed, the time that has been consumed in the preparation of the present order barring the door to Mr. McDonald far exceeds that which would have been necessary to process his petitions for the next several years at least. I continue to find puzzling the Court's fervor in ensuring that rights granted to the poor are not abused, even when so doing actually *increases* the drain on our limited resources. Cf. *Brown* v. *Herald Co.*, 464 U.S. 928 (1983) (Brennan, J., dissenting). Today's order makes sense as an efficiency measure only if it is merely the prelude to similar orders in regard to other litigants, or perhaps to a generalized rule limiting the number of petitions *in forma pauperis* an individual may file. Therein lies its danger.

The Court's order itself seems to indicate that further measures, at least in regard to this litigant, may be forthcoming. It notes that McDonald remains free to file *in forma pauperis* for relief other than extraordinary writs, if he "does not similarly abuse that privilege." *Ante*, at 185. But if we have found his 19 petitions for extraordinary **[**998]** writs abusive, how long will it be until we conclude that his *33* petitions for certiorari are similarly abusive and bar that door **[***167]** to him as well? I am at a loss to say why, logically, the Court's order is limited to extraordinary writs, and I can only conclude that this order will serve as precedent for similar actions in the future, both as to this litigant and to others.

I doubt -- although I am not certain -- that any of the petitions Jessie McDonald is now prevented from filing would ultimately have been found meritorious. I am most concerned, however, that if, as I fear, we continue on the course we chart today, we will end by closing our doors to a litigant with a meritorious claim. It is rare, but it does happen on occasion that we grant review and even decide in favor of a litigant who previously had presented multiple unsuccessful **[*188]** petitions on the same issue. See, *e. g.*, *Chessman* v. *Teets*, 354 U.S. 156 (1957); see *id.*, at 173-177 (Douglas, J., dissenting).

This Court annually receives hundreds of petitions, most but not all of them filed *in forma pauperis*, which raise no colorable legal claim whatever, much less a question worthy of the Court's review. Many come from individuals whose mental or emotional stability appears questionable. It does not take us long to identify these petitions as frivolous and to reject them. A certain expenditure of resources is required, but it is not great in relation to our work as a whole. To rid itself of a small portion of this annoyance, the Court now needlessly departs from its generous tradition and improvidently sets sail on a journey whose landing point is uncertain. We have long boasted that our door is open to all. We can no longer.

For the reasons stated in *Brown* v. *Herald Co., supra*, I would deny the petition for a writ of habeas corpus without reaching the merits of the motion to proceed *in forma pauperis*. For the reasons stated above, I dissent from the Court's order directing the Clerk not to accept future petitions *in forma pauperis* for extraordinary writs from this petitioner.

REFERENCES

When will Supreme Court restrict litigant's right to file future in forma pauperis proceedings in Supreme Court

4 Am Jur 2d, Appeal and Error 349; 32 Am Jur 2d, Federal Practice and Procedure 222, 242, 253

2 Federal Procedure, L Ed, Appeal, Certiorari, and Review 3:231, 3:249; 16 Federal Procedure, L Ed, Habeas Corpus 41:39, 41:606

2 Federal Procedural Forms, L Ed, Appeal, Certiorari, and Review, 3:413-3:426, 3:428, 3:429; 10 Federal Procedural Forms, L Ed, Habeas Corpus, 36:132, 36:133

11A Am Jur Pl & Pr Forms (Rev), Federal Practice and Procedure, Form 2398; 13 Am Jur Pl and Pr Forms (Rev), Habeas Corpus, Form 43.2

USCS Court Rules, United States Supreme Court Rules, Rule 26

US L Ed Digest, Supreme Court of the United States 71

Index to Annotations, Supreme Court of the United States

Annotation References:

Supreme Court's construction and application of 28 USCS 2254(d), which provides that in federal habeas corpus proceedings, state court's factual determinations must be presumed to be correct. 88 L Ed 2d 963.

Indigent's federal constitutional right to maintain judicial proceedings without prepayment of court costs or fees-- Supreme Court cases. 35 L Ed 2d 834.

Federal procedure: trial court's certification that appeal is not taken in good faith as affecting right to appeal in forma pauperis. 1 L Ed 2d 1964, 8 L Ed 2d 843.

Abuse of writ as basis for dismissal of state prisoner's second or successive petition for federal habeas corpus. 60 ALR Fed 481.

Standards for determining whether proceedings in forma pauperis are frivolous and thus subject to dismissal under 28 USCS 1915(d). 52 ALR Fed 679.

1 of 1 DOCUMENT

CHESSMAN v. TEETS, WARDEN

No. 893

SUPREME COURT OF THE UNITED STATES

354 U.S. 156; 77 S. Ct. 1127; 1 L. Ed. 2d 1253; 1957 U.S. LEXIS 732

May 13, 1957, Argued
June 10, 1957, Decided

PRIOR HISTORY: CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT.

DISPOSITION: 239 F.2d 205, judgment vacated and cause remanded.

CASE SUMMARY:

PROCEDURAL POSTURE: Petitioner sought review of a judgment of the United States Court of Appeals for the Ninth Circuit, which affirmed the district court's denial of petitioner's application for a writ of habeas corpus.

OVERVIEW: Petitioner was convicted in state court of a series of felonies and sentenced to death. After the trial was concluded, the official court reporter suddenly died, having completed the dictation of what later turned out to be 646 out of 1,810 pages of the trial transcript. A substitute reporter was employed to finish the transcription, and the state trial court settled the record through proceedings at which petitioner was not represented in person or by counsel. The state supreme court affirmed the conviction upon the disputed record. In the habeas corpus proceeding before the district court, it was revealed that the substitute reporter worked in close collaboration with the prosecutor, went over his transcription with police officers who testified for the State, and destroyed a rough draft that petitioner had sought to obtain. On review, the Court held that the ex parte settlement of the trial record violated petitioner's Fourteenth Amendment right to procedural due process. Because the state courts had denied petitioner's request to appear at the settlement proceedings in propria persona, it became incumbent on the state courts to appoint counsel for petitioner.

OUTCOME: The Court vacated the judgments of the lower federal courts and remanded the case to the district court with instructions to allow the State a reasonable time within which to take further proceedings not inconsistent with the Court's opinion, failing which petitioner was to be discharged.

CORE TERMS: settlement, reporter, reconstructed, writ of habeas corpus, inaccuracy, accuracy, confession, transcription, prosecutor, habeas corpus, certificate of probable cause, transcribed, preparation, omission, process of law, trial transcript, automatic appeal, new trial, prejudicial, corrections, discharged, convicted, distorted, adequacy, deputy, parte, state law, petitioner's conviction, capital cases, trial proceedings

LexisNexis(R) Headnotes

Constitutional Law > Bill of Rights > Fundamental Rights > Procedural Due Process > Scope of Protection
Criminal Law & Procedure > Appeals > Procedures > Records on Appeal
[HN1] Consistent with procedural due process, a state court's affirmance of a petitioner's conviction upon a seriously disputed record, whose accuracy the petitioner has had no voice in determining, cannot be allowed to stand.

Constitutional Law > Bill of Rights > Fundamental Rights > Procedural Due Process > Scope of Protection
[HN2] The requirements of the Due Process Clause of the Fourteenth Amendment must be respected, no matter how heinous the crime in question and no matter how guilty an accused may ultimately be found to be after guilt has been established in

EXHIBIT 56

accordance with the procedure demanded by the Constitution. The overriding responsibility of the Supreme Court of the United States is to the Constitution of the United States, no matter how late it may be that a violation of the Constitution is found to exist. The Court may not disregard the Constitution because an appeal has been made on the eve of execution. The Court must be deaf to all suggestions that a valid appeal to the Constitution, even by a guilty man, comes too late, because courts, including the Supreme Court, were not earlier able to enforce what the Constitution demands.

SUMMARY: Petitioner was convicted in a state court of several offenses, including capital offenses. Shortly after the conclusion of the trial, the court reporter died without having completed transcription of a substantial part of his shorthand notes. A substitute reporter, a relative by marriage of the prosecutor, completed the transcription in collaboration with the prosecutor and police officers who had been witnesses at the trial. The record was settled in proceedings in which the petitioner was not represented either in person or by counsel. Upon this record the Supreme Court of California affirmed the conviction. Petitioner's previous repeated efforts to have the affirmance of his conviction invalidated remained unsuccessful.

The present proceeding was commenced by an application for habeas corpus filed by petitioner in the United States District Court for the Northern District of California. The District Court dismissed the application without a hearing (128 F Supp 600) and the United States Court of Appeals for the Ninth Circuit affirmed (221 F2d 276). The Supreme Court of the United States reversed and remanded the case to the District Court for a hearing (350 US 3, 100 L ed 4, 76 S Ct 34). The District Court, after a hearing, again denied the application (138 F Supp 761), and the Court of Appeals again affirmed, one of the judges dissenting (239 F2d 205).

On certiorari, the Supreme Court vacated the judgments below. In an opinion by Harlan, J., expressing the views of five members of the Court, it was held that under the circumstances described above the ex parte settlement of the record violated petitioner's constitutional rights to procedural due process.

Douglas, J., with the concurrence of Clark, J., while agreeing with the general principle announced by the Court, dissented on the ground that it was misapplied in the present case, the petitioner having played an active role in the process of the settlement of the record.

Burton, J., dissented on the ground that, upon consideration of all the circumstances, the petitioner had been accorded due process.

Warren, Ch. J., did not participate.

LAWYERS' EDITION HEADNOTES:

[*LEdHN1]**

CONSTITUTIONAL LAW §850

CRIMINAL LAW §46.5

due process -- right of appeal -- record -- appointment of counsel. --

Headnote:[1]

Although at a state trial for a capital offense the defendant insisted upon defending himself and repeatedly refused the trial court's offer of counsel, his constitutional right to procedural due process is violated where the death of the court reporter, shortly after conclusion of the trial court, made it necessary to have the greater part of his shorthand notes transcribed by a substitute reporter; the substitute reporter, an uncle by marriage of the prosecutor, worked in close collaboration with the prosecutor and police officers who were witnesses at the trial and destroyed the rough draft of his transcription which defendant sought to obtain during the proceedings for the settlement of the record, and this record, the basis of defendant's automatic appeal to the highest state court, was settled in proceedings in which the defendant was not represented in person or by counsel, it being immaterial that the record as settled was not shown to be tainted with fraud; if the state chooses to deny defendant's request to appear personally in these proceedings, it becomes incumbent on the state to appoint counsel for him.

[*LEdHN2]**

CRIMINAL LAW §46.7

right to counsel -- waiver. --

Headnote:[2]

A defendant's refusal to be represented by counsel at the trial for a capital offense does not constitute a waiver of his right to counsel at proceedings for the settlement of the trial record made necessary by the death, before full transcription, of the official court reporter.

[*LEdHN3]**

APPEAL §1427

CONSTITUTIONAL LAW §850

cure of error -- procedural due process -- right of appeal -- settling record. --

Headnote:[3]

Lack of procedural due process in state criminal proceedings resulting from the fact that one convicted of a capital offense was not represented either in person or by counsel throughout proceedings for the settlement of the trial record, made necessary by the death of the court reporter prior to full transcription of his shorthand notes, is not cured by the fact that the defendant, in federal habeas corpus proceedings brought by him for the purpose of challenging the affirmance of his conviction upon the settled record, was both represented by counsel and personally present.

[*LEdHN4]**

APPEAL §1474

review of findings -- habeas corpus. --

Headnote:[4]

In reviewing a judgment of a federal District Court denying an application for habeas corpus made by one convicted in a state court of a capital offense and challenging the affirmance of this conviction by the highest state court on the ground that it was based on a fraudulent record, the Supreme Court will accept the District Court's finding that there was no fraud.

[*LEdHN5]**

CONSTITUTIONAL LAW §850

due process -- accused's right of appeal -- settlement of record. --

Headnote:[5]

Consistent with procedural due process, a state court's affirmance of a defendant's conviction of a capital offense upon a seriously disputed record, whose accuracy he has had no voice in determining, cannot be allowed to stand, even though the state court held that the record was adequate as a matter of state law and that, in any event, the inaccuracies claimed by the defendant would not have changed the result of his appeal; this is particularly so where the state court was not aware of facts, later developed in federal habeas corpus proceedings, which have a bearing on the adequacy of the record.

[*LEdHN6]**

APPEAL §910.8

denial of certiorari. --

Headnote:[6]

Previous denials of certiorari by the Supreme Court do not foreclose it from granting appropriate relief.

[*LEdHN7]**

CONSTITUTIONAL LAW §831

due process -- criminal procedure. --

Headnote:[7]

The requirements of the due process clause of the Fourteenth Amendment must be respected, no matter how heinous the crime in question and no matter how guilty an accused may ultimately be found to be after guilt has been established in accordance with the procedure demanded by the Federal Constitution.

[*LEdHN8]**

CONSTITUTIONAL LAW §1

CRIMINAL LAW §46

duty of Supreme Court. --

Headnote:[8]

The overriding responsibility of the Supreme Court is to the Constitution of the United States, no matter how late it may be that a violation thereof is found to exist; the Court may not disregard the Constitution because an appeal has been made on the eve of execution of a death sentence, or because courts, including the Supreme Court, were not earlier able to enforce what the Constitution demands.

[*LEdHN9]**

HABEAS CORPUS §124

discharge -- denial of due process -- settling record. --

Headnote:[9]

In federal habeas corpus proceedings in which it is shown that petitioner's conviction was affirmed by a state court upon a record not settled in accordance with procedural due process, his discharge is not to be ordered without affording the state an opportunity to review his conviction upon a record the sufficiency of which has been litigated in accordance with due process.

[*LEdHN10]**

HABEAS CORPUS §124

federal court -- remand to state court. --

Headnote:[10]

In federal habeas corpus proceedings in which it is shown that a petitioner's conviction was affirmed by a state court upon a record not settled in accordance with procedural due process, it is not for the District Court to inquire into the accuracy of the record, the task of affording petitioner a further review of his conviction upon a properly settled record being necessarily one for the state courts.

[*LEdHN11]**

APPEAL §1688

remand -- federal habeas corpus -- state proceedings. --

Headnote:[11]

The Supreme Court, after concluding in federal habeas corpus proceedings that a state court's affirmance of petitioner's conviction cannot stand because based upon a seriously disputed record settled in proceedings in which he was not represented, will vacate the judgments of the courts below denying relief and remand the case to the District Court with instructions to enter such orders as may be appropriate to allow the state a reasonable time within which to afford petitioner a further review upon a properly settled record, failing which he should be discharged.

SYLLABUS

In a State Court, petitioner was convicted of a capital offense. The official court reporter of the trial proceedings died before his notes were transcribed, and they were transcribed by a substitute reporter, who worked in close collaboration with the prosecutor. Though a copy of the transcript was furnished to petitioner and many, but not all, corrections which he requested were made, he was not represented in person or by counsel when the trial record was settled, and it was used over his objection on his appeal, at which his conviction was affirmed. In a habeas corpus proceeding, a Federal District Court found that there was no fraud in the preparation of the record, and it dismissed the writ. *Held*: In the circumstances of this case, the *ex parte* settlement of the record violated petitioner's right to procedural due process under the Fourteenth Amendment. Pp. 157-166.

(a) Petitioner was entitled to be represented either in person or by counsel throughout the proceedings for the settlement of the trial record. P. 162.

(b) Petitioner's refusal to be represented by counsel at the trial did not constitute a waiver of his right to counsel at the settlement proceedings. P. 162.

(c) The hearings before a federal judge in the habeas corpus proceedings, at which petitioner was personally present and represented by counsel, did not cure the lack of procedural due process in the state proceedings. P. 163.

(d) Consistently with procedural due process, the State Supreme Court's affirmance of petitioner's conviction upon a seriously disputed record, whose accuracy petitioner had no voice in determining, cannot be allowed to stand. Pp. 164-165.

(e) A valid appeal to the Constitution, even by a guilty man, does not come too late because courts were not earlier able to enforce what the Constitution demands. P. 165.

(f) The judgments of the Federal District Court and Court of Appeals are vacated, and the case is remanded to the District Court for entry of such orders as may be appropriate allowing the State a reasonable time within which to take further proceedings not inconsistent with this Court's opinion, failing which petitioner shall be discharged. P. 166.

COUNSEL: George T. Davis argued the cause for petitioner. With him on the brief was Rosalie S. Asher.

William M. Bennett, Deputy Attorney General of California, argued the cause for respondent. With him on the brief were Edmund G. Brown, Attorney General, Arlo E. Smith, Deputy Attorney General, and Clarence A. Linn, Assistant Attorney General.

JUDGES: Black, Frankfurter, Douglas, Burton, Clark, Harlan, Brennan, Whittaker; Warren took no part in the consideration or decision of this case.

OPINION BY: HARLAN

OPINION

[*157] [*1256] [**1128]** MR. JUSTICE HARLAN delivered the opinion of the Court.

Our writ of certiorari in this case was limited to the following question:

"whether, in the circumstances of this case, the state court proceedings to settle the trial transcript, upon which petitioner's automatic appeal from his conviction was necessarily heard by the Supreme Court of the State of California, in which trial court proceedings petitioner allegedly was not represented in person or by counsel designated by the state court in his behalf, resulted in denying petitioner due process of law, within the meaning of the Fourteenth Amendment to the Constitution of the United States." 353 U.S. 928.

We believe that a mere statement of the facts in this long-drawn-out criminal litigation, material to the issue now before us, will suffice to show why we have reached the conclusion that the judgment of the Court of Appeals, affirming by a divided court [1] discharge of the writ of **[*158]** habeas corpus herein, must be vacated, and the case remanded for further proceedings.

1 239 F.2d 205. Chief Judge Denman dissented.

In May 1948, petitioner, following a trial by jury in the Superior Court of Los Angeles County, was convicted of a series of felonies under a multi-count indictment, and was sentenced to death upon two counts charging him with kidnaping for the purpose of robbery, with infliction of bodily harm, in violation of § 209 of the California Penal Code. In capital cases California provides that "an appeal is automatically taken by the defendant without any action by him or his counsel," [2] and that in such cases "the entire record of the action shall be **[**1129]** prepared." [3] The Supreme Court of the State of California affirmed petitioner's conviction by a divided court. 38 Cal. 2d 166, 238 P. 2d 1001.

2 West's Ann. Cal. Codes, Penal Code, § 1239 (b).

3 California Rules on Appeal, Rule 33 (c), 36 Cal. 2d 28.

At the trial petitioner insisted upon defending himself, and repeatedly refused the trial court's offer of counsel, although he did have at his disposal the services of a deputy public defender, who acted as his "legal adviser" and was present at the counsel table throughout the trial. About a month after the conclusion of the trial, the official court reporter of the trial proceedings suddenly died, having at that time completed the dictation into a recording machine of what later turned out to be 646 out of 1,810 pages of the trial transcript. Following the denial of petitioner's motion in the Superior Court for a new trial, [4] there ensued the preparation and settlement of the trial transcript constituting the appellate record upon **[*159]** which the California Supreme Court subsequently heard petitioner's appeal. It is the circumstances under which this transcript was prepared and settled that give **[***1257]** rise to the issue now confronting us.

4 Where the making of a transcript of a *civil* trial becomes impossible by reason of the death or disability of the court reporter, the California statutes empower the trial judge to set aside the judgment and order a new trial. West's Ann. Cal. Codes, Code Civ. Proc., § 953e. The California Penal Code, however, contains no comparable provision.

At the instance of the deputy district attorney in charge of the case, and with the approval of the trial judge, one Stanley Fraser, a court reporter and former colleague of the deceased reporter, Perry, was employed in September 1948 to transcribe the uncompleted portion of Perry's shorthand notes, amounting to 1,164 pages as finally transcribed. In November 1948 petitioner unsuccessfully sought to have the California Supreme Court halt the preparation of the transcript on the ground that Perry's notes could not be transcribed with reasonable accuracy. [5] Fraser accordingly went forward with the work, and was occupied with it over the next several months. A "rough" draft of the transcript was submitted to the trial judge in February 1949, but was not made available to petitioner, although he had requested that it be furnished him. After this draft had been gone over by the deputy district attorney, it was filed with the judge in final form on April 11, 1949, and a copy was then sent to the petitioner at San Quentin **[*160]** Prison. Thereafter petitioner sent to the trial judge a list of some 200 corrections to the transcript, and at the same time moved that

"a hearing be ordered . . . to enable [petitioner] to determine actually the ability of Mr. Fraser to read Mr. Perry's notes, and to enable the [petitioner] to offer a showing this is not, and challenge it as, a usable transcript, and to enable [petitioner] to point out to the court the many inaccuracies and omissions in this transcript, to prove these inaccuracies and omissions, and for the court to determine these matters . . . ."

In these papers petitioner further stated that he had "not yet had the opportunity **[**1130]** to confer with his legal advisor

during the trial and consequently has been hesitant to offer error in certain instances until he has verified this error with his legal advisor."

5 On September 16, 1948, when the appointment of the substitute stenographer was under consideration, the Chairman of the Executive Committee of the Los Angeles Superior Court Reporters' Association wrote the Board of Supervisors respecting the matter, as follows: "We believe the purported charge against the county is not only an exorbitant one per se, but will reflect further adverse publicity upon our group because we have serious doubts that any reporter will be able to furnish a usable transcript of said shorthand notes. Other reporters of our number have examined and studied Mr. Perry's notes and have reached the conclusion that many portions of the same will be found completely indecipherable because, toward the latter part of each court session, Mr. Perry's notes show his illness. We feel that this should be brought to your attention."

Petitioner's motion was denied and the matter continued to proceed on an *ex parte* basis to final conclusion. At hearings held on June 1, 2, and 3, 1949, in which petitioner was not represented in person or by an attorney, the trial judge, after hearing Fraser's testimony as to the accuracy of his transcription and allowing some 80 of the corrections listed by petitioner, settled the record upon which petitioner's automatic appeal was to be heard. Thereafter petitioner made a motion in the California Supreme Court attacking the adequacy of these settlement proceedings, complaining, among other things, that he had not been permitted to appear at such proceedings. While that motion was pending, on August 18, 1949, a further hearing was held before the trial judge with reference to the settlement of the record, at which two witnesses were **[***1258]** examined. Again, petitioner was not represented at this hearing either in person or by counsel. The **[*161]** sufficiency of the record, as thus settled, was upheld by the California Supreme Court, first upon the motion just mentioned, 35 Cal. 2d 455, 218 P. 2d 769, and subsequently upon petitioner's appeal from his conviction, 38 Cal. 2d 166, 238 P. 2d 1001.

On October 17, 1955, this Court, reversing the Court of Appeals, remanded to the District Court for a hearing petitioner's application for a writ of habeas corpus, charging fraud in the preparation of the state court record, which had been summarily dismissed by the District Court. 350 U.S. 3. [6] This resulted in the judgment which is now before us. The District Court held that no fraud had been shown. The record of proceedings held before District Judge Goodman reveals the following additional facts as to the preparation of the state court record, none of which appear to be disputed by the State, which has been ably and conscientiously represented here: Fraser, the substitute reporter, was an uncle by marriage of the deputy district attorney in charge of this case, a fact of which neither the state trial court nor the appellate court was aware when it approved the transcript. In preparing the transcript, Fraser worked in close collaboration with the prosecutor, and also went over with two police officers, who testified for the State at the trial, his transcription of their testimony. The latter episodes were likewise unknown to the state courts when they approved the transcript. The testimony of one of these officers concerned petitioner's alleged confession, a subject of dispute at the trial, and petitioner's list of alleged inaccuracies, already mentioned, related to some of that testimony. It also appeared at this hearing that Fraser had destroyed the "rough" draft of his transcription **[*162]** which petitioner had sought to obtain during the settlement proceedings. [7]

6 On five previous occasions, this Court had denied petitions for certiorari filed by this petitioner. See note 13, *infra*.

7 Petitioner alleges that there were other relevant circumstances that should have been explored in the state settlement proceedings, but could not, he asserts, be proved in the hearings before Judge Goodman because of inability to secure records and the attendance of witnesses from outside the Northern District of California.

[*LEdHR1]** [1] **[***LEdHR2]** [2]Under the circumstances which have been summarized, we must hold that the *ex parte* settlement of this state court record violated petitioner's constitutional right to procedural due process. We think the petitioner was entitled to be represented throughout those proceedings either in person or by counsel. See *Powell* v. *Alabama*, 287 U.S. 45, 68; **[**1131]** *Snyder* v. *Massachusetts*, 291 U.S. 97, 105; compare *Dowdell* v. *United States*, 221 U.S. 325, 331; *Schwab* v. *Berggren*, 143 U.S. 442, 449; see also *Cole* v. *Arkansas*, 333 U.S. 196, 201. If California chose to deny petitioner's request to appear in those proceedings *in propria persona*, it then became incumbent on the State to appoint counsel for him. Cf. *Powell* v. *Alabama*, *supra*. We cannot agree that petitioner's refusal to be represented by counsel at the trial constituted a waiver of his right to counsel at the settlement proceedings. [8] **[***1259]** Moreover, it is at least doubtful whether, as a matter of due process, any such waiver would be effective to relieve the trial judge of a duty to appoint counsel for petitioner in connection with the settlement of this record, which was a necessary [9] and integral part **[*163]** of the compulsory appeal provided by California in capital cases. [10] We need not decide that question, however, for the record fails to show that petitioner ever waived his right to counsel in connection with the settlement of the appellate record.

8 The following statement of the petitioner at the trial, quoted in the State's present brief, hardly supports the claim of such a continuing waiver: "I wish to point out that it is my intention . . . at this time [to represent myself] and to continue to do so until such time as it is legally established that I am not qualified to do so, and that I will not accept a court-appointed attorney." *See Johnson* v. *Zerbst*, 304 U.S. 458, 464.

9 See note 3, *supra*. In granting a certificate of probable cause for appeal to the Court of Appeals in the present proceeding, Chief Judge Denman noted: "How important the California law regards this transcription [of the trial proceedings] and certification [as to its correctness] by the reporter is apparent from the fact that in *civil* cases the death of the reporter before his transcription and certification, gives the trial court the discretionary power to set aside the judgment and order a new trial. California Code of Civil Procedure, § 953e. By some quirk in California legislation this does not apply to criminal cases. However, it is obvious that if the reporter's transcript is so important as to give the court such power in a civil case, *a fortiori* it must have such importance in a criminal case in which, on the evidence to be transcribed, the accused is sentenced to death. Likewise its importance is emphasized by the California law making the appeal automatic from death sentences. California Penal Code, § 1239 (b)." *In re Chessman*, 219 F.2d 162, 164.

10 See note 2, *supra*. Counsel for the petitioner, whose representations in this regard were not challenged by the State, informed us on the oral argument that the California Supreme Court customarily appoints counsel for the defendant when he is not otherwise represented by counsel on an automatic appeal.

[*LEdHR3]** [3] **[***LEdHR4]** [4]Nor can we regard the hearings before Judge Goodman, at which petitioner was both represented by counsel and personally present, as curing the lack of procedural due process in the state proceedings. Judge Goodman considered that our order of October 17, 1955, restricted the inquiry before him to the issue of whether the settlement of the state court record had been tainted by fraud, and that the accuracy of the record, as such, was not an issue in this proceeding. [11] We accept fully Judge Goodman's **[*164]** finding that there was no fraud. Even so, the fact remains that the petitioner has never had his day in court upon the controversial issues of fact and law involved in the settlement of the record upon which his conviction was affirmed.

11 Judge Goodman did state, however, that he found petitioner's claims with respect to certain alleged prejudicial comments by the trial judge and the prosecutor to be without foundation. In the context of the limited issue with which the judge was here concerned, we should be slow to regard these "findings" as possessing the same conclusiveness as if they had been made in a proceeding where the accuracy of the record, as such, was in issue.

[1132]** **[***LEdHR5]** [5] **[***LEdHR7]** [7] **[***LEdHR8]** [8]By no means are we to be understood as saying that the state record has been shown to be inaccurate or incomplete. All we hold is that, [HN1] consistently with procedural due process, California's affirmance of petitioner's conviction upon a seriously disputed record, whose accuracy petitioner has had no voice in determining, cannot be allowed to stand. [12] Without **[***1260]** blinking the fact that the history of this case presents a sorry chapter in the annals of delays in the administration of criminal justice, [13] we cannot allow that circumstance to deter us from withholding **[*165]** relief so clearly called for. [14] On many occasions this Court has found it necessary to say that [HN2] the requirements of the Due Process Clause of the Fourteenth Amendment must be respected, no matter how heinous the crime in question and no matter how guilty an accused may ultimately be found to be after guilt has been established in accordance with the procedure demanded by the Constitution. Evidently it also needs to be repeated that the overriding responsibility of this Court is to the Constitution of the United States, no matter how late it may be that a violation of the Constitution is found to exist. This Court may not disregard the Constitution because an appeal in this case, as in others, has been made on the eve of execution. We must be deaf to all suggestions that a valid appeal to the Constitution, even by a guilty man, comes too late, because courts, including this Court, were not earlier able to enforce what the Constitution demands. The proponent before the Court is not the petitioner but the Constitution of the United States.

12 In view of our holding we cannot regard ourselves as concluded by the California Supreme Court's holdings that the record on which it acted was adequate as a matter of state law, and that, in any event, the inaccuracies then claimed by the petitioner would not have changed the result of his appeal. Petitioner is entitled to have his conviction reviewed upon a record which has been settled in accordance with procedural due process. Moreover, in holding as it did the state court was not aware of the facts later developed in hearings before Judge Goodman, see p. 161, *supra*, and we cannot know that those facts, and others that might be disclosed upon an adversary hearing focused squarely on the adequacy of the transcript, would not lead it to a different conclusion.

[*LEdHR6]** [6]

13 Certainly this Court's previous denials of certiorari, 340 U.S. 840; 341 U.S. 929; 343 U.S. 915; 346 U.S. 916; 348 U.S. 864, do not foreclose us from now granting appropriate relief. *Brown* v. *Allen*, 344 U.S. 443. And it may be noted that it was not until the present proceedings in the District

Court that the facts surrounding the settlement of the state court record were fully developed.

14 In *Mooney* v. *Holohan*, 294 U.S. 103, this Court did not hesitate to deal with a claimed denial of constitutional rights some 18 years after the petitioner had been convicted in a state court. See also *Price* v. *Johnston*, 334 U.S. 266, 291.

[*LEdHR9]** [9] **[***LEdHR10]** [10] **[***LEdHR11]** [11]We have given careful consideration to the nature of the relief to be granted. Petitioner's discharge is not to be ordered without affording California an opportunity to review his conviction upon a record the sufficiency of which has been litigated in proceedings satisfying the requirements of procedural due process. Nor do we think it will do simply to remand the case to the District Court for an inquiry into the accuracy of the record upon which the California Supreme Court has already acted. The task of affording petitioner a further review of his conviction upon a properly settled record is necessarily one for the state courts. A federal court **[*166]** is in no such position as the state courts are to determine what inaccuracies or other facts might be decisive under state law, particularly in view of the unusual character of the issues here involved. We conclude, therefore, that **[**1133]** our proper course is to vacate the judgments of the Court of Appeals and the District Court and to remand the case to the District Court, with instructions to enter **[***1261]** such orders as may be appropriate to allow California a reasonable time within which to take further proceedings not inconsistent with this opinion, failing which the petitioner shall be discharged. Cf. *Dowe* v. *United States*, 340 U.S. 206, 209-210.

It is so ordered.

MR. JUSTICE BURTON dissents because he believes that, upon consideration of all the circumstances of this case, the State of California has accorded to this petitioner due process of law within the meaning of the Constitution of the United States.

THE CHIEF JUSTICE took no part in the consideration or decision of this case.

DISSENT BY: DOUGLAS

DISSENT

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE CLARK concurs, dissenting.

I agree with the general principle announced by the Court. But I think it is misapplied here. Its application to the facts results, I fear, in a needless detour in a case already long-drawn-out by many appeals. [1]

1 See the Appendix to this opinion, *post*, p. 173.

I agree that in a case like this it matters not whether the petitioner is guilty or innocent, whether his complaint is timely or tardy. We should respect a man's constitutional right whenever or however it is presented to us. My difficulty here is not with any principle the Court **[*167]** announces. My dissent is based on the conviction that, in substance, the requirements of due process have been fully satisfied, that to require more is to exalt a technicality.

To say that the settlement in this case was *ex parte* is to be technically accurate. But it is not to state the whole story. Chessman was not present in court when the record was settled. Nor was he represented there by a lawyer, for he had over and again refused to allow a state-appointed lawyer to represent him. Chessman, however, played an active role in the process of the settlement of the record. The early draft prepared by Fraser, the new reporter, was sent to him for his suggestions. That Chessman went over this draft with a fine-tooth comb is evident from a reading of 200-odd corrections which he prepared. Of these proposals, about 80 were adopted and the rest refused. [2] Some of these proposals were specific, calling the court's attention to the use of a wrong word or phrase. Many were not specific. Some merely said that the reported version of certain testimony was garbled or incomplete or inaccurate. These generalized criticisms were never made specific. When Chessman made a generalized criticism, not once did he indicate such and such a fact had been omitted and prejudice shown, how an episode had been distorted and prejudice shown, where a date or name had been confused and prejudice shown, in what material respect an account was garbled and prejudice shown. Errors might have been made that were minor and inconsequential or major and fatal. From all that Chessman said to the California courts and from all he now says to this Court, it is impossible to conclude that there is any important, significant prejudicial error in the record on which the appeal in this case was taken. **[*168]** Certainly we are pointed to none. Only **[***1262]** vague assertions are made. Not once is a finger placed on a crucial issue of the case and a showing made or attempted that on that issue the facts were distorted to Chessman's prejudice. The conclusion is irresistible that Chessman is playing a game with the courts, stalling for time while the facts of the case grow cold.

2 These include many that relate to the crime of burglary, of which he was acquitted.

[1134]** Much time is given to the fact that Fraser, the substitute reporter, was related to the prosecutor and to the fact that Fraser, in reconstructing the record, talked with several witnesses for the State. Those circumstances conceivably could give rise to prejudice. Yet not once does Chessman say in what way the words of a witness on a critical issue are distorted so as to cause prejudice to Chessman's appeal. We know that there was no connivance between the prosecutor and the substitute reporter, for such was the finding of the District Court. *Chessman* v. *Teets*, 138 F.Supp. 761. And those findings are not subject to challenge, as we limited our grant of certiorari. What we are told -- and all that we are told -- is that Chessman should have been present in person or by an attorney at the hearing where the record was settled. Error is presumed because he was not present nor represented. But we should presume just the contrary, since Chessman had the opportunity to submit his version and indicate any errors in the reconstructed record and yet came up with no single omission, distortion, falsification, mistake, or error that could reasonably be said to be prejudicial.

A good illustration concerns the main issue on the appeal -- the so-called confession obtained from Chessman. The confession was held admissible by the Supreme Court of California. *People* v. *Chessman*, 38 Cal. 2d 166, 178-182, 238 P. 2d 1001, 1008-1011. That was the main point in the petition for certiorari brought here **[*169]** in the 1951 Term. It presented the problem of the effect of prolonged detention by the police on the voluntary character of the confession, the type of problem presented in *Haley* v. *Ohio*, 332 U.S. 596; *Watts* v. *Indiana*, 338 U.S. 49; *Turner* v. *Pennsylvania*, 338 U.S. 62; and *Harris* v. *South Carolina*, 338 U.S. 68. The Court denied certiorari. *Chessman* v. *California*, 343 U.S. 915.

In that petition Chessman claimed what he claims now -- that he should have had a hearing on the settlement of the record. And he asserted that, if the transcript had been wholly accurate, it would be obvious that the confession was involuntary, while on the reconstructed record the question was more debatable.

The reconstructed record shows that Chessman was held incommunicado about 72 hours by the police before arraignment. During this time he was beaten to some extent. During this time he was interrogated off and on by the police. Only when he had made an oral confession was he arraigned. Not once in the earlier petition or in the present one or in any other motion paper did Chessman rebut the accuracy of the facts stated in the reconstructed record. He did not, for example, allege he was held longer than 72 hours. He did not say he was beaten more often or more severely than the reconstructed record shows. He did not assert that he was interrogated for longer periods or subjected to a greater ordeal than the reconstructed record states. Yet certainly he knows whether he was or whether he was not.

[*1263]** He advances no fact, no assertion, no evidence to show that on this critical issue in the case -- and in my mind the most important one -- the reconstructed record is distorted. I would presume accuracy, not error, in any record from any court. I would insist that this defendant make some showing of inaccuracy in a material way before I would send this record back for further reconstruction.

[*170] Only once during the long history of this case has Chessman pointed specifically to material inaccuracy or omission in the transcript. His charge of fraud, now set to rest by the findings of the District Court, was predicated upon a conspiracy to have expunged from the record certain specific remarks and instructions of the trial court. These omissions had not been mentioned in the long list **[**1135]** of inaccuracies which Chessman submitted to the California courts. And, on these contentions, Chessman has now been given a hearing by the District Court, which found:

"8. The instructions given by the trial judge to the jury on May 21, 1948 were correctly and accurately reported in the transcript as prepared by Fraser. The trial judge did not instruct the jury at that time as alleged and testified to by petitioner. Petitioner's statements in this regard are false and perjurious.

"9. The allegation in the petition that the trial judge stated to the jury on May 21, when instructing them, that 'this defendant is one of the worse [*sic*] criminals I have had in my court' is false and perjurious. The trial judge made no such statement. Hence the transcript was correct in not including such statement." 138 F.Supp., at 765-766.

To repeat, this is not a case of a helpless man who was given no opportunity to participate in the settlement of the record. He did participate in a real, vivid sense of the term. A lawyer who entered the case by appointment at this late stage would be utterly helpless, for he would have no idea what went on at the trial. When it came to the settlement of the record, California did all that reasonably could be required by sending the reconstructed record to Chessman for criticism. His **[*171]** specific criticisms were often accepted. [3] His general criticisms were not. [4] Since it was in his power to make the general criticisms specific, he was given that opportunity which due process of law requires. Yet he declined over and again to make the

general criticisms specific, asking only that he be present at the hearing.

3 The trial judge resolved doubts in favor of the defendant. Thus he ruled "The amendment . . . is ordered as suggested by the appellant, not because the Court has any recollection of that but to give the appellant the benefit of the doubt in the matter."

4 A typical ruling by the trial court on a general objection is as follows:

"Going over then to Page 1048, Lines 4 to 10, defendant makes no suggestion as to what ought to go in there. A check with the shorthand notes indicates that the transcription is correct. The objection is overruled."

Occasionally the trial judge ruled as follows on an objection that was cast in general terms:

"Page 866, nothing being pointed out which would be any assistance to the Court in amending the transcript, the amendment is disallowed. However, this again happens to be one of those instances in which the testimony and the manner in which it was given impressed themselves strongly on my mind, and I am quite satisfied that that is a verbatim transcription of that portion of the testimony and is not inaccurate as asserted."

The **[***1264]** habeas corpus jurisdiction of the federal courts has been greatly under fire in recent years. I for one would hate to see it abolished or greatly curtailed by Congress. It has done high service in the administration of justice. Not uncommonly a case that is here on certiorari from a state court presents only darkly or obliquely an important constitutional issue. Perhaps, as in *Massey* v. *Moore*, 348 U.S. 105, the issue could not be raised at the trial. Perhaps the trial lawyer failed to present it clearly. Perhaps only after the trial were the full facts known. Perhaps the issue was poorly focused in the trial court's charge. On habeas corpus the facts can be fully **[*172]** developed; and perhaps only then can the basic constitutional defect be laid bare. Such, for example, was the situation in *Moore* v. *Dempsey*, 261 U.S. 86; *Wade* v. *Mayo*, 334 U.S. 672; and *Leyra* v. *Denno*, 347 U.S. 556, where miscarriages of justice were prevented only through the writ of habeas corpus. And see Pollak, Proposals to Curtail Federal Habeas Corpus **[**1136]** for State Prisoners: Collateral Attack on the Great Writ, 66 Yale L. J. 50.

But the fragile grounds upon which the present decision rests jeopardize the ancient writ for use by federal courts in state prosecutions. The present decision states in theory the ideal of due process. But the facts of this case cry out against its application here. Chessman has received due process over and again. He has had repeated reviews of every point in his case. The question of the adequacy of the reconstructed record has been here seven times. The question of Chessman's right to participate in the settlement proceedings has been here at least four times. [5] Not once before now did a single Justice vote to grant certiorari on that issue. If the failure to let Chessman, or a lawyer acting for him, participate in the hearing on the settlement of the record went to jurisdiction [6] (as it must for habeas corpus to issue), then we should have granted certiorari when the Supreme Court of California first held in *People* v. *Chessman*, 35 Cal. 2d 455, 218 P. 2d 769, that the reconstructed record was a proper record for appeal. That decision of the California Supreme Court was announced May 19, 1950. We denied certiorari on October 9, 1950. *Chessman* v. *California*, 340 U.S. 840. Nearly seven years later we return to precisely the same issue and not only grant certiorari but order relief by way of habeas corpus.

5 See the Appendix to this opinion, *post*, p. 173.

6 See *Johnson* v. *Zerbst*, 304 U.S. 458.

[*173] On Chessman's first appeal, Justice Carter and Justice Edmonds dissented from the decision of the California Supreme Court, stating that in their view the necessity to use a reconstructed record in a capital case required a new trial. 35 Cal. 2d 455, 468-473, 218 P. 2d 769, 776-780. That view to me makes sense as a matter of state law. But the Court today makes no such ruling. To order, after this long delay, a new record seems to me a futility. It must be remembered that Chessman was convicted on May 21, 1948 -- over nine years ago. It is difficult to see how, after that long lapse of time, the memory of any participant (if he is still alive) would be sharp enough to make any hearing meaningful. We meddle mischievously with the law when we issue the writ today. We do not act to remedy any injustice that has been demonstrated. **[***1265]** When the whole history of the case is considered, we seize upon a technicality to undo what has been repeatedly sustained both by the California Supreme Court and by this Court. I would guard the ancient writ jealously, using it only to prevent a gross miscarriage of justice.

APPENDIX TO OPINION OF MR. JUSTICE DOUGLAS.

Before his appeal was heard by the California Supreme Court, Chessman moved in that court for orders augmenting and correcting the record, and for a dismissal of his automatic appeal. On May 19, 1950, the California Supreme Court granted

the motion for augmentation of the record, insofar as it sought to have added to the transcript the *voir dire* examination of jurors and the prosecutor's opening statement. Further relief was denied. *People* v. *Chessman*, 35 Cal. 2d 455, 218 P. 2d 769. On June 12, 1950, that court denied a petition for a writ of habeas corpus without hearing or opinion. Chessman's **[*174]** petition for a writ of certiorari to review that decision was filed in this Court on July 31, 1950. No. 98, Misc., 1950 Term. In the petition, Chessman urged that he had been denied due process because he was not present at the hearing in which the trial judge considered objections to the transcript. Certiorari was denied on October 9, 1950. *Chessman* v. *California*, 340 U.S. 840.

[1137]** Chessman then petitioned the United States District Court for the Northern District of California for a writ of habeas corpus and equitable relief. On December 4, 1950, the District Court discharged its order to show cause and dismissed the petition. On December 27, 1950, the District Court denied Chessman leave to appeal *in forma pauperis*, and, on January 9, 1951, denied a certificate of probable cause. On February 27, 1951, the United States Court of Appeals for the Ninth Circuit denied a petition for a certificate of probable cause and for leave to appeal *in forma pauperis*. On April 2, 1951, Chessman petitioned for a writ of certiorari to review that decision of the Court of Appeals, and for leave to file a petition for habeas corpus. No. 442, Misc., 1950 Term. In this Court, Chessman contended that the state court should be enjoined from deciding his pending appeal until it granted him a full hearing on the question of the adequacy of the record. Certiorari and the motion for leave to file petition for writ of habeas corpus were denied on May 14, 1951. *Chessman* v. *California*, 341 U.S. 929.

The California Supreme Court affirmed Chessman's conviction on December 18, 1951. *People* v. *Chessman*, 38 Cal. 2d 166, 238 P. 2d 1001. Chessman filed a petition for a writ of certiorari on February 20, 1952. No. 371, Misc., 1951 Term. In this Court, he claimed that he had been denied due process because of the manner in which the record was prepared and particularly because he had been denied an opportunity to prove his factual contentions as to the inaccuracy of the transcript. It was also **[*175]** contended that he had been denied the opportunity to prepare for trial, that the confession introduced against him was coerced, that the prosecution had unfairly presented its case, that his defense had been unreasonably hampered at the trial, and that the statute under which he was sentenced to death was unconstitutional. Certiorari was denied on March 31, 1952. *Chessman* v. *California*, **[***1266]** 343 U.S. 915. Rehearing was denied on April 28, 1952. 343 U.S. 937.

On May 19, 1952, Chessman filed a petition for writ of habeas corpus in the United States District Court for the Northern District of California. The District Court denied the petition without hearing on June 9, 1952. The United States Court of Appeals for the Ninth Circuit affirmed that decision on May 28, 1953. *Chessman* v. *People*, 205 F.2d 128. Petition for a writ of certiorari was filed November 9, 1953. No. 239, Misc., 1953 Term. Here, Chessman contended that he was entitled to a hearing on his contentions in the courts below that he was forced to go to trial unprepared, that coerced confessions had been introduced into evidence against him, that the prosecution and judge were guilty of misconduct. It was alleged that some of these matters could not have been properly determined by the California Supreme Court because of inadequacies in the record, which, it was alleged, had been fraudulently prepared without giving him the opportunity to prove the inaccuracy or fraud. Certiorari was denied on December 14, 1953. *Chessman* v. *California*, 346 U.S. 916. Rehearing was denied on February 1, 1954. 347 U.S. 908.

On July 16, 1954, Chessman filed a petition for a writ of habeas corpus in the Supreme Court of California. That petition was denied July 21, 1954, without written opinion. (Collateral proceedings are: *In re Chessman*, 43 Cal. 2d 296, 273 P. 2d 263; *In re Chessman*, 43 Cal. 2d 391, 274 P. 2d 645; *In re Chessman*, 43 Cal. 2d 408, **[*176]** 274 P. 2d 645, 655.) Chessman's petition for a writ of certiorari was filed August 14, 1954. No. 285, 1954 Term. He contended that the trial transcript had been fraudulently prepared by the prosecutor, reporter and trial judge. On October **[**1138]** 25, 1954, certiorari was denied "without prejudice to an application for a writ of habeas corpus in an appropriate United States District Court." *Chessman* v. *California*, 348 U.S. 864.

Chessman applied to the United States District Court for the Northern Division of California for a writ of habeas corpus on December 30, 1954. The District Court dismissed the petition without a hearing on January 4, 1955. *In re Chessman*, 128 F.Supp. 600. On January 11, 1955, Chief Judge Denman of the Court of Appeals for the Ninth Circuit granted a certificate of probable cause for appeal. *Application of Chessman*, 219 F.2d 162. The Court of Appeals for the Ninth Circuit granted a certificate of probable cause for appeal. *Application of Chessman*, 219 F.2d 162. The Court of Appeals for the Ninth Circuit, sitting *en banc*, on April 7, 1955, affirmed the District Court decision. *Chessman* v. *Teets*, 221 F.2d 276. Petition for a writ of certiorari was filed June 30, 1955. No. 196, 1955 Term. It was alleged that prejudicial statements of the trial judge at the trial had been deleted from the transcript as a result of a fraudulent conspiracy between the prosecuting attorney and the court reporter. It was also alleged that Chessman's right to be present at the "vital stage of the proceedings" to settle the record had been "summarily ignored." On October 17, 1955, certiorari was granted, the judgment of the Court of Appeals was reversed, and the case remanded to the District Court for a hearing on Chessman's allegations of fraud. *Chessman* v. *Teets*, 350 U.S. 3.

[*1267]** Hearings were ordered in the District Court, commencing January 9, 1956. Hearings were commenced on January

16, after Chessman was granted two continuances. The hearing lasted 7 days. Finding that there had been no fraud, and that the trial judge's statements **[*177]** and instructions to the jury had been accurately reported, the District Court discharged the writ on January 31, 1956. *Chessman* v. *Teets*, 138 F.Supp. 761. The Court of Appeals affirmed on October 18, 1956. *Chessman* v. *Teets*, 239 F.2d 205. Rehearing was denied on November 20, 1956. Chessman's seventh petition for a writ of certiorari was filed on February 1, 1957. No. 566, Misc., 1956 Term. * We granted certiorari, limiting it to the question whether Chessman's failure to be represented in person or by counsel at the settlement proceedings deprived him of due process of law, thus excluding review on the issue of fraud. See 353 U.S. 928.

* Other reported proceedings in connection with Chessman's case are as follows: *People* v. *Superior Court* and *In re Chessman*, 273 P. 2d 936 (Cal. Dist. Ct. of App. 1954); *In re Chessman* and *People* v. *Superior Court*, 44 Cal. 2d 1, 279 P. 2d 24 (1955). And see the opinion of Judge Hamley, below. 239 F.2d 209-210, n. 2.

REFERENCES
Annotation References:

1. Death or disability of court reporter before transcription or completion of notes or record as ground for new trial or reversal, 19 ALR2d 1098.

2. Inability to perfect a record for appeal as ground for a new trial, 13 ALR 102; 16 ALR 1158; 107 ALR 603.

3. Accused's right to counsel under the Federal Constitution, 84 L ed 383; 93 L ed 137; 94 L ed 1193; 96 L ed 161.

4. Duty to advise accused as to right to assistance of counsel, 3 ALR2d 1003.

5. Relief in habeas corpus for violation of accused's right to assistance of counsel, 146 ALR 369.

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Not Reported in F.Supp.2d, 2002 WL 1303123 (E.D.La.)

(Cite as: Not Reported in F.Supp.2d)

H

Newsome v. Entergy New Orleans, Inc.
E.D.La.,2002.
Only the Westlaw citation is currently available.
United States District Court, E.D. Louisiana.
Vogel Denise NEWSOME
v.
ENTERGY NEW ORLEANS, INC.
No. Civ.A.99-3109.

June 11, 2002.

PORTEOUS, J.

*1 Before the Court is a Motion for Reconsideration filed on behalf of the plaintiff, **Vogel** Denise **Newsome** (Document No. 98). The matter was taken under submission on June 6, 2002. The Court, having considered the arguments of the parties, the Court record, the law and applicable jurisprudence, is fully advised in the premises and ready to rule.

ORDER AND REASONS

I. BACKGROUND:

The facts of this matter have been thoroughly described in numerous earlier pleadings. Briefly, Ms. **Newsome**, an African American female, was an employee of Amicus Staffing, a temporary agency. During the week ending August 16, 1998, Ms. **Newsome** was assigned to Entergy to fill a temporary position that included clerical duties. On November 4, 1998, Ms. **Newsome** was terminated. Ms. **Newsome** alleges that she was terminated on account of her race and gender and in retaliation for her complaints of harassment. Entergy contends that Ms. **Newsome** was terminated because she spent an excessive amount of time conducting personal business on the telephone and internet and because she refused to perform work assignments.

On March 18, 2002, this Court granted Entergy's Motion for Summary Judgment and dismissed the plaintiff's claims with prejudice. On April 1, 2002, the plaintiff filed a Motion to Stay Proceedings to Enforce a Judgment, Motion to Amend Judgment, and Motion to Set Aside Judgment. The Court denied that Motion on May 6, 2002. On May 13, 2002, **Newsome** filed the instant Motion for Reconsideration of Denial of her previous Motion filed on April 1, 2002.

II. LEGAL ANALYSIS:

A. Law on FRCP 59(a).

A Court may grant a motion to alter or amend a judgment if the movant presents newly discovered evidence that was not available at the time of trial or if the movant points to evidence in the record that clearly establishes a manifest error of law or fact. *Matter of Prince*, 85 F.3d 314, (7th Cir1996); *cert denied* 113 S.Ct. 608, 519 U.S. 1040, 136 L.Ed.2d 534.

In the instant motion, the plaintiff has not presented any new evidence, nor has she shown any evidence that establishes a manifest error of law or fact. Therefore, the Motion to Amend pursuant to FRCP 59(a) is denied.

Accordingly,

IT IS ORDERED that the Motion for Reconsideration filed on behalf of the plaintiff, **Vogel** Denise **Newsome** (Document No. 98) be, and the same is hereby DENIED.

IT IS FURTHER ORDERED that the plaintiff, **Vogel** Denise **Newsome**, is to file no further pleadings on these issues in this Court, including motions to reconsider or the like, unless justified by a compelling showing of new evidence not available at the time of the instant submissions. Instead, plaintiff is instructed to seek any further relief to which she feels entitled in the Fifth Circuit Court of Appeals, as may be appropriate in due course.

E.D.La.,2002.
Newsome v. Entergy New Orleans, Inc.
Not Reported in F.Supp.2d, 2002 WL 1303123 (E.D.La.)

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EXHIBIT 57

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301 F.3d 227

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301 F.3d 227, 89 Fair Empl.Prac.Cas. (BNA) 986, 83 Empl. Prac. Dec. P 41,131

(Cite as: 301 F.3d 227)

H

Newsome v. E.E.O.C.
C.A.5 (La.),2002.

United States Court of Appeals,Fifth Circuit.
Vogel Denise NEWSOME, Plaintiff-Appellant,
v.
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION; Patricia T. Bivins; Marvin L. Hicks; Sharon C. Williams, Defendants-Appellees.
No. 01-30817
Summary Calendar.

April 22, 2002.

Employee appealed from a decision of the United States District Court for the Eastern District of Louisiana, A.J. McNamara, Chief Judge, which dismissed her complaint against the Equal Employment Opportunity Commission (EEOC) and three of its employees for failure to state a claim upon which relief can be granted and for frivolity. The Court of Appeals held that: (1) employee did not have a " clear right" to a writ of mandamus to compel EEOC to further investigate her charge; (2) *in forma pauperis* complaint lacked an arguable basis in law, and was thus subject to dismissal as frivolous; (3) appeal from dismissal of certain claims, which were virtually identical to those rejected in plaintiff's prior lawsuit, was frivolous.

Dismissed.

West Headnotes

[1] **United States Magistrates 394 ⚿13**

394 United States Magistrates
394k12 Jurisdiction and Authority; Additional Authority
394k13 k. Consent. Most Cited Cases
Consent of the parties was not required for reference to magistrate of motion to dismiss for failure to state a claim. 28 U.S.C.A. § 636(b)(1)(B).

[2] **Federal Courts 170B ⚿11**

170B Federal Courts
170BI Jurisdiction and Powers in General
170BI(A) In General
170Bk10 Issuance of Writs
170Bk11 k. Mandamus. Most Cited Cases

Federal Courts 170B ⚿813

170B Federal Courts
170BVIII Courts of Appeals
170BVIII(K) Scope, Standards, and Extent
170BVIII(K)4 Discretion of Lower Court
170Bk813 k. Allowance of Remedy and Matters of Procedure in General. Most Cited Cases
District court's decision not to exercise jurisdiction under the mandamus statute for federal officers is a discretionary one, which is reviewed for abuse of discretion. 28 U.S.C.A. § 1361.

[3] **Mandamus 250 ⚿72**

250 Mandamus
250II Subjects and Purposes of Relief
250II(B) Acts and Proceedings of Public Officers and Boards and Municipalities
250k72 k. Matters of Discretion. Most Cited Cases
Mandamus is not available to review discretionary acts of agency officials. 28 U.S.C.A. § 1361.

[4] **Mandamus 250 ⚿1**

250 Mandamus
250I Nature and Grounds in General
250k1 k. Nature and Scope of Remedy in General. Most Cited Cases
In order to be granted a writ of mandamus, a plaintiff must show a clear right to the relief sought, a clear duty by the defendant to do the particular act, and that no other adequate remedy is available. 28 U.S.C.A. § 1361.

[5] **Mandamus 250 ⚿3(4)**

250 Mandamus
250I Nature and Grounds in General
250k3 Existence and Adequacy of Other Remedy in General
250k3(2) Remedy at Law
250k3(4) k. Acts and Proceedings of Public Officers and Boards and Municipalities in General. Most Cited Cases

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Mandamus 250 ⚿73(1)

250 Mandamus
250II Subjects and Purposes of Relief
250II(B) Acts and Proceedings of Public Officers and Boards and Municipalities
250k73 Specific Acts
250k73(1) k. In General. Most Cited Cases
Because the nature and extent of an Equal Employment Opportunity Commission (EEOC) investigation into a discrimination claim was a matter within the discretion of the agency, employee did not have a " clear right" to a writ of mandamus to compel EEOC to further investigate her charge; furthermore, employee was not entitled to the writ because she had another adequate remedy available, i.e. she could file suit in court against her employer. 28 U.S.C.A. § 1361.

[6] **Federal Courts 170B ⚿813**

170B Federal Courts
170BVIII Courts of Appeals
170BVIII(K) Scope, Standards, and Extent
170BVIII(K)4 Discretion of Lower Court
170Bk813 k. Allowance of Remedy and Matters of Procedure in General. Most Cited Cases
Determination that an *in forma pauperis* complaint is frivolous is reviewed for abuse of discretion. 28 U.S.C.A. § 1915(e)(2)(B).

[7] **Federal Civil Procedure 170A ⚿2734**

170A Federal Civil Procedure
170AXIX Fees and Costs
170Ak2732 Deposit or Security
170Ak2734 k. Forma Pauperis Proceedings. Most Cited Cases
In forma pauperis complaint lacks an arguable basis in law, and is thus subject to dismissal as frivolous, if it is based on an indisputably meritless legal theory, such as if the complaint alleges the violation of a legal interest which clearly does not exist. 28 U.S.C.A. § 1915(e)(2)(B).

[8] **Civil Rights 78 ⚿1527**

78 Civil Rights
78IV Remedies Under Federal Employment Discrimination Statutes
78k1526 Persons Liable
78k1527 k. In General. Most Cited Cases
(Formerly 78k370.1)

Federal Civil Procedure 170A ⚿2734

170A Federal Civil Procedure
170AXIX Fees and Costs
170Ak2732 Deposit or Security
170Ak2734 k. Forma Pauperis Proceedings. Most Cited Cases
Title VII did not confer on a charging party a right of action against Equal Employment Opportunity Commission (EEOC), and therefore such claim raised in an *in forma pauperis* complaint was frivolous. Civil Rights Act of 1964, § 706, as amended, 42 U.S.C.A. § 2000e-5; 28 U.S.C.A. § 1915(e)(2)(B).

[9] **Civil Rights 78 ⚿1712**

78 Civil Rights
78V State and Local Remedies
78k1705 State or Local Administrative Agencies and Proceedings
78k1712 k. Judicial Review and Enforcement of Administrative Decisions. Most Cited Cases
(Formerly 78k447)
Equal Employment Opportunity Commission's (EEOC) dismissal of charging party's complaint was not a final agency action subject to review under the Administrative Procedures Act (APA); dismissal did not determine charging party's rights or have legal consequences, but simply ended the agency's investigation of her charge, and notified charging party of her right to pursue her claim in court. 5 U.S.C.A. §§ 551(13), 704.

[10] **Conspiracy 91 ⚿18**

91 Conspiracy
91I Civil Liability
91I(B) Actions
91k18 k. Pleading. Most Cited Cases
Charging party's vague allegations of a " personal business relationship" between employer and Equal Employment Opportunity Commission (EEOC), which did not find in her favor on her charge, were not sufficient to allege a conspiracy in violation of § 1985(3); there were no allegations that conspirators were motivated by her race. 42 U.S.C.A. § 1985(3).

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[11] **Constitutional Law 92 ⚿1073**

92 Constitutional Law
92VII Constitutional Rights in General
92VII(B) Particular Constitutional Rights
92k1073 k. Fourteenth Amendment in General. Most Cited Cases
(Formerly 92k82(5))
Fourteenth Amendment applied only to state actors, not federal actors, and therefore Fourteenth Amendment claim could not be brought against Equal Employment Opportunity Commission (EEOC) or EEOC officials. U.S.C.A. Const.Amend. 14.

[12] **United States 393 ⚿125(9)**

393 United States
393IX Actions
393k125 Liability and Consent of United States to Be Sued
393k125(9) k. Nature of Action in General. Most Cited Cases
United States and its officials are entitled to sovereign immunity for civil rights claims because the United States has not consented to suit under the civil rights statutes.

[13] **Federal Courts 170B ⚿726**

170B Federal Courts
170BVIII Courts of Appeals
170BVIII(I) Dismissal, Withdrawal or Abandonment
170Bk726 k. Proceedings Frivolous or for Delay. Most Cited Cases
Appeal from dismissal of certain claims, which were virtually identical to those rejected in plaintiff's prior lawsuit, was frivolous.

Vogel Denise **Newsome**, Jackson, MS, pro se.
Susan Lisabeth Starr, E.E.O.C., Washington, DC, for Defendants-Appellees.

Appeal from the United States District Court for the Eastern District of Louisiana.

Before JOLLY, DeMOSS and STEWART, Circuit Judges.
PER CURIAM:
Vogel Denise **Newsome** (" **Newsome**") appeals the district court's dismissal of her complaint against the Equal Employment Opportunity Commission and three of its employees (collectively, " EEOC"), for failure to state a claim upon which relief can be granted and for frivolity. Finding that this appeal is frivolous, we DISMISS the appeal and place Newsome on NOTICE that future frivolous appeals may subject her to sanctions.

I

Newsome was an employee of Christian Health Ministries (" CHM") for approximately one month. CHM fired her, and she filed a charge of discrimination with the EEOC, alleging that she had been discriminated against based on her religion and retaliated against in violation of Title VII of the Civil Rights Act of 1964. The EEOC sent a letter to CHM asking them to respond to the charge. CHM responded to the request by providing documentation that it is a religious organization that is exempt from the religious discrimination provisions of Title VII, pursuant to 42 U.S.C. § 2000e-1(a).[FN1] In a " Dismissal and Notice of Rights" sent to Newsome, the EEOC checked a box indicating that it was dismissing Newsome's charge because " [t]he Respondent [CHM] employs less *230 than the required number of employees or is not otherwise covered by the statutes." In the Dismissal, the EEOC also notified Newsome that she had a right to bring suit in state or federal court against CHM within ninety days of her receipt of the notice.

> FN1. The statute provides:
> This subchapter shall not apply to ... a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.
> 42 U.S.C. § 2000e-1(a).

Newsome filed a *pro se* " Writ of Mandamus," which we treat as a petition, in federal district court against the EEOC and three of its employees. She sought to compel them to further investigate her charge, and to enjoin them " from interfering and depriving her of rights under Title VII ... and ... the 14th Amendment to the U.S. Constitution." She alleged that the officials had failed to perform their duties to her and sought review of their actions under the Administrative Procedures Act, 5 U.S.C. § 702. She also alleged that the EEOC and CHM were

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engaged in a conspiracy to violate her civil rights under 42 U.S.C. § 1985.

The district court granted Newsome's motion to proceed *in forma pauperis*, and referred the case to a magistrate to handle all pre-trial matters " upon consent of the parties" under 28 U.S.C. § 636(c). The EEOC filed a motion to dismiss the complaint for lack of subject matter jurisdiction and for failure to state a claim. The district court referred this motion to the magistrate under 28 U.S.C. § 636(b)(1)(B). The magistrate judge recommended that Newsome's claims be dismissed under 28 U.S.C. § 1915(e)(2)(B)(i) and (ii) (" § 1915") for frivolity and for failure to state a claim upon which relief could be granted. The district court, " after considering the complaint, the record, the applicable law, the Report and Recommendation of the United States Magistrate Judge, and the objections to the Magistrate Judge's Report and Recommendation filed by the plaintiff," adopted the magistrate judge's report and recommendation. Newsome then filed a " Motion to Stay Proceedings to Enforce a Judgment; Motion to Amend Judgment; and Motion to Set Aside Judgment," which the district court denied. Newsome timely appealed.

II

In her *pro se* brief, Newsome argues that this matter was improperly referred to a magistrate judge without her consent. The first order of reference was to a magistrate judge to " handle all pre-trial matters, including trial and pre-trial proceedings upon consent of the parties pursuant to 28 U.S.C. § 636(c)." Neither party objected at the time, though it appears that neither party specifically consented, either. The only action taken under this order of reference was the issuance of a summons to the defendant. After the defendants moved to dismiss for failure to state a claim, the district court referred this motion to a magistrate judge under § 636(b)(1)(B). After the magistrate judge issued her report and recommendations, in Newsome's objections to the magistrate's report and recommendations, Newsome argued that the reference to the magistrate was improperly made without the parties' consent, as required by § 636(c), and raises this argument again on appeal.

[1] The reference to the magistrate of the defendants' motion to dismiss for failure to state a claim was made under § 636(b)(1)(B). The consent of the parties is not required under this section. This reference was not improper. The prior reference under § 636(c) did require the consent of the parties. To the extent that Newsome did not consent to this reference, any error that resulted was harmless. The only action taken under this reference was the issuance of a summons to the defendants, which did not prejudice Newsome in any way.

*231 III

Newsome also sought a writ of mandamus under 28 U.S.C. § 1361 to compel the EEOC to reopen her case, investigate her charge further and ask particular questions. The district court denied this writ, and dismissed the complaint.

[2] Mandamus is awarded only " in the exercise of a sound judicial discretion." *Duncan Townsite Co. v. Lane*, 245 U.S. 308, 311, 38 S.Ct. 99, 62 L.Ed. 309 (1917). " A district court's decision not to exercise jurisdiction under the mandamus statute for federal officers, 28 U.S.C. § 1361, is a discretionary one," which is reviewed for abuse of discretion. *Franchi v. Manbeck*, 972 F.2d 1283, 1289 (Fed.Cir.1992).

[3][4] A writ of mandamus is an " extraordinary remedy." *Adams v. Georgia Gulf Corp.*, 237 F.3d 538, 542 (5th Cir.2001). " Mandamus is not available to review discretionary acts of agency officials." *Green v. Heckler*, 742 F.2d 237, 241 (5th Cir.1984). Further, in order to be granted a writ of mandamus, " [a] plaintiff must show a clear right to the relief sought, a clear duty by the defendant to do the particular act, and that no other adequate remedy is available." *U.S. v. O'Neil*, 767 F.2d 1111, 1112 (5th Cir.1985) (quoting *Green*, 742 F.2d at 241).

[5] Here, although Title VII provides that the EEOC " shall make an investigation" of a charge filed, *see* 42 U.S.C. § 2000e-5(b), it does not prescribe the manner for doing so. The EEOC did investigate Newsome's charge, though not to her satisfaction. However, " the nature and extent of an EEOC investigation into a discrimination claim is a matter within the discretion of that agency." *E.E.O.C. v. Keco Industries, Inc.*, 748 F.2d 1097, 1100 (6th Cir.1984) (citing *E.E.O.C. v. St. Anne's Hospital*, 664 F.2d 128 (7th Cir.1981); *E.E.O.C. v. General Electric Co.*, 532 F.2d 359 (4th Cir.1976); *E.E.O.C. v. Chicago Miniature Lamp Works*, 526 F.Supp. 974 (N.D.Ill.1981)). Because the nature and extent of the

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investigation are discretionary, Newsome does not have a " clear right" to a writ of mandamus.

Newsome also is not entitled to the writ because she has another adequate remedy available, i.e. she could file suit in court against her employer. For these reasons, the district court did not abuse its discretion in denying the writ.

IV

[6][7] The district court also dismissed Newsome's claims under Title VII, the APA, § 1985, and the Fourteenth Amendment. The court dismissed these claims under § 1915(e)(2)(B)(i) and (ii) for frivolity and failure to state a claim, respectively. We review a determination that a case is frivolous under § 1915(e)(2)(B)(i) for abuse of discretion. *Siglar v. Hightower,* 112 F.3d 191, 193 (5th Cir.1997). Newsome's *in forma pauperis* complaint " may be dismissed as frivolous if it lacks an arguable basis in law or fact. A complaint lacks an arguable basis in law if it is based on an indisputably meritless legal theory, such as if the complaint alleges the violation of a legal interest which clearly does not exist." *Id.* (citations omitted). We review a dismissal for failure to state a claim under § 1915(e)(B)(ii) *de novo,* applying the same standard used to review a dismissal pursuant to Fed.R.Civ.P. 12(b)(6). *Moore v. Carwell,* 168 F.3d 234, 236 (5th Cir.1999) (citation omitted). We must assume that the plaintiff's factual allegations are true, and may uphold the dismissal of **Newsome's** claims only if it appears that no relief could be granted under any set of facts that could be proven consistent with the allegations. *Id.* (citations omitted).

*232 [8] First we address **Newsome's** Title VII claims. **Newsome** alleges that the EEOC deprived her of her rights under Title VII. To the extent that **Newsome** is attempting to invoke Title VII as a jurisdictional basis for suing the EEOC, she cannot do so. We have held that Title VII does not confer on a charging party a right of action against the EEOC. *See Gibson v. Missouri Pac. R.R.,* 579 F.2d 890, 891 (5th Cir.1978) (" Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000e-5 et seq., confers no right of action against the enforcement agency. Nothing done or omitted by EEOC affected [plaintiff's] rights. Their adverse determination could not have precluded, and in fact did not preclude, the present suit by [plaintiff]. The relief sought of further investigation or action by the agency would be meaningless.") Therefore it was proper for the district court to dismiss Newsome's Title VII claims.

[9] Newsome also sought relief under the APA. The APA allows for judicial review of " [a]gency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court...." 5 U.S.C. § 704. The APA defines " agency action" to include " the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act." 5 U.S.C. § 551(13). The Supreme Court has addressed the meaning of " final agency action" :
As a general matter, two conditions must be satisfied for agency action to be " final" : First, the action must mark the " consummation" of the agency's decisionmaking process-it must not be of a merely tentative or interlocutory nature. And second, the action must be one by which " rights or obligations have been determined," or from which " legal consequences will flow."

Bennett v. Spear, 520 U.S. 154, 177, 117 S.Ct. 1154, 137 L.Ed.2d 281 (1997) (citations omitted). The EEOC's dismissal of Newsome's complaint did not determine her rights or have legal consequences. It simply ended the agency's investigation of her charge, and notified Newsome of her right to pursue her claim in court. Any final determination would occur in court. Therefore, there is no final agency action here, and no review available under the APA.

[10] Newsome also alleged that the EEOC and CHM engaged in a conspiracy to deprive her of her civil rights, in violation of 42 U.S.C. § 1985(3). " To state a claim under § 1985(3), Appellant must allege that two or more persons conspired to directly, or indirectly, deprive him of the equal protection of the laws or equal privileges and immunities under the laws." *Green v. State Bar of Texas,* 27 F.3d 1083, 1089 (5th Cir.1994). Further, to state a § 1985(3) claim, Newsome must allege that the conspirators were motivated by her race. *See Slavin v. Curry,* 574 F.2d 1256, 1262 (5th Cir.1978), *modified on other grounds,* 583 F.2d 779 (5th Cir.1978), *overruled on other grounds, Sparks v. Duval County Ranch Co.,* 604 F.2d 976 (5th Cir.1979) (en banc), *aff'd* 449 U.S. 24, 101 S.Ct. 183, 66 L.Ed.2d 185 (1980). Newsome has not done so. She seems to complain because the EEOC did not find in her favor on her charge, and she makes extremely vague allegations of a " personal business relationship" between CHM and the EEOC. This simply is not enough to allege a

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conspiracy.

[11][12] Finally, Newsome alleges that the EEOC deprived her of her Fourteenth Amendment rights. However, the Fourteenth Amendment applies only to state actors, not federal actors. *See* Bolling v. Sharpe, 347 U.S. 497, 499, 74 S.Ct. 693, 98 L.Ed. 884 (1954). Newsome therefore *233 cannot bring a Fourteenth Amendment claim against the EEOC or EEOC officials. Further, the United States and its officials are entitled to sovereign immunity for the civil rights claims brought by Newsome, " because the United States has not consented to suit under the civil rights statutes." *Unimex, Inc. v. U.S. Dept. of Housing and Urban Development*, 594 F.2d 1060, 1061 (5th Cir.1979).

In sum, Newsome's complaint has no arguable basis in fact or law, and no relief could be granted to her under any set of facts consistent with her allegations. The complaint is frivolous, fails to state a claim, and was properly dismissed. Newsome's claims are completely without merit, and this appeal is frivolous.

V

[13] Normally, we recognize that a *pro se* plaintiff does not have the same training as an attorney, and accord a *pro se* plaintiff some measure of latitude in her complaint and in the errors she might make. However, Newsome previously has brought an almost identical complaint against the EEOC, which was dismissed in part for failure to state a claim. In *Newsome v. Equal Employment Opportunity Commission*, 1998 WL 792502 (N.D.Tex.) (" *Newsome I*"), Newsome had filed a charge of race discrimination under Title VII with the EEOC against a former employer, Floyd West & Company (" FWC"). The EEOC investigated the charge, found there to be no violation of Title VII, and issued Newsome a right to sue letter. *Id.* at *1. Newsome sued FWC, and a take nothing judgment was rendered against her. Five years later, Newsome brought a *pro se* lawsuit against the EEOC, FWC, and Talegen Holdings, Inc. (" Talegen," an affiliate of FWC), alleging that the EEOC failed to investigate the merits of her discrimination charge, and " conspired with FWC and Talegen to deprive her of her civil rights in violation of Title VII, the Fourteenth Amendment to the United States Constitution ... and 42 U.S.C. §§ 1983 and 1985." *Id.* at *1. The court found that Title VII did not confer jurisdiction over cases brought by an individual against the EEOC as an enforcement agency, and that Title VII does not confer a right of action against the EEOC as an enforcement agency. The court further found that there is no cause of action against federal agencies or officials under the Fourteenth Amendment, and that Newsome had no § 1983 claim because the EEOC officials were not acting under the color of state law, as required for a § 1983 claim. The court also found the EEOC to be entitled to sovereign immunity. The court did not reach the merits of the § 1985 claim, because it was barred by the statute of limitations. The court dismissed **Newsome's** complaint for lack of subject matter jurisdiction, failure to state a claim and on sovereign immunity grounds. *Id.* at *5. We affirmed, for the reasons stated in the district court's opinion. *See* *Newsome v. E.E.O.C.*, No. 98-11381, 1999 WL 423085 (5th Cir. June 3, 1999); 182 F.3d 915. The United States Supreme Court denied certiorari. *See* *Newsome v. E.E.O.C.*, 528 U.S. 917, 120 S.Ct. 273, 145 L.Ed.2d 229 (1999).

The merits of **Newsome's** Title VII and Fourteenth Amendment claims were addressed in her prior lawsuit, and are virtually identical to the claims before us. **Newsome** therefore was on notice that these claims fail to state a claim upon which relief could be granted. **Newsome** now is on notice that her APA and § 1985 claims also fail to state a claim, and that all her claims are frivolous. This appeal is frivolous as well. We therefore are putting **Newsome** on NOTICE that if she continues to bring such frivolous appeals in *234 the future, this court will consider sanctioning her pursuant to our inherent sanction powers and our powers to sanction frivolous appeals. *See* F.R.A.P. 38.

VI

For the foregoing reasons, this frivolous appeal is

DISMISSED.

C.A.5 (La.),2002.
Newsome v. E.E.O.C.
301 F.3d 227, 89 Fair Empl.Prac.Cas. (BNA) 986, 83 Empl. Prac. Dec. P 41,131

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SOUTHERN DISTRICT OF MISSISSIPPI
FILED
MAR 11 2008
J. T. NOBLIN, CLERK
BY _____ DEPUTY

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT – JACKSON DIVISION

VOGEL NEWSOME — PLAINTIFF

V. — CIVIL ACTION NO. 3:07-cv-00099 TSL LRA

MELODY CREWS, ET AL. — DEFENDANTS

PLAINTIFF'S OBJECTION TO AND MOTION TO STRIKE STATEMENTS AND MATERIALS OF DEFENDANT MELODY CREWS' MOTION FOR SHOW CAUSE HEARING AND FOR GENERAL RELIEF AND REQUESTS FOR RULE 11 SANCTIONS OF AND AGAINST DEFENDANT CREWS AND HER COUNSEL CLARK MONROE[1] and JURY TRIAL DEMANDED ON TRIABLE ISSUE(S)

COMES NOW Plaintiff, Vogel Newsome ("Plaintiff" and/or "Newsome"), as *a **party*** to this instant action, upon being advised that her attorney, Wanda Abioto ("Abioto"), is ill (health issues) and recently being confronted with possible withdrawal issues by said attorney and files this her *Objection To and Motion to Strike Statements and Materials of Defendant Crews' Motion for Show Cause Hearing and for General Relief and Requests for Rule 11 Sanctions of and Against Defendant Crews and Her Counsel Clark Monroe and Jury Trial Demanded on Triable Issue(s)* (hereinafter known as "MTSMFSC") pursuant to Rule 12(f) of the Federal Rules of Civil Procedure ("FRCP") and any and all governing statutes/laws relating to said matters. Plaintiff through this instant pleading, request this Court exercise its own discretion and issue the applicable sanctions (if permissible – via "**snapshot rule**" and "**inherent power**") by laws/statutes of and against this Defendant Melody Crews ("Defendant Crews" and/or "Crews") and/or her counsel, Clark Monroe ("Monroe") – (collectively referred to as "Defendant Crews/Monroe" and/or "Crews/Monroe"), pursuant to Rule 11 of the FRCP and/or statutes/laws governing said matters.

> **Conduct Measured at Time of Presentation:** *Skidmore Energy, Inc. v. KPMG,* 455 F.3d 564, 569-570 (5th Cir. 2006) – **Under the "snapshot" rule, sanctions based on a frivolous pleading were**

[1] NOTE: Boldface, italics and underline, boxing, etc. represents "emphasis" added. Use of Federal Procedural Forms (Lawyers Edition), WestLaw and other resource materials in preparation of this instant pleading.

EXHIBIT 58

> **proper because the lack of legal and evidentiary support for the pleading existed at the time it was filed.** The district court found that the claims lacked both **legal** and **factual** support and imposed more than $500,000 in sanctions against plaintiffs and their counsel, based on the defendants' reasonable expenses incurred in litigating against the claims. . . .This test focuses on the instant when the signature is placed on the document, and the state of mind of the signer at that time. The test ensures that Rule 11 liability is assessed only for a violation existing at the moment of filing. The district court had clearly concluded that the pleadings were frivolous when filed. The fact that they continued to lack evidentiary support throughout the proceedings only underscored the violation.
>
> **Inherent Power of Court to Impose Sanctions – Bad Faith Required:** *Amlong & Amlong, P.A. v. Denny's, Inc.*, 457 F.3d 1180, 1202-1203 (2006) – Sanctions could not be imposed under the court's inherent powers without an explicit finding of bad faith. . . . In particular, before a court may impose sanctions on an attorney under its inherent powers, the court must make a finding of bad faith.

Plaintiff further **OBJECTS** to Defendant Crews' *premature* **"CONSOLIDATION"** of Civil Actions 3:07-cv-00099 and 3:07-cv-000560, AS EVIDENCED IN THIS CASE IN THE STLEY filed in this Court in her *Motion For Show Cause Hearing and for General Relief* ("MFSCH"). These are two separate and distinct civil lawsuits filed in this Court arising out of separate and direct OVERT independent actions. These two matters have not been consolidated and separate pleadings should have been individually filed in each lawsuit rather than combined and/or consolidated as Crews has done here. Keeping in mind that separate filings in good faith would have been required if Crews truly believed she was entitled to the relief sought through MFSCH. Therefore, ***WITHOUT*** **WAIVING** SAID OBJECTION, Plaintive moves this Court to pursuant Rule 12(f) of the FRCP to:

> Strike the statements and materials in *Defendant Melody Crews' Motion for Show Cause Hearing and for General Relief,* including: Opening Paragraph; Paragraphs numbered 1., 2., 3., 4., 5. and supporting material provided at/in Exhibit A, 6., 7., 8., 9., 10., 11., 12 – and supporting materials provided at/in Exhibit A., 13 – and supporting materials provided in Exhibit B, 14., 15. and its subparagraphs lettered a., b., c., d., e., and e. (sic); and closing paragraph beginning,, "WHEREFORE, PREMISES CONSIDERED, Melody Crews" and the relief sought in said closing paragraph. Furthermore, Defendant Crews' MFSCH was provided in *bad faith* for purposes of sham/frivolousness, harassment, delay, hindering proceedings, malicious intent, obstructing the administration of justice to prejudice this Court against her, increasing the costs of litigation, to deprive Plaintiff equal protection of the laws and due process of laws, and does not present any facts, evidence or legal conclusion(s) to sustain the arguments made and the relief sought through her pleading.

Plaintiff further states the following in support of this instant MTSMFSC and the relief sought herein:

1. Plaintiff is a **party** to this action and thereby authorized by statutes/laws to file said pleading and sign in that she is a party in this action, has personal knowledge as to the claims and evidence presented in this instant pleading, the Complaint filed in this instant lawsuit, her subsequent pleadings and is subject to the provisions of Rule 11 of the FRCP.

Plaintiff is aware that Defendant Crews' counsel most recent attacks on her and her counsel and how such unlawful/unethical practices before this Court is now being masked through this Defendant's MFSCH he has filed on her behalf in this lawsuit. Defendant Crews/Monroe knew and/or should have known that Plaintiff is entitled to sign and file pleadings in this action, in that she/he clearly appears to have knowledge of the United States Supreme Court's decision in *Business Guides, Inc. v. Chromatic Communications Enterprises, Inc.*, 498 U.S. 533, 111 S.Ct. 922 (1991) and perhaps other legal conclusions to support said knowledge. **(EMPHASIS ADDED).** (See Doc. 34 at ¶11); however, *willfully* and *deliberately* **withheld such knowledge** obtained from this Court as she/he relied upon "selective" inclusions in the use of this citation. See **EXHIBIT "1"** – *Business Guide*, attached hereto and incorporated by reference

2. This instant MTSMFSC is submitted in good faith and is not provided for purposes of delay, hindering proceedings, obstructing the administration of justice, or needlessly increasing the costs of litigation, etc.. Moreover, said pleading is supported by the investigation/research and the facts, evidence and/or legal conclusions presented herein.

3. This instant pleading is being filed to preserve the rights of the Plaintiff secured to her under the United States Constitution, Civil Rights Act and other laws governing said matters to assure she receives equal protection of the laws and due process of laws. Plaintiff has had to file this pleading in that valid and legal concerns regarding her attorney's handling of matter warrant's the necessity of said filing to preserve the rights of Plaintiff and to protect her from any possible injury/harm which may have resulted as a direct and proximate result of Abioto's failure to comply with the laws in the representation of Plaintiff.

Plaintiff believes a reasonable mind may conclude that Congress and/or the lawmakers did not intend for clients to put the entire life of their complaints/claims in the hands of their attorney without any participation and/or interaction from them. Plaintiff has **NEVER** required nor requested that her attorney violate the laws/statutes in representing her and clearly is offended by the accusations leveled by Defendant Crews/Monroe through her MFSCH.

4. Plaintiff believes that the **Fifth Circuit** Court of appeals would find the actions of Defendant Crews/Monroe and other Defendants and Defendants' counsel in this action ***reprehensible*** and ***disturbing***.

5. It is important to note that MFSCH was only filed on behalf of Defendant Crews while Monroe also represents Dial Equities, Inc. ("Dial Equities") in this lawsuit. Dial Equities would be wise to distance itself from him, in that he is *a walking liability* to those who he comes into contact with and solicit their business to allow

them to represent them against actions brought by the Plaintiff. What is certain, Monroe has clearly taken Defendant Crews' position as a party tot his action to shielded his unlawful/illegal and unethical practices through his representation of her.

6. The opening paragraph of Crews' MFSCH is to be stricken. *Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in* ***bad faith****, is* ***legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers")****, is sham/frivolous and provided for unlawful and unethical purposes, and does not present any facts, evidence or legal conclusion(s) to support defenses asserted. The information in MFSCH was provided for frivolous filings and misuse of the judicial process and is neither certified as required under Rule 11. Defendant Crews/Monroe failed to make reasonable inquiry into to the laws and facts underlying the MFSCH filed. Thus, moving this Court to issue the applicable sanctions pursuant to Rule 11 of the FRCP and/or governing laws of and against Defendant Crews and her counsel, Clark Monroe.* (hereinafter contents referenced as "*Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in* ***bad faith****, is* ***legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers")****. . . .*")

7. ¶ 1. in its entirety of Crews' MFSCH is to be stricken. Said paragraph was merely provided for name calling and unlawful/illegal and unethical purposes. While Crews/Monroe have for instance used such labeling of the Plaintiff as a "serial litigator," they have produced nothing to substantiate such assertion. Plaintiff believes that a reasonable mind as well as the **Fifth Circuit** Court of Appeals will find that such labeling of the Plaintiff is uncalled for. Moreover, that there is sufficient evidence in the record of this Court provided through this instant lawsuit to support that Crews'/Monroe's knowledge of past litigation by the Plaintiff was used to commit "civil" and "criminal" wrongs against her. Moreover, that the **Fifth Circuit** would be APPALLED/DISTURBED/DISAPPOINTED, etc. to know that Defendant Crews/ Monroe used decisions by its Court to **pad** their "civil" and "criminal" wrongs rendered the Plaintiff. While Defendant Crews/Monroe have labeled the Plaintiff a "serial litigator," Plaintiff believes a reasonable mind as well as the Fifth Circuit will find that over the past **20** years, the filing of approximately **four (4)** lawsuits by the Plaintiff (and now the two lawsuits filed in this Court as it relates to Civil Actions 3:07-cv-00099 and 3:07-cv-00560) is sufficient to label her a "*serial* litigator." Moreover, that the two (2) lawsuits filed in this Court are warranted. Furthermore, Plaintiff believes that the Fifth Circuit would find that she has been successful in obtaining "evidence" which is difficult to come by to support her claims/counts and the relief sought through her Complaint and her subsequent pleadings filed in this instant lawsuit. Such labeling of Plaintiff is addressed further down in this instant pleading. A reasonable mind may conclude, with such labeling, Crews/Monroe knew that Plaintiff would research and/or investigate such defenses and provide rebuttal (if necessary) to such.

No, it is Defendant Crews' counsel (Monroe) who is **serial** stalker/predator – following Plaintiff from ***job-to-job, attorney-to-attorney*** - harasser, abuser of the judicial system/process, etc. (as the list can go on and on) who uses his clients (such as Defendant Crews and Dial Equities, Inc. – with their permission) to ***hood*** his fetishes.

Monroe, who clearly should have his picture  posted on the appropriate *offenders* website for such abuses, unlawful/illegal and unethical fetishes. No while hooded at night, once the hood is removed during the day, it is easily noticeable from his countenance/face, what is really in him and what he is really about. While he appears to be well-groomed, intelligent, smug, etc., BE WARNED, he is far from that and is a *walking liability* to whomever comes into contact with him in defending claims brought by the Plaintiff. So beware – conspirators, co-conspirators, clients, employers, law firms, citizens of this great country, etc. – engaging in any unlawful/illegal and unethical practices with this abuser and stalker/predator, may very well set you up to share in the liability Monroe attracts in his pursuits against the Plaintiff.

While Defendant Crews' counsel has labeled the Plaintiff as a *"serial litigator"* there ***is nothing*** in the record to support his opening slander and false misrepresentation of the Plaintiff. While he attempts to mislead this Court and *distort* and/or *fabricate* information on the Plaintiff, it is clear to the Plaintiff he has deliberately failed to mention claims brought against other/certain Defendants to this action, for instance, that Defendant *Hinds County, Mississippi* is not a new party or defendant to the Mississippi federal courts. For example, this Court can find a least **71** cases where this party is a defendant before the federal courts in Mississippi. See **EXHIBIT "2"** attached hereto and incorporated by reference as if set forth in full herein. That Defendant *Malcolm McMillin* is not a new party or defendant to the Mississippi federal courts. For example, this Court will find a least **105** cases where this party is a defendant before the federal courts in Mississippi. See **EXHIBIT "3"** attached hereto and incorporated by reference as if set forth in full herein. Neither is Defendant Dial Equities, Inc. new as party to the federal courts. See **EXHIBIT "4"** attached hereto and incorporated by reference as if set forth in full herein. Plaintiff believes that an investigation into these civil actions brought against these Defendants may reveal that court(s) did not allow such abuses (as that in which this Plaintiff is subjected to in this instant lawsuit) by these Defendants to occur and/or go unaddressed. Especially, in cases where Defendants and Plaintiffs in those actions are represented by attorney – No, the personal bias and prejudice towards this Plaintiff is so apparent.

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith, is legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers").***. . .

8. ¶ 2. in its entirety of Crews' MFSCH is to be stricken. The relief sought through said paragraph is legally insufficient, seeks this Court's participation in the infringement of rights secured to the Plaintiff under the United States Constitution and other laws governing the protection of her rights. Moreover, Crews'/Monroe's relief sought under this paragraph are efforts by them to unlawfully/illegally and unethically attempt to present a roadblock to prevent the Plaintiff from filing future lawsuits against them which they are aware of are *clearly inevitable*. Such relief by Crews/Monroe cannot be contributed to foresight because the Plaintiff has already

warned them that future legal actions in their willful, deliberate, malicious *participation* in the conspiracy to have her terminated from her employment with Page Kruger & Holland. Such conspiracy and wrong which is mentioned further down in this instant pleading.

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith, is legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers").***. . .

9. ¶ 3. in its entirety of Crews' MFSCH is to be stricken. Crews/Monroe is careful to be sure to label the Plaintiff as pro se. **Not** *in forma pauper* ("IFP") litigant in this instant lawsuit. (EMPHASIS ADDED). Because they know that the relief they have repeatedly sought, are defenses against those who file action(s) an *in forma pauperis* status. The Plaintiff is a paying litigant and has paid the required fee to bring this instant lawsuit. Therefore, she is not subject to the provisions and/or similar statutes/laws governing IFP litigants.

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith, is legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers").***. . .

10. ¶ 4. in its entirety of Crews' MFSCH is to be stricken. Defendant Crews/Monroe have produced no evidence where an Order/Judgment pursuant to Rule 54(b) of the MRCP was entered before Plaintiff's counsel, Abioto, in the Hinds County Court (Jackson, Mississippi – Civil Action No. 251-06-905) filed a Rule 41 "Voluntary" Dismissal action pursuant to Mississippi Rules of Civil Procedure ("MRCP") in the interest of Newsome in that state court action. A voluntary dismissal action which Defendant Crews failed to contest. It is important to note that there was a hearing in the Hinds County Court action on August 31, 2006. Following that hearing, both the Newsome and her attorney filed separate post-hearing pleadings to preserve the rights of Plaintiff. None of the post-hearing pleadings filed by either Newsome or Abioto were contested by the defendants in that lawsuit. Then on or about **September 15, 2006**, Abioto filed the following pleadings: (a) Notice of First Amended Complaint; (b) First Amended Complaint Jury Trial Demanded; and (c) Notice of Dismissal Without Prejudice.

Defendants Hinds County and Malcolm McMillin provided a copy of an Order from the Hinds County Court action executed on **September 27, 2006**, through their Motion for Security Costs filed in this instant lawsuit. A pleading which the Plaintiff has filed a timely rebuttal to and a matter still pending before this Court – as it appears, she may have to take this (illegal bond setting) matter to the Fifth Circuit Court of Appeals – who has in the past granted the Plaintiff *remand*. It is IMPORTANT TO NOTE: Said Order was executed by Barnett of the Hinds County Court action well **AFTER** – approximately **12 days** later - the Rule 41 "Voluntary" Dismissal filed by Abioto on behalf of her client. One guess, as to who instigated the execution of the Hinds County Court Order – just one guess. Correct. It was Defendant Crews'

counsel, Clark Monroe who instigated the signing of the ***delinquent*** September 27, 2006 Order by Judge Barnett. An Order not legally or lawfully binding in that the action had been dismissed at the time of execution. Who knows what *means of coercion* - threats, unlawful/illegal and unethical acts – Monroe committed to get Judge Barnett to execute the Order. What is clear, Judge Barnett was sure not to backdate the entry of said Order. So there is an execution of an Order in the Hinds County Court action on September **27,** 2006, ordering acts to be completed "within fifteen (15) days of the hearing on August 31, 2006 (*on or before September 15, 2006*) this matter is and shall be finally dismissed." See **EXHIBIT "5"** attached hereto and incorporated by reference. *Clearly, it does not make sense to order the carrying out of actions* ***on dates that have expired.*** *But again, that is Monroe at work again, harassing, insisting, forcing and demanding requests down the throat of the Court,* ***as that displayed in his letter of February 25, 2008 to this Court.*** See **EXHIBIT "6"** attached hereto and incorporated by reference as if set forth in full herein. Further supporting to what lengths Monroe would go to get what he wanted. However, to his disappointment, Barnett *would not* backdate execution of the Order. With such knowledge, Defendant Crews/Monroe and other Defendants continue to attempt to assert *res judicata* on ruling from the state court(s) that were not final judgments upon which they can base such a defense. They tried such a frivolous defense in the Hinds County Court action, alleging res judicata. The Justice Court which is not a court of record, nor one of competent jurisdiction and clearly lacking jurisdiction over the Plaintiff (who was defendant in that action).

While Defendant Crews/Monroe attempt to underhandedly "insult" Plaintiff's counsel's legal experience and knowledge of the laws by stating, "has continued to feed Newsome's belief she has a claim. . .," Abioto has well of 20 years of legal experience. Such a statement is obvious of Monroe's efforts implying that Abioto, while an attorney, does not understand and neither can interpret and/or comprehend what the laws/statutes mean. That he and other Defendants counsel in this lawsuit are the only ones who has such knowledge and understanding.

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith, is legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers"). . .***

11. ¶ 5. and its supporting "Exhibit A" in its entirety of Crews' MFSCH is to be stricken. "Outrage." Monroe stating his mental feelings and state of mind/mind set (**EMPHASIS ADDED**). Why? Because he found out that Plaintiff had filed pleadings in which she has a right to file in preserving her rights in this lawsuit.

It is obvious that Monroe is obsessed with the Plaintiff. He stalks her from job-to-job, from attorney-to-attorney at no ends. Informing Plaintiff's employer(s) of lawsuits filed by the Plaintiff and hoping that with such knowledge that employer(s) terminate the Plaintiff, as well, as informing Plaintiff's attorney(s) of legal actions brought by her and to and paint pictures of Plaintiff as being a "serial litigator." Monroe resorting to harassment, threats of disbarment – reporting Abioto to the Mississippi Bar. When will it stop? **How long** is this Court going to allow Monroe to *run amuck* before it and clearly proceed in a manner clearly in violation of the Code of Professional Conduct and/or other governing laws/statutes, officer of the Court and a

member of the Mississippi Bar? **How long?** It appears the defense strategies in the harassing of Plaintiff's counsel, contacting Plaintiff's employer have run their course and lost steam. No, Monroe has preyed on the weak, vulnerable and timid, etc. victims that he has so viciously devoured in his quest to destroy the life of the Plaintiff. In his recruitment for conspirators and/or co-conspirators, he simply requires they have a deep-rooted hatred, jealousy, envy, prejudice, etc. towards the Plaintiff. His outrage, merely is due to the fact that he failed in his efforts and at every corner he turns in the litigation brought by the Plaintiff he sees he is a ***big FAILURE***. He also is aware that Plaintiff will not allow him to harass, threaten or intimidate her. That being the "litigious" person he claims she is, rather than take matters into her own hands, she simply files the applicable lawsuits against the perpetrators that she believes caused her legal injury/harm.

The Plaintiff has a right to file and defend the lawsuits in which she has filed or have been filed on her behalf. Moreover, to see that she is well represented and her voice heard. Her recent February 11, 2008 filings are pleadings allowed under the laws governing the claims she assert; and, those in which she in good faith believe were necessary to file in the preservation of her rights secured/guaranteed under the United States Constitution and/or other governing laws to support the claims and relief sought.

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith****, is* ***legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers")****. . .*

12. ¶ 6. in its entirety of Crews' MFSCH is to be stricken. Plaintiff's signature occurs on the line ***below*** her name "Vogel Newsome, Plaintiff" because she is a party in this lawsuit. If signing on the line below her name as Plaintiff to the action is wrong or insufficient, Plaintiff is not aware of this Court notifying of any such error in this instant lawsuit or in Civil Action No. 3:07-cv-00560 filed in this Court. Abioto has not advised the Plaintiff that such a correction is warranted as to the signing of the pleading or that Plaintiff needs to resubmit the signature page with information below the line to be information requiring Plaintiff.

Plaintiff's believes her pleading(s) meets the "certification" requirements and provide information regarding investigation into the issues and research materials used in preparation thereof. Moreover, Plaintiff has tried to include such information in the first footnote (or shortly thereafter) in the pleadings that she files. Even if not provided, the Plaintiff takes the time to make said certifications in the pleadings being filed. As in this instant action, the vast legal conclusions, exhibits and facts set forth, are sufficient to state her claims and belief that the pleading(s) has been submitted in good faith.

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith****, is* ***legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers")****. . .*

13. ¶ 7. in its entirety of Crews' MFSCH is to be stricken. This instant action

was submitted on behalf of Newsome on or about **September 15, 2007**. Therefore, it is not clear what pleading this Defendant Crews/Monroe is asserting was filed in this action/lawsuit on **August 13, 2007**, because this date precedes the filing of the 00560 lawsuit. While Abioto is counsel of record in this lawsuit, as a matter of law, she is not the only one authorized to draft, sign and file pleadings in that action. Plaintiff, as a party to this action, is authorized to do so as well although she is represented and is subject to the provisions of Rule 11 of the FRCP. See **EXHIBIT "7"** – excerpt 28 USCA Rule 11 of the FRCP attached hereto and incorporated by reference. Neither is the Plaintiff aware that she or her attorney in this action violated any statutes/laws when Abioto authorized the Plaintiff to sign the Complaint and to get it filed in a timely manner. Plaintiff and her attorney (Abioto) in this action live in different states. It is important to note that the "ACKNOWLEDGMENT" provided in the Complaint filed in this lawsuit, was executed by the Plaintiff, certifying her review of the Complaint. The use of Defendant Crews and MFSCH filed on her behalf, is merely a **dilatory** defense/tactic used by Monroe to threaten the Plaintiff's attorney as evidenced in his correspondence of February 19, 2008 and February 21, 2008. Who knows how many more of these belligerent letters Abioto has received from Monroe or other opposing counsel in the lawsuits file by the Plaintiff.

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith, is legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers")***. . .

14. ¶ 8. in its entirety of Crews' MFSCH is to be stricken. On or about August 13, 2007, Magistrate Sumner entered an Order (Doc. No. 41 of Civil Action 3:07-cv-00099 ["0099"]) denying Plaintiff's Motion to Strike (Doc. No. 28); granting Second Defendants Crews and Dial Equities, Inc.s' Motion for Extension of Time to Answer (Doc. No. 40); granting Defendants Hinds County and Malcolm McMillan's Motion for Bond (Doc. No. 9); granting Defendants Hinds County and Malcolm McMillan's Motion to Stay (Doc. No. 10); granting Defendants Melody Crews and Dial Equities Joinder to Motion to Stay Proceedings filed by Defendant Hinds County and Malcolm McMillan; granting Motion for Joinder in Motion for Security of Costs and denying Motion for Security of Attorney Fees by Defendant Crews and Dial Equities; and denying Plaintiff's Motion to Strike Motion to Stay of Defendants Hinds County and Malcolm McMillan; and staying proceedings until Plaintiff posted bond.

On or about August 22, 2007, this Court filed Plaintiff's Notice of Objection to Magistrate Sumner's August 13, 2007 Order (Doc. No. 44), and a responsive "OBJECTION" pleading (Doc. No. 46) to Magistrate Sumner's August 13, 2007 Order (Doc. No. 41) along with her opposition pleading to the Second Extension of Time granted Defendants Crews and Dial Equities, Inc. (Doc. 45). Plaintiff's pleadings were timely fled.

On or about September 5, 2007, without notice or providing reasons for grounds of recusal, Magistrate Judge Sumner filed "Order of Recusal" (Doc. No. 54). Magistrate Sumner doing so without notifying the Plaintiff that he had done so. Plaintiff had to find out through other source(s). Said recusal coming ***well after*** he had committed acts he knew he was not authorized to perform due to lack of jurisdiction as well as for the reasons underlying his recusal. Nevertheless, rather than recuse himself

upon learning who the parties and their attorney(s) were, he knowingly and deliberately entered rulings clearly contrary to laws, clearly erroneous, etc. and neither he nor this Court has corrected such errors. Moreover, the laws are clear that with said recusal the Order entered by Magistrate Judge Sumner is null/void. As a direct and proximate result of such abuse and unethical practices the Plaintiff has been prejudiced.

On or about September 28, 2007, Judge Lee entered Order of Reference regarding certain motions and/or pleadings filed by the parties in the action to Magistrate Judge (Doc. No. 67).

On or about October 10, 2007, this Court filed Plaintiff's Response to Judge Lee's September 28, 2007 Order. Said responsive pleading was timely submitted.

On September 29, 2007, this Court filed Text Only Order setting hearing before Magistrate Judge for November 13, 2007 (Dated Doc. of 10/29/2007).

On November 5, 2007, Plaintiff filed timely responsive/objection pleading to Text Only Order of September 29, 2007 (Doc. No. 87) notifying the Court that she would not be participating in the November 13, 2007 hearing notifying that she would not be waiving her rights.

On or about November 13, 2007, this Court proceeded with hearing before Magistrate Judge Anderson over the Plaintiff's objections (Dated Doc. Of 11/13/2007)

On or about November 13, 2007 (approximately three months later), Judge Lee entered Order denying Plaintiff's Objections to the Magistrate Sumner's August 13, 2007 Order and **Affirming** (*EMPHASIS ADDED*) null/void August 13, 2007 Order of Magistrate Judge Sumner (Doc. No. 90). **(Fed. Proc. L.Ed. §20.44: Effect of Disqualification** – When a judge perceives grounds for his own recusal, he should recuse himself immediately and not wait for a subsequent stage of the litigation to enter further orders or findings in the case other than housekeeping orders, such as an order assigning the case to another judge. If orders of findings other than housekeeping orders are made, they may be vacated, and a party may seek and obtain a writ of mandamus for this purpose- *Moody v. Simmons,* 858 F.2d 137 (1988) and *Mims v. Shapp,* 541 F.2d 415 (1976)) It is also important to note that when, "*the reporting judge is disqualified,* **his findings are of no effect**, and the trial judge **must** review the record **de novo** and enter findings ***without relying on those made*** *by the disqualified judge*." *Id.* (citing *Government of Virgin Island v. Gereau*, 502 F.2d 914 (1974). As a direct and proximate result of such error, the Plaintiff has been prejudiced and has had to incur additional time, costs and expenses in the filing of additional pleadings to defend against such issues in preparation for Fifth Circuit review.

On or about November 14, 2007, this Court filed Plaintiff's Pleading Notifying said Court that she would not be participating in the November 13, 2007 hearing. Judge and Magistrate were notified via electronic correspondence as well.

On or about November 19, 2007, Plaintiff filed Notice of Motion to Stay and Motion to Stay along with supporting Memorandum Brief in this instant lawsuit. (See Doc. Ns. 94, 95 and 96).

On December 18, 2007, Plaintiff filed Notice of Request for Certification. (Doc. No. 106). Filing being necessary to prepare the record for appeal to the Fifth Circuit.

On or about February 4, 2008, Magistrate Judge Anderson entered Orders (Doc.

Nos. 108 and 109) denying Plaintiff's Motion to Stay (Doc. No. 95) and Plaintiff's Motion to Strike (Doc. No. 104). In which Plaintiff filed timely objections to said Orders and this Court filed on February 20, 2007 (Doc. No. 112).

Therefore, resulting in Plaintiff' filing of notice of disqualification/recusal action. Plaintiff in good faith believes she has filed the required pleadings to preserve the issues raised therein and preserve her rights to assure that she is afforded equal protection of the laws and due process of laws. Moreover, that the decisions of this Court are not "tainted" by personal bias and prejudices through such labeling as "serial" litigator. It is important to note that Plaintiff believes that all pleadings filed in this action by her and/or on her behalf were all filed in good faith and certified in accordance with Rule 11 of the FRCP – unlike Defendant Crews'/Monroe's or other Defendants pleading submitted in this lawsuit, such personal bias and prejudice that is apparent. Defendants in this action repeatedly being allowed to file pleadings in this Court without certification and/or in compliance with Rule 11 of the FRCP.

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith, is legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers").*** *. . .*

15. ¶ 9. in its entirety of Crews' MFSCH is to be stricken. Sumner's Order has no being on this instant lawsuit. It was an order entered in 0099. The laws are clear that Magistrate Sumner's **null/void** Order and, therefore, this Court's upholding of such Order could prevent her or her attorney from filing the 00560 lawsuit in this Court. Neither did Defendant Crews/Monroe provide any facts, evidence or legal conclusion to support such assertion. The record in this Court is clear that the two separate lawsuits (00099 and 00560) are independent and *distinct* actions. The filing of this instant lawsuit was not a total disregard to any Order entered by Sumner in this instant lawsuit, because any such Order relied upon by Defendant Crews/Monroe is null/void due to Sumner's recusal and would have no bearing on this lawsuit. Plaintiff would find it hard to believe that based upon her reputation, anyway, that this Court did not examine the claims of this instant lawsuit prior to filing and determine that it had no bearing on the 0099 matter.

The burden of proof that 00099 and 00560 have many of the same claims is on the Defendant Crews. Plaintiff has filed the required pleadings contesting the consolidation of these two cases and set forth the facts, evidence and legal conclusions to support her defense. She has failed to meet this burden. Defendant Crews merely making such "verbal" assertions is legally insufficient and lacks any evidence to sustain it. Moreover, this Court cannot rely upon said assertions.

Abioto was not required to check the docket of the 00099 lawsuit. She is not counsel of record for Newsome in that lawsuit. She is only counsel for Newsome in this lawsuit filed in this Court. Neither has Plaintiff authorized her to represent her in the 00099 lawsuit. Plaintiff has invested the time, conducted the research, drafting and submittal of the pleadings in this instant lawsuit.

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is

irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith, is legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers").*** . . .

16. ¶ 10. in its entirety of Crews' MFSCH is to be stricken. It is not clear what Defendant Crews' defense under Rule 11 of the FRCP is. Rule 11 authorizes Newsome as a "party," to prepare, sign and file pleadings with this Court. See **EXHIBIT "7"** attached hereto and incorporated by reference as if set forth in full herein. Plaintiff is not aware of any unsigned pleadings submitted by her or on her behalf and is neither aware of any such rule/statute/law to support she was not authorized to draft and sign the pleadings filed in this instant lawsuit. Newsome being the one to investigate and conduct research on the matters/issue and having knowledge of the facts, evidence and legal conclusions submitted in this lawsuit by her.

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith, is legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers").*** . . .

17. ¶ 11. in its entirety of Crews' MFSCH is to be stricken. Now for the GUSTO. Monroe acknowledge, "The purpose of Rule 11 is to fix responsibility for those matters that are subject to the certificate." Going on to state, "The intent of the attorney's signature is to create an *affirmative duty of* ***investigation*** and deter frivolous actions and meritless maneuvers," citing *Business Guides, Inc. v. Chromatic Communications Enterprises, Inc.*, 498 U.S. 533, 550 (1991) (See ¶ 11 of MFSCH).

Given such information, the question goes to the fact that Defendant Crews/Monroe acknowledge the ***duty to investigate*** matter. However, Defendant/Crews knowingly, deliberately and willingly provided this Defendants' MFSCH in **bad faith** and for purposes of sham/frivolousness, harassment, delay/hindering of proceedings, obstructing the administration of justice, to increase the costs of litigation, etc.

A reasonable mind given the facts and evidence presented herein, may conclude that the verbal ramblings by Crews/Monroe rather than providing of the citation for *Business Guides,* was done with **bad faith** intent because Defendant Crews/Monroe was aware that the United States Supreme Court in this case, addressed the fact that **"a party"** – whether represented by counsel or unrepresented by counsel – could file pleadings in a lawsuit if they are party to the action. The United States Supreme Court making the following findings in *Business Guides*:

> **(n. 2)** Rule 11 sanctions can be imposed against any attorney ***or party*** signing document whether or not signatures on documents are required; certification requirement mandates that all signers consider behavior in terms of duty owed to court system. **(n. 3)** Fact that, under Rule 11, party represented by counsel *is not* required to sign most papers or pleadings does not relieve party who signs document from conducting inquiry into facts and law in order to be satisfied that document is well grounded; represented parties are not free to sign frivolous or vexatious document with impunity. **(n. 4)** ***Represented***

> party who signs his or her name to documents filed in court bears personal, nondelegable responsibility to certify truth and reasonableness of document and failure to meet that duty may subject signer to Rule 11 sanctions. **(n. 5)** Use of word "party" in Rule 11 refers to any signer of document, whether represented or unrepresented or required or not required to sign documents. **(n. 6)** Certification standard for party for purposes of determining whether party is subject to Rule 11 sanctions is one of reasonableness under the circumstances, just as for attorneys; rule states unambiguously that any signer which does not conduct reasonable inquiry will face sanctions. **(n. 7)** Public policy did not require that parties not be held to reasonable inquiry standard for purposes of assessing Rule 11 sanctions; client is often **in better position** *than* attorney **to *investigate* facts** supporting paper or pleading.[2]

A case in which Defendant Crews/Monroe were familiar with and/or should have known provided legal basis to support that Plaintiff may submit pleadings in this lawsuit – in that they cited *Business Guides* in MFSCH. This is a civil rights action.

*Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in **bad***

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[2] Federal Rule of Civil Procedure 11 provides, in relevant part, that *"[t]he signature of an attorney or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other paper"* and *"to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact,"* and that a court shall impose an appropriate sanction " upon the person who signed " a pleading, motion, or other paper in violation of the Rule. (Emphasis added.) *Id.* p. 3.

A represented party's signature would *fall outside* the Rule's scope ***only*** *if* the phrase "attorney or **party**" were given the ***unnatural*** reading "attorney or *unrepresented* party." **Had** the Advisory Committee responsible for the Rule *intended to **limit*** the certification requirement's application to pro se parties, it would have expressly distinguished between represented and unrepresented parties, *which it did elsewhere in the Rule*, rather than **lumping** *534 the two types together. Including all parties is also an eminently sensible reading of the Rule, since the Rule's essence is that signing denotes merit. *Pavelic & LeFlore v. Marvel Entertainment Group,* 493 U.S. 120, 110 S.Ct. 456, 107 L.Ed.2d 438, which held that the Rule contemplates sanctions against an attorney signer rather than the law firm of which he or she is a member, is entirely consistent with the result here that a represented party who signs his or her name bears a personal, nondelegable responsibility to certify the document's truth and reasonableness. *Id.* p. 4.

The only way that Business Guides can avoid having to satisfy the certification standard is if we read "attorney or party" as used in sentence [5] to mean "attorney or unrepresented party." Only then would the signature of a represented party fall outside the scope of the Rule. We decline to adopt this unnatural reading, as there is no indication that this is what the Advisory Committee**930 intended. Just the opposite is true. Prior to its amendment in 1983, sentence [5] referred solely to "[t]he signature of an attorney" on a "pleading." The 1983 amendments deliberately expanded the coverage of the Rule. Wright & Miller § 1331, at 21. Sentence [5] was amended to refer broadly to "[t]he signature of an attorney or party" on a "pleading, motion, or other paper" (emphasis added). Represented parties, despite having counsel, *545 routinely sign certain papers-declarations, affidavits, and the like-during the course of litigation. Business Guides, for example, submitted to the District Court no fewer than five signed papers in support of its TRO application. The amended language of sentence [5] leaves little room for doubt that the signatures of the "party" on these "other papers" must satisfy the certification requirement. *Id.* p. 9.

Had the Advisory Committee **intended to *limit*** the application of the certification standard to parties proceeding *pro se,* it would surely have said so. . . .Sentence [1] refers to specifically a "a party represented by an attorney," while sentence [2] applies to "[a] party who is *not* represented by an attorney" (emphasis added0. Sentence **[5], however, draws no such distinction; it lumps together the two types of parties. By using the more expansive term "party", the Committee *called for more expansive coverage.*** The natural reading of this language is that *any* party who signs a document, whether or not the party was required to do so, is subject to the certification standard of Rule 11. *Id.* p. 10.

faith, is legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers")....

18. ¶ 12. and Exhibit A in its entirety of Crews' MFSCH is to be stricken. Defendant Crews/Monroe digging and digging a deeper grave for themselves, in which the Plaintiff is more than happy to top with dirt. Stating, "As Vogel Newsome has signed these pleadings she is now fully responsible for their content as well as Abioto absent some action by Ms. Abioto. *Id.* at 551." (WOW!!! At this point and with such a statement, Plaintiff gathers she is supposed to *shaking in her boots*). Again Defendant Crews/Monroe being certain to make only "verbal" assertion because of knowledge such argument is sham/frivolous and has no bearing nor support any Rule 11 defenses asserted against the Plaintiff or Abioto.

Monroe digging even a deeper grave when acknowledging, that "By letter of February 19, 2008, counsel for Crews demanded that Ms. Abioto explain the filings and take some action to *distance* herself." See **EXHIBIT "8"** attached hereto and incorporated by reference as if set forth in full herein. Monroe's obsession with the Plaintiff need for power and efforts to destroy her life by following her from **job-to-job**, **attorney-to-attorney**, etc. is clearly unlawful/illegal and unethical. It is obvious that Monroe does not contact the Plaintiff and subject her to such unlawful/illegal attacks as he has done with Plaintiff's counsel in this action, because he knows that Plaintiff will not tolerate such foolishness and will not give into such threats or intimidation. Neither would she allow such unethical practices to go unaddressed. Monroe is merely a "*toothless lion, a lot of roaring, but no bite*." Plaintiff will neither feed into his insecurities to his masculinities that he mask through his legal profession. Acts in which he does not care who he takes as hostage to further and/or fuel his obsession with the Plaintiff.

Yes, he is outraged because being the Big FAILURE he is, he has repeatedly failed in his recent attacks on the Plaintiff regarding employment, attorney, etc. He clearly is one that does not accept defeat well. Especially from one such as Plaintiff Newsome who has been labeled a "serial litigator," is pro se, **non**-*lawyer* and an **African**-*American*. How dare she, who do she think she is, are probably questions he poses to himself. Yes, it is obvious that his obsession is racially motivated as well.

While Defendant Crews' counsel (Monroe) asserts that Abioto, *"did not approve of the filings,"* Plaintiff was not aware of this and simply was determined to see that her rights were protected. Given the fact that Plaintiff's attorney advised her client of being ill and unreturned messages, Plaintiff knew that she would have to file pleadings to preserve her right. Given the information that is surfacing from the willful donations of Monroe, Plaintiff believes a reasonable mind may conclude that there has been a great deal of corresponding between Monroe and other Defendants' counsel in this lawsuit and 00099 with Abioto, although Abioto does not represent Newsome in 00099. Monroe going on to state, *"so far, she has not done nothing"* (referring to Abioto). No while they were *skinning and grinning like wide-eyed Cheshire cats* with each other behind the scenes, Plaintiff was tugging away staying abreast of the deadlines and filing the applicable pleadings to protect her rights. They knew that Plaintiff would not go for such foolishness and could see beyond and through their *hoods*. Outrage, yes. Monroe being so because perhaps of such fallen/collapsed plans and "alleged" agreements he thought he had reached and had succeeded in achieving through such "alleged" agreement with Abioto. Outrage, yes. Because Monroe has not obtained the withdrawal and the dismissal of this lawsuit in regards to such "alleged"

agreement (of withdrawal) between Plaintiff's counsel and him in which the Plaintiff was not aware that he and her counsel were working on behind her back. It is a good thing that Plaintiff remained focused and continued to tug away and file the applicable pleadings in this instant lawsuit. **So if Crews/Monroe or others were relying upon such "alleged" agreement with Abioto – touché.** Abioto was hired and retained by Plaintiff. Her duty and interests are to be that of her client in this instant lawsuit. **Moreover, if they are aware of any such "alleged" agreement, they should present *any such evidence* to this Court.**

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith, is legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers")****. . .e.*

19. ¶ 13. and its supporting "Exhibit "B" in its entirety of Crews' MFSCH is to be stricken. Monroe admits again, two days later (on February 21, 2008), contacting Plaintiff's counsel "*concerning her proposed intent to withdraw and made clear he would not agree to a voluntary withdrawal by her as counsel for Ms. Newsome because she knew when she undertook the representation Ms. Newsome's nature and the likely course she would take in the litigation.*" From the Plaintiff's understanding, it was Monroe who communicated that he wanted a dismissal this action; however, before agreeing to any such withdrawal, he demanded that Abioto dismiss this action. See **EXHIBIT "9"** attached hereto and incorporated by reference as if set forth in full herein. The question here then would be, if they believed they had a strong defense of *res judicata*, and that Plaintiff's Rule 41 "Voluntary" Dismissal in the Hinds County Court action was not a good defense move to protect her interest, then why would he be requesting that Abioto agree to dismiss this action. Moreover, the badgering, harassment, etc. of Plaintiff's attorney is clearly unethical and in violation of the Code governing attorney conduct.

20. ¶ 14. in its entirety of Crews' MFSCH is to be stricken. Defendant Crews/Monroe makes a **bad faith** and sham/frivolous demand that they know is not required under 28 USCA Rule 11 of the FRCP and request, "*Ms. Abioto should either place her signature on these pleadings and take responsibility* for the scandalous accusations and reckless assertions made against U.S. Magistrate Judge Anderson, U.S. District Judge Lee, the judicial process generally and the parties and counsel or she should cause them to be retracted without further delay." 28 U.S.C. § 455 actions were enacted for a reason. The lawmakers knew what they were doing. So any such theatrics performed by Monroe should be saved for the circus, where he can perform with other clowns, because the Plaintiff is not amused nor entertained by such scandalous and frivolous accusations leveled against her.

Plaintiff is the one that filed the pleadings at question in both this instant lawsuit and that and 00099 and is responsible for their contents. Contents provided in good faith based upon investigation, research, etc. to the pleadings she has filed and/or intend to file as NOTICED. Neither will the Plaintiff be deterred from filing the Disqualification/Recusal pleadings simply because of Defendant Crews' MFSCH pleading. Crews' pleading is legally insufficient, provides no facts or evidence to sustain it or to rebut that presented by the Plaintiff. Plaintiff believes that the pleadings she filed in this instant lawsuit were all submitted in good faith, they were certified in

accordance with Rule 11 – unlike Defendant Crews and other Defendants pleadings in this lawsuit. Something is definitely wrong with the picture.

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith****, is* ***legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers").*** *. . .*

21. ¶ 15. in its entirety of Crews' MFSCH is to be stricken. Plaintiff does not believe a hearing is necessary on Defendant Crews' MFSCH. Said Defendant's MFSCH has been provided in **bad faith**, with sham/frivolous intent. In regards to subparagraph(s): **"a)"** – Abioto is not required, as a matter of law to certify to this Court that she has read and approved the pleadings filed by Plaintiff Newsome. Nor is Abioto, in that Plaintiff is **"a party"** to the action and pursuant to 28 USCA Rule 11 of the FRCP, and, therefore, authorized under said Rule to draft, sign and file pleadings in said action. There is no valid and/or binding order in this Court that precluded the Plaintiff from filing the Complaint in this lawsuit. **"b)"** – Plaintiff is not required to appear and provide any clear evidence to this Court at the request and *whelm* of Defendant Crews' counsel's (Monroe's) request – to satisfy his *fetish* and need to see and/or look upon the Plaintiff. Such fetish/obsession which is unhealthy, illegal and unlawful. Monroe is merely a *predator* who thrives on stalking the Plaintiff from job-to-job and attorney-to-attorney and is now underhandedly attempting to mask such obsessions with the Plaintiff by requesting "unnecessary and unwarranted hearings before this Court." For this Court to feed into Monroe's obsessions and hold a hearing on pleading he filed on behalf of Defendant Crews is absurd and would be a great injustice to both the Plaintiff and Abioto in that it would require them to have to incur additional and needless expenses already exhausted to defend against the defenses he uses to mask and/or fuel his obsession with the Plaintiff. No, if required, as NOTICED, Plaintiff will move forward within the time provided and file the required Disqualification/Recusal pleadings "c)" – Plaintiff is not required to waive her objections to have matter tried before Magistrate Judge. Said objections raised by the Plaintiff is permissible as a matter of law/statute and can substantiate the Plaintiff's defense. Congress and/or the lawmakers knew what they were when they enacted the Magistrate Act. Magistrate Judge Anderson is not an "Article III" Judge and there is no waiver filed in this Court by the Plaintiff agreeing to proceedings before her or any other Magistrate Judge. The screening Defendant Crews/Monroe is required is clearly unwarranted and there is no evidence or legal basis upon which such demands can rest. *If they do not have good sense or judgment to look both ways before stepping out, then they are going to be slammed with pleadings and sanctions. Moreover, the required lawsuit for their illegal wrongdoings. Monroe is one supposedly schooled in the laws. He stepped out in filing the MFSCH pleading and therefore, subjected he and his clients to sanctions in this action.* Any disqualification/recusal action the Plaintiff intends to file will be provided through the appropriate judicial process and such coercion by Defendant Crews/Monroe is not to be entertained. They can review any such pleadings, evidence and legal conclusions presented should such action be necessary. **"d)"** - It is important to note that citation provided by Defendant Crews/Monroe in *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985) has no bearing on this instant lawsuit or the claims Plaintiff has filed. Moreover, is an action that addresses **in forma pauperis** matters. Plaintiff is not proceeding in this instant lawsuit

IFP and is represented by counsel. Clearly showing such bad faith and sham/frivolous efforts by Defendant Crews/Monroe to get this Court to error and/or violate the laws. Plaintiff is a paying litigant. Plaintiff has demanded a JURY TRIAL in both actions and therefore, this Court cannot deprive her of this Constitutional guarantee. Neither will Plaintiff waive any such prohibited rights to a JURY TRIAL and have her issue(s) tried before this Court. Plaintiff believes and the evidence and legal conclusions provided in this instant lawsuit, supports that there is an appearance of personal bias and prejudice towards; moreover, appearance of impropriety. **"e)"** – It is not clear to the Plaintiff why such statement and/or assertion is made by Defendant Crews regarding the formatting of the Plaintiff's pleadings. Plaintiff's paragraphs meet the pleading requirements and any subparagraphs (itemizing/listing – being numbered/ lettered) are indented and *singled* space – this being Plaintiff's preference and one used many times and not objected by the courts. Remember Defendant Crews/Monroe have labeled Plaintiff a "serial litigator" one would think that she is submitting her pleadings in compliance with the laws. Moreover, the Local Rules of this Court allows pleadings to be 35-pages. See **EXHBIT "16"** attached hereto and incorporated by reference.

> (E) Length of Memoranda. Movant's original and rebuttal memoranda together shall not exceed a total of thirty-five pages, and respondent's memorandum shall not exceed thirty-five pages.

Surely, Defendant Crews/Monroe was aware of this. If Defendant Crews/Monroe are aware of any such violations, then such should be made known. However, simply attacking format of Plaintiff's pleadings is clear evidence of bad faith, pettiness, sham and frivolous. Second **"e)"** (sic) – Defendant Crews/Monroe have both failed to provide facts, evidence or legal conclusion to support why Plaintiff in this instant lawsuit would have to appear before this Court. This Defendant and her counsel have failed to present any Rule 11 violations or that any of the pleadings filed by the Plaintiff violated any statutes/laws and/or were prohibited from being filed. Therefore, any facts, evidence or legal conclusions to sanction Plaintiff or Abioto is lacking to sustain Defendant Crews' MFSCH. Neither does this Court at the *whelm* of Defendant Crews/ Monroe need to sanction and/or consider whether "Ms. Abioto's conduct (or lack of action to correct her client's conduct) to date warrants referral to the Mississippi Bar for further investigation." However, the facts, evidence and legal conclusions provide in this instant pleading and Plaintiff's previous pleadings as it relates to the filings by Defendant Crews (such as her MFSCH) and Monroe's submitting such on her behalf, **clearly warrants that it is their acts, behavior and unethical practices that clearly warrants sanctions and he referred to the Mississippi Bar. Moreover, suspension and/or disbarment from the legal provision to protect other citizens from such judicial abuses by him – (i.e. such acts as following citizens from job-to-job, attorney-to-attorney, etc. and committing civil and criminal wrongs through said actions. Acts which are willful, malicious and wanton).**

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith, is legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers")***. . ..

22. Closing Paragraph, and the relief sought therein, in its entirety of Crews'

MFSCH is to be stricken. Said relief is not permissible. Neither has Defendant Crews/Monroe provided any facts, evidence to legal conclusions to support such.

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith, is legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers"). . .***

I. "SERIAL LITIGATOR" ISSUE/ASSERTION BY DEFENDANT CREWS:

Defendant Crews in the very first paragraph begins "Vogel Newsome is a serial litigator." Using the **snapshot rule**, this Court will find that such scandalous and frivolous labeling of the Plaintiff cannot be sustained. Moreover, Plaintiff believes a reasonable mind may conclude that said labeling of the Plaintiff has been made in bad faith in efforts of distorting the facts of this lawsuit. It was presented with scandalous intent for purposes of prejudicing this Court against the Plaintiff. One may conclude from such a statement that Plaintiff makes a living and/or spends 99% and/or a great deal of her time on a day-to-day basis filing separate lawsuits because she has nothing better to do. Furthermore, Plaintiff's claims of Defendant Crews' counsel's abuse on the Court and harassment of the Judges is evidenced in his letter dated February 25, 2008, which states:

> "My clients must have relief as these cases are entirely out of control. . . . While I normally would not bring a motion directly to the Court's attention, in this case I believe it is necessary as I wanted to request that the Court look into these matters, order an **in person hearing** and assist in getting these two cases that are costing my client thousands of dollars under control. While I respectfully acknowledge the Court's docket is likely burdensome it is equally burdensome to my client to continue this tit-for-tat that this serial litigator is requiring by her voluminous filings in a frivolous law suit.
>
> More disturbing is the innuendo and outright accusations by Ms. Newsome in both cases that each of you have committed all sorts of malfeasance in this matter. My client is now forced to deal with a pro se litigant in 3:07-cv-00099 while the same "pro se" party is represented by an attorney in 3:07-cv-00560 so that she is getting the "best of both worlds." . . . Ms. Newsome is sufficiently versed in the court system that she must be held accountable and can not be allowed to continue unchecked while she inflicts her brand of retribution for a matter *that began with a leaky roof.*
>
> Please review the attached and we would request a hearing as soon as reasonably possible with all counsel and Ms. Newsome personally present to answer to this court. . . "

See **EXHIBIT "6"** attached hereto and incorporated by reference.

Plaintiff is indeed truly grateful, because with time, Clark Monroe continues to provide her with the evidence necessary to support the lawsuit she will be filing against him as one of the Defendants in a future lawsuit – legal action. As he has done here, Monroe

has taken it upon himself to follow the Plaintiff from job-to-job, attorney-to-attorney, etc. notifying them of past lawsuits she has filed. While the Plaintiff has in good faith attempted to move on with her life, you of course have the Monroe's who insist on destroying it. Monroe using the same tactics used on Carl Brandon (regarding the Port Gibson, Mississippi shootings); wherein, it was said that Mr. Brandon was being harassed, being followed from job-to-job, etc. Finally, he could not take it anymore, and, as a direct and proximate result a needless and senseless tragedy occurred.

Monroe in requesting an **in person hearing** is merely attempting to get this Court to aid him with his fetish/obsession with the Plaintiff. He is disappointed because the Plaintiff has moved away. While a reasonable mind may conclude he has not tried to contact her employer, the thing is, her new employer makes it clearly known in their employment policies, that they will not "discriminate" because a person has filed lawsuits, engaged and/or participated. **It is the law.** Nevertheless, Monroe has taken it upon himself with the support of others to follow the Plaintiff from job-to-job and attorney-to-attorney, etc. and advising them of the past lawsuits filed by the Plaintiff. Such acts which are clearly in violation of the laws and in violation of the Code of Professional Conduct and/or governing Codes for attorney conduct/practices. **Plaintiff believes that there is sufficient evidence and/or an investigation into the civil and criminal wrongs of Clark Monroe would warrant sanctions of "suspension," "disbarment," "contempt," etc.** Whichever sanction(s) are appropriate to correct the wrongs and injustices he has knowingly, willingly, deliberately and maliciously committed through his legal profession against Plaintiff Newsome. In further support of her defense to Defendant Crews' attorney, Clark Monroe's, letter to this Court and the MFSCH filed in this action, the Plaitniff further states:

> The fling of charges is protected even if the charge contains collateral statements which are false and apparently malicious, and this includes charges filed against a previous employer.
>
> Fn 11 - EEOC Decision No. 71-460, 1973 EEOC Decisions ¶ 6175 (employer violated § 2000e-(3)(a) by discharging an employee **after learning** *he had filed charges of discrimination against a former employer*). . . .*Barela v. United Nuclear Corp.* (DC NM) 317 F.Supp 1217, affd (CA 10 NM) 462 F.2d 149 (injunctive relief granted against prospective employer's refusal to further process plaintiff's job application after learning that plaintiff had filed complaint against a former employer).

See **EXHIBIT "10"** attached hereto and incorporated by reference as if set forth in full herein.

> EEOC Decision No. 71-460, 1973 EEOC Decisions ¶ 6175. . . Respondent's officials who participated in the decision to discharge Charging Party stated in an affidavit that he had contacted an employer against whom Charging Party had made a previous Commission Charge. He states that the employer recommended that "we take action now for our own protection." . . . .The file reflected he had filed a Civil Rights charge with EEOC. . . .There is no evidence in the record indicating that Respondent would have discharged Charging Party had it not been aware of Charging Party's earlier charge. Such an action

> based, at least in part, upon Charging Party's participation in Commission proceedings violates Section 704(a) of Title VII. Id. p. 4297.

See **EXHIBIT "11"** attached hereto and incorporated by reference as if set forth in full herein.

23. As expressed above, Plaintiff Newsome believes that the **Fifth Circuit** Court of appeals would be highly *displeased* and/or *disappointed* to know that Defendant Crews her counsel (Monroe) other Defendants and their counsel and this instant lawsuit have taken its decisions to knowingly, deliberately, willfully and maliciously carry out "civil" and "criminal" wrongs against Plaintiff because they have found out about the four (4) lawsuits she has filed and/or participated in over the past **20** years. In fact, it is the Fifth Circuit who has advised the Plaintiff that she has other remedies available to her – for instance, stating, *". . . plaintiff is instructed to seek any further relief to which she feels entitled in the Fifth Circuit Court of Appeals, as may be appropriate in due course*" (2002 WL 1303123), and "Newsome also is not entitled to the writ because she has another adequate remedy available, i.e. ***she could file suit in court against her employer. . .***" (37 Fed.Appx. 87). Furthermore, Plaintiff believes from the evidence in the record of this Court, that not only the Fifth Circuit, *but a reasonable mind may conclude that such action as Defendant Crews' MFSCH are desperate to get this Court to unlawfully and unconstitutionally prevent Plaintiff from bringing lawsuits because they are aware that based on the facts, evidence and legal conclusions they played a major part in the getting the Plaintiff terminated from her employment with Page Kruger & Holland. Page Kroger & Holland who attorney(s) are representing: (a) Hinds County, Mississippi; (b) Malcolm McMillan; (c) Jon Lewis; and (d) William Skinner.*

While one knows that the evidence Plaintiff has acquired to support her unlawful/illegal and unethical practices of Defendant Crews her counsel and other Defendants and their counsel is hard to come by, she has benefited from same to not only support the pending lawsuits filed in this Court, but those in which she will be filing against her former employer(s) – being given authorization by the Fifth Circuit to do so. Defendant Crews and her counsel as well as other Defendants now with the aid to Plaintiff's former employer (Page Kruger & Holland) have taken it upon themselves to contact employer(s) of Plaintiff to notify them of lawsuits filed by her. In fact, in defendants' counsel in Hinds County Court action took it upon themselves to contact Plaintiff's employer (Page Kruger & Holland) to notify of the lawsuit she had filed in the Hinds County Court. As a direct and proximate result of such notification and acts, the Plaintiff's employment with Page Kruger & Holland was terminated. It is important to note that Plaintiff's termination may have also been contributed to the fact that Page Kruger & Holland knew that based upon the facts evidence presented in this instant lawsuit, that it was inevitable that Plaintiff would be suing Hinds County, Malcolm McMillin, William Skinner, Jon Lewis and others based upon the civil and criminal wrongs rendered her. The laws are clear that such violations are prohibited by law. Just as these Defendants in this lawsuit have made their knowledge known to this Court of past lawsuits filed by the Plaintiff, they have done so with her employer(s). The laws are clear on such matter that such acts are clearly prohibited by law:

> **Employer violated ~2000e-3(a)** by discharging an employee after learning he had filed charges of discrimination against former

employer. *EEOC Decision No.* 71-460, 1973, EEOC Decisions ¶ 6715.

Nevertheless, on about May 15, 2006, Plaintiff was terminated from her place of employment with Page Kruger & Holland as a direct and proximate result of being notified of the lawsuit she had filed in the Hinds County Court as well as its knowledge of lawsuits filed against former employers. See **EXHIBIT "12"** attached hereto and incorporated by reference as if set forth in full herein. A nexus and/or causal link can be established between Plaintiff's participation in the protected activity and her termination. Plaintiff was terminated on about May 15, 2006 and the hearing on was set in the Hinds County Court on May 18, 2006. See **EXHIBIT "13"** attached hereto and incorporated by reference as if set forth in full herein. Acts were willful, malicious and wanton and deliberately done to cause the Plaintiff injury/harm. Moreover, in an effort to add salt to the unlawful/illegal acts of the Plaintiff, defendants' counsel in the Hinds County Court action badgered, pressed, harassed, etc. Plaintiff's first attorney in that action into withdrawal – providing him with information regarding past lawsuits filed by her. Using the same tactics that are trying to use Plaintiff counsel in Civil Action No. 3:07-cv-00560 filed in this Court.

24. In fact, the United States Supreme Court provides an example of a pro se ***in forma pauperis*** litigant who filed *numerous* complaints; however, said Court did not close the door to his filing in the future:

> *In re McDonald,* 489 U.S. 180, 109 S.Ct. 993 (1989)[3] - Jessie McDonald may well have abused his right to file petitions in this Court without payment of the docketing fee; the Court's order documents that fact. I do not agree, however, that he poses such a threat to the orderly administration of justice that we should embark on the unprecedented and dangerous course the Court charts today. . . . I am most concerned, however, that if, as I fear, we continue on the course we chart today, we will end by closing our doors to a litigant with a meritorious claim. *It is rare, but it does happen on occasion* that we grant review and even ***decide in favor of a litigant*** **who previously had presented *multiple unsuccessful*** *188 *petitions on the same issue*. See, e.g., *Chessman v. Teets,* 354 U.S. 156, 77 S.Ct. 1127, 1 L.Ed.2d 1253 (1957); see id., at 173-177, 77 S.Ct. at 1136-1138 (Douglas, J., dissenting).[4]
>
> "Petitioner is no stranger to us. Since 1971, he has made **73** *separate* filings with the Court, not including this petition, which is his eighth so far this Term. These include **4** appeals, **33** petitions for certiorari, **99** petitions for extraordinary writs, **7** applications for stay and other injunctive relief, and **10** petitions for rehearing." Id. pp. 994-995.
>
> "But **paupers** filing *pro se* petitions are not *subject to the **financial** considerations* - filing fees and attorney's fees -

[3] See **EXHIBIT "14"** attached hereto and incorporated by reference as if set forth in full herein.
[4] See **EXHIBIT "15"** attached hereto and incorporated by reference as if set forth in full herein.

that **deter** other litigants from filing frivolous petitions." Id. p. 996.

The Supreme Court (even after all of McDonald's) did **not** close the door to McDonald. A litigant who is identified as filing 73 separate filings in a one-year period; however, ruled, "Petitioner remains free under the present order to file in forma pauperis requests for relief other than an extraordinary writ, if he qualifies under the Court's Rule 46 and does not similarly abuse that privilege." Id. p. 996.

In this instant lawsuit Plaintiff is labeled a "serial litigator" for filing approximately four (4) lawsuits over an approximate **20**-year period and now she is now in litigation with the two lawsuits before this Court.

25. The Supreme Court finding in, *Lakes v. State,* 333 S.C. 382, 510 S.E.2d 228 (1998) that:

According to the State, Lakes has submitted one direct appeal, three PCR applications, two petitions for writ of certiorari, a federal petition for writ of habeas corpus, petitions for writs of mandamus, attorney grievances, and proposed orders for release. Although Lakes's requests for relief are numerous, the trial judge failed to make factual findings to show the requests rise to the level of repetitive and abusive filings as in Maxton or those cases cited in Maxton. [FN2] Therefore, **231 we reverse the order of the trial judge and remand the case for further proceedings consistent with this opinion. In so doing, we make no comment as to the merit of Lakes's claims. Lakes still bears the burden of proving why his application should not be dismissed as successive pursuant to *387 S.C.Code Ann. § 17-27-90 (1976). See Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981).

FN2. The United States Supreme Court denies litigants who have repeatedly filed frivolous petitions the right to proceed in forma pauperis. However, the Court has done so pursuant to its Rule 39.8. See, e.g., In re Whitaker, 513 U.S. 1, 115 S.Ct. 2, 130 L.Ed.2d 1 (1994) (petitioner filed **23** claims for relief that had all been denied without dissent); In re Anderson, 511 U.S. 364, 114 S.Ct. 1606, 128 L.Ed.2d 332 (1994) (petitioner submitted **22** separate petitions and motions in a three year time span); *In re Demos,* 500 U.S. 16, 111 S.Ct. 1569, 114 L.Ed.2d 20 (1991) (petitioner made **32** in forma pauperis filings with the Supreme Court, most of which challenged sanctions imposed by the lower court); *In re Sindram,* 498 U.S. 177, 111 S.Ct. 596, 112 L.Ed.2d 599 (1991) (petitioner filed **42** separate petitions and motions in three year time span, all of which were denied without dissent); In re McDonald, 489 U.S. 180, 109 S.Ct. 993, 103 L.Ed.2d 158 (1989) (petitioner made **71** separate filings, all of which were denied without dissent). Rule 39.8 states:

> If satisfied that a petition for writ of certiorari, jurisdictional statement, or petition for an extraordinary writ, as the case may be, is frivolous or malicious, the Court may deny a motion for leave to proceed in forma pauperis.

(Information cut & pasted from WesLaw search)

26. The Supreme Court finding in *In re Maxton,* 325 S.C. 3, 478 S.E.2d 679 (S.C.,1996) that:

> Petitioner, an inmate, has submitted **sixty-four** pro se petitions *over the past* ***three*** years, including **forty-six** so far this year, asking this Court to hear matters in its original jurisdiction or issue various extraordinary writs. Each petition submitted by petitioner has been frivolous and dismissed pursuant to *Key v. Currie,* 305 S.C. 115, 406 S.E.2d 356 (1991), because no extraordinary reason existed to entertain the matter in the original jurisdiction of this Court.
>
> . . . The courts in other jurisdictions have responded in a variety of ways to abusive filings such as those by petitioner. The United States Supreme Court has denied litigants who have filed repetitive, frivolous petitions the right to proceed in forma pauperis, resulting in the litigants having to pay the required filing fee with that Court. *In re Whitaker,* 513 U.S. 1, 115 S.Ct. 2, 130 L.Ed.2d 1 (1994); In re Anderson, 511 U.S. 364, 114 S.Ct. 1606, 128 L.Ed.2d 332 (1994); In re Demos, 500 U.S. 16, 111 S.Ct. 1569, 114 L.Ed.2d 20 (1991); *In re Sindram,* 498 U.S. 177, 111 S.Ct. 596, 112 L.Ed.2d 599 (1991); **In re McDonald,** 489 U.S. 180, 109 S.Ct. 993, 103 L.Ed.2d 158 (1989). Other courts have required that the abusive litigant file an affidavit certifying that he believes the petition raises an original claim or is nonfrivolous before accepting filings from the litigant. *In the Matter of Verdone,* 73 F.3d 669 (7th Cir.1995); *Abdul-Akbar v. Watson,* 901 F.2d 329 (3d Cir.1990); *Green v. Warden,* 699 F.2d 364 (7th Cir.), cert. denied, 461 U.S. 960, 103 S.Ct. 2436, 77 L.Ed.2d 1321 (1983).

(Information cut & pasted from WesLaw search) **Clearly supporting that the "serial litigator" labeling of the Plaintiff has run its course and can be put to rest**.

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith, is legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers").***. . .

II. DISQUALIFICATION/RECUSAL ISSUE:

The Plaintiff believes that the notices filed in this Court in Civil Action Nos. 3:07-cv-00099 and 3:07-cv-00560 requesting Disqualification/Recusal were submitted in good faith, for the preservation of issue(s) and in the interest of justice. Congress and/or the lawmakers made provisions for bringing such actions. In further support the Plaintiff states:

27. Plaintiff believes there is sufficient facts, evidence and legal conclusions (past decisions of this Court and other courts) provided the lawsuits filed (3:07-cv-00099) and this instant action to support this Court discriminative application of the laws when dealing with the cases filed by her – said ruling clearly contrary and/or going against past decisions of this Court or other courts on the same issue(s). Moreover, that personal bias and prejudice towards the Plaintiff is obvious and the appearance of impropriety blatant.

Phillips v. Joint Legislative Committee on Performance and Expenditure Review of State of Miss., 637 F.2d 1014 (5th Cir. Miss. 1981) - **(n. 4)** The alleged bias of a judge must be personal as distinguished from judicial in nature in order to require recusal. 28 U.S.C.A. §§ 144, 455. **(n. 2)** - Affidavit of recusal is legally sufficient if the facts are material and stated with particularity, the facts are such that they would convince a reasonable person that bias exists if they are true, and the facts show that the bias is personal as opposed to judicial in nature. 28 U.S.C.A. §§ 144, 455. **(n. 3)** Under statute requiring a judge to disqualify himself in any proceeding in which his impartiality might be reasonably questioned, judge need not accept all the allegations by moving party as true and, in fact, no motion at all is required; the judge must disqualify himself if the facts cast doubt on his impartiality regardless of how or by whom they are drawn to his attention. 28 U.S.C.A. § 455.

Laxalt v. McClatchy, 602 F.Supp. 214 (1985) - **(n. 1)** Appearance of partiality is sufficient to require disqualification of magistrate. **(n. 2)** Ruling by magistrate on nondispositive pretrial matter should be set aside by district court on review only if found to be clearly erroneous in fact or contrary to law. 28 U.S.C.A. § 636(b)(1)(A); **(n. 3)** On motion to disqualify magistrate, standard is whether reasonable person with knowledge of all facts would conclude that magistrate's impartiality might reasonably be questioned. **(n. 6)** Reviewing court will find abuse of discretion only when there is definite and firm conviction that court below committed clear error of judgment in conclusion it reached upon weighing of relevant factors. **(n. 7)** Appearance of impartiality is material issue on motion for disqualification of magistrate, not ability to prove or disprove absence of actual prejudice; test is objective and inquires whether reasonable person with knowledge of all facts would conclude that judge's impartiality might reasonably be questioned. **(n. 8)** Disqualification of magistrate must rest upon factual basis; subjective belief of moving litigants is not determinative. **(n. 12)** Judge should resolve any close issue in favor of disqualification if reasonable person might question his impartiality.

28. Just as Magistrate Sumner knew that there was a conflict, he deliberately failed to recuse himself. He compromised the integrity of this Court and rather than uphold the laws, he elected to take a far departure and enter ruling(s) as special favor to the Defendants in Civil Action No. 3:07-cv-00099. Then without notice, he simply

recused himself without stating the reasons for said recusal for the record. Moreover, Judge Lee affirmed Sumner's Order in said action, which he clearly knew and/or should have known was clearly in violation of Plaintiff's Constitutional rights and/or the statutes/laws governing recusals. Plaintiff believes the integrity of this Court has been heavily breached and has, therefore, noticed the filing of the applicable pleadings in an effort to obtain justice and to clean up the docket in this action by getting rid of the clutter the Defendants bring through their bad faith and/or sham/frivolous pleadings. *Hall v. Small Business Admin.,* 695 F.2d 175 (C.A.5.Miss.,1983) - Every justice, judge and magistrate is required to disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

29. Plaintiff believes that the rulings submitted so far in this lawsuit by Magistrate Anderson will support that she clearly violated the laws/statutes governing said matters and that her acts were deliberately done to deprive the Plaintiff equal protection of the laws and due process of laws. Acts upon which a reasonable mind may conclude her rulings will be influenced by deep-seated favoritism or antagonism based on the unlawful/illegal and unethical practices Defendant Crews and her counsel have been allowed render under her watch. *Liteky v. U.S.,* 114 S.Ct. 1147 (1994) - Opinions formed by judge on basis of facts introduced or events occurring in course of current proceeding, or prior proceedings, do not constitute basis for bias or partiality disqualification motion unless they display deep-seated favoritism or antagonism that would make fair judgment impossible. 28 U.S.C.A. § 455(a).

30. Plaintiff is simply requesting that the Judge Lee and Magistrate examine the record and their actions, based on the record, and recuse/disqualify themselves if warranted without the Plaintiff having to incur additional costs and expenses and file the required Disqualification/Recusal pleading. Plaintiff has a right to have a Judge preside over this instant lawsuit that can be impartial, fair and just. Keeping the blindfold in place and deciding the claims and issues raised based on the laws, and not a Judge influenced by special friendships and the need to render special favors to the Defendants and their counsel because of relationship(s) established. *Rutland v. Pridgen,* 493 So.2d 952 (Miss.,1986) - Judge is required to disqualify himself if reasonable person, knowing all the circumstances, would harbor doubts about his impartiality. *Jones v. State,* 841 So.2d 115 (Miss.,2003) - A judge is required to disqualify himself if a reasonable person, knowing all the circumstances, would harbor doubts about his impartiality.

31. Plaintiff believes that the record evidence in this action will support that she in good faith has been patient, enduring and in no way has disrespected this Court. However, she will not allow Defendant Crews' counsel to come before this Court and continue to slander and scandalize her name and reputation without rebuttal. Such practices by Clark Monroe are clearly unlawful/illegal and unethical. The question being raised, is why does it appear that he felt so comfortable in bringing his bogus/scandalous/ slanderous, etc. letter of February 25, 2008 before this Court. As Plaintiff could see right through him and the shallow and frivolous pleadings, it is not clear why this Court has repeatedly allowed this counsel and other Defendants and their counsel to practice before this Court in such a manner. It is obvious they have been allowed to proceed because of the mentioning of previous lawsuits filed by the Plaintiff in **clearly unrelated matters** having no bearing on the lawsuits filed in this Court. Moreover, have used such knowledge of past lawsuits to commit civil and criminal

wrongs against the Plaintiff. *Travelers Ins. Co. v. Liljeberg Enterprises, Inc.*, 38 F.3d 1404 (5th Cir. 1994) - One seeking disqualification must do so at the earliest moment after knowledge of the facts demonstrating the basis for disqualification. 28 U.S.C.A. § 455(a).

32. Plaintiff believes her timely filing notifying of her intent to bring Disqualification/Recusal action is sufficient. Moreover, warranted to present this issue for appeal purposes. *Hollywood Fantasy Corporation v. Gabor*, 151 F.3d 203 (5th Cir. 1998) - Although a disqualification challenge raised for the first time on appeal is not per se untimely, the timeliness requirement of recusal statute obligates a party to raise disqualification issue at a reasonable time in the litigation. 28 U.S.C.A. § 455.

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith, is legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers")***. . .

II. CONSPIRACY ISSUE:

The record evidence, facts and legal conclusions on this issue speaks for itself. Moreover the most recent and damaging information willfully surrendered by Defendant's counsel, Clark Monroe, in an effort of inducing this Court to engage in said conspiracy. In support thereof, the Plaintiff states:

33. Plaintiff believes that a reasonable mind may conclude that the Complaint filed in this lawsuit, her subsequent pleadings as well as Defendant Crews' counsel's, Monroe, recent correspondence will sustain that she has met the prima facie prerequisites to sustain her conspiracy allegation raised in this instant lawsuit as well as when she file the applicable actions of and against this Defendant her counsel, his law firm and other conspirators/co-conspirators who played an active role in the conspiracy resulting in her termination of employment with Page Kruger & Holland – Page Kruger & Holland to be a Defendant in that lawsuit as well. Plaintiff is very thankful through this lawsuit and Civil Action No. 3:07-cv-00099, Defendants provided her with additional information and evidence to support the lawsuit to be filed against them at a later date. *Wells v. Shelter General Ins. Co.*, 217 F.Supp.2d 744 (S.D.Miss.Jackson.Div.,2002) (**BARBOUR**) - Under Mississippi law, in order to succeed on a claim of civil conspiracy, a plaintiff must show (1) the existence of a conspiracy, (2) an overt act in furtherance of that conspiracy, and (3) damages arising therefrom.

34. Plaintiff believes not only the evidence presented in this instant lawsuit supports and/or sustain the conspiracy launched against the Plaintiff, but Monroe will take it as far as trying to get this Court to engage in same. See his letter of February 25, 2008 to the Judges/Magistrate. Now that the Plaintiff has brought this instant lawsuit, he is attempting to get it dismissed. Such a dismissal which, as a matter of law, is not warranted. *Cooper Tire & Rubber Co. v. Farese*, 423 F.3d 446 (5th Cir. Miss. 2005) - Under Mississippi law, "civil conspiracy" requires showing: (1) two or more persons or

corporations; ?(2) an object to be accomplished; ?(3) a meeting of the minds on the object or course of action; ?(4) one or more unlawful overt acts; ?and (5) damages as the proximate result.

35. As with the letter Defendant Crews presented to this Court on her and/or his clients' behalf, a reasonable mind may conclude that he is now attempting to engage this Court to aid him in furtherance of said conspiracy that has been hatched against the Plaintiff. The record evidence in this lawsuit clearly supports (as his February 25, 2008 letter to this Court) that he has followed the Plaintiff from **job-to-job**, **attorney-to-attorney**, etc. notifying them of lawsuits in the past for purposes of causing her further injury/harm. Now he is before this Court committing the same civil and criminal wrongs he is fully aware of is prohibited by laws/statutes – the U.S. CONSTITUTION. Defendant Crews/Monroe were hoping to push the Plaintiff to the same point as Carl Brandon (Port Gibson, Mississippi shooting – wherein some alleged Brandon was being harassed in the same manner as Monroe and his clients are doing the Plaintiff; following her from job-to-job, attorney-to-attorney, etc. for purposes of getting her fired/terminated and going to great extremes to destroy her life). *Smith v. St. Regis Corp.,* 850 F.Supp. 1296 (S.D.Miss.Jackson.Div.,1994) (**WINGATE**) - A "conspiracy" is combination of persons for purpose of accomplishing unlawful purpose or lawful purpose unlawfully. *Frye v. American General Finance, Inc.,* 307 F.Supp.2d 836 (S.D.Miss.W.Div.,2004) (**BRAMLETTE**) - In Mississippi, a conspiracy is a combination of persons for the purpose of accomplishing an unlawful purpose or a lawful purpose unlawfully.

36. This Court has defined, in past decisions, what constitutes a conspiracy. Based upon the facts, evidence and legal conclusions presented in the Complaint filed in this instant lawsuit and Plaintiff's subsequent pleadings, a reasonable mind may conclude that Defendant Crews and her counsel engaged in acts which constitute a conspiracy. Moreover, their willful, deliberate and malicious act and/or role played in the termination of Plaintiff's employment with Page Kruger & Holland. *Norris v. Krystaltech Intern, Inc.,* 133 F.Supp.2d 465 (S.D.Miss.Jackson.Div.,2000) (**LEE**) - Mississippi recognizes a cause of action for conspiracy, described as combination of persons for purpose of accomplishing an unlawful purpose or a lawful purpose unlawfully.

37. Plaintiff believes, as a matter of law, that a conspiracy existed, and under said belief filed a lawsuit in this Court addressing conspiracy (See Civil Action No. 3:07-cv-00099. *Dale v. Ala Acquisitions, Inc.,* 203 F.Supp.2d 694 (S.D.Miss.Jackson.Div.,2002) (**LEE**) - Under Mississippi law, right of action exists for civil conspiracy.

Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) indicated here as well as above stricken and/or statements within Defendant Crews' MFSCH stricken, in that it is irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith, is legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers")***. . . .

III: FEDERAL RULE OF CIVIL PROCEDURE – RULE 11 SANCTIONS:

In applying the "snapshot" rule the MFSCH was submitted in bad faith, is frivolous and provided merely for purposes of harassment, abusive attacks on the Plaintiff and her

counsel, abuse of the judicial process and this Court's electronic filing system, delay and hindering of proceedings, needlessly increasing the cost of litigation, to obstruct the administration of justice, deprive the Plaintiff equal protection of the laws and due process of laws. Prior to filing the MFSCH, Defendant Crews/Monroe knew and/or should have known that it was factually and legally insufficient. Said acts which also warrants this Court's issuing sanctions of and against Defendant Crews/Monroe through its ***inherent*** and discretionary powers. In support thereof Plaintiff states:

38. Defendant Crews allowed and/or authorized Monroe to file the MFSCH on her behalf which is clearly unsupported and is cluttered with *sweeping accusations* for purposes of attacking the Plaintiff; as well as Plaintiff's attorney. Monroe knowingly, deliberately and with malicious intent chose to impugn the professional integrity of Plaintiff's counsel, Abioto, on basis of unverified, unsubstantiated, and inherently unreliable information. *If this Defendant and her counsel had any such information to support their abusive and hostile attacks on the Plaintiff and her counsel,Abioto, they should have produced such evidence*. Clearly his OUTRAGE as he stated is evidenced in said pleading *due to* ***his failure*** to obtain a dismissal of this lawsuit and his inability to control the Plaintiff. Through said MFSCH, it appears that this Defendant and her counsel want this Court to believe that the Plaintiff has no role or input in the way this case is to proceed and/or right to aid in the representation of this lawsuit. Moreover, finding out, that it is Abioto who works for the Plaintiff and is required to represent Plaintiff and the Plaintiff's interest in this action. The MFSCH is neither certified in accordance with Rule 11 of the FRCP. The statutes/laws are clear that sanctions are warranted of and against Monroe as well as his client, Defendant Crews. *Bockman v. Lucky Stores, Inc.*, 108 F.R.D. 296 (1985) - Defendants' counsel would be required to pay, pursuant to Federal Civil Rule 11 governing signing of pleadings, reasonable costs and attorney fees incurred by plaintiffs in defending a motion to decertify the plaintiffs' class or disqualify class counsel because of counsel's alleged ethical violations; **before** filing a motion filled with such ***sweeping*** *accusations*, defense counsel *should have*, at **a minimum**, first filed a request for an extension of the deadline based on newly discovered evidence rather than choosing to **impugn** the professional integrity of plaintiffs' counsel ***on basis of*** *unverified, unsubstantiated,* and ***inherently*** *unreliable* information. Fed.Rules Civ.Proc.Rule 11, 28 U.S.C.A.

39. A reasonable mind may conclude that Defendant Crews has authorized and approved the methods, acts and course taken by Monroe in his representation of her. Therefore, supporting and condoning the filing of the MFSCH. A pleading clearly support the abusive attacks on the Plaintiff and her counsel, Monroe's abuse of the judicial process and this Court's electronic filing system to carry out such unlawful/illegal and unethical attacks on the Plaintiff and her counsel. All with the approval of Defendant Crews. Defendant Crews being entitled to review the MFSCH prior to its filing by Monroe. Said filing which was submitted in bad faith for abusive purposes and means and to needlessly increase the cost of litigation. Monroe acknowledges his client's paying for such conduct in his letter to this Court, the

McQueen Contracting, Inc. v. Fidelity & Deposit Co. of Maryland, 863 F.2d 1216 (5th Miss. 1989) -Court of Appeals would not address argument not considered by district court based on defendant's failure to raise it prior to motion for reconsideration of district court's summary judgment ruling.

Marohnic v. Walker, 800 F.2d 613 (1986) - Plaintiff adequately preserved claim based on First Amendment by pleading the First Amendment in his complaint and interposing his claim in response to motion to dismiss even though his response to motion for summary judgment did not explicitly refer to that claim.

Therefore, Plaintiff request this Court exercise its inherent power and discretion and have Defendant Crews' statement(s) and/or material(s) as indicated above and/or statements within Defendant Crews' MFSCH stricken, in that they are irrelevant, impertinent and immaterial to this instant lawsuit, was provided in ***bad faith****, is* ***legally and evidentiary insufficient (this Court applying the "snapshot" rule and "inherent powers")****, is sham/frivolous and provided for unlawful and unethical purposes, and does not present any facts, evidence or legal conclusion(s) to support defenses asserted. The information in MFSCH was provided for frivolous filings and misuse of the judicial process and is neither certified as required under Rule 11. Defendant Crews/Monroe failed to make reasonable inquiry into to the laws and facts underlying the MFSCH filed. Thus, moving this Court to issue the applicable sanctions pursuant to Rule 11 of the FRCP and/or governing laws of and against Defendant Crews and her counsel, Clark Monroe.*

WHEREFORE, PREMISES CONSIDERED, for the above and foregoing reasons, Plaintiff moves this Court for the following relief:

a. Strike the statements and materials in *Defendant Melody Crews' Motion for Show Cause Hearing and for General Relief,* including: Opening Paragraph; Paragraphs numbered 1., 2., 3., 4., 5. and supporting material provided at/in Exhibit A, 6., 7., 8., 9., 10., 11., 12 – and supporting materials provided at/in Exhibit A., 13 – and supporting materials provided in Exhibit B, 14., 15. and its subparagraphs lettered a., b., c., d., e., and e. (sic); and closing paragraph beginning,, "WHEREFORE, PREMISES CONSIDERED, Melody Crews" and the relief sought in said closing paragraph. Furthermore, Defendant Crews' MFSCH was provided in *bad faith* for purposes of sham/frivolousness, harassment, delay, hindering proceedings, malicious intent, obstructing the administration of justice to prejudice this Court against her, increasing the costs of litigation, to deprive Plaintiff equal protection of the laws and due process of laws, and does not present any facts, evidence or legal conclusion(s) to sustain the arguments made and the relief sought through her pleading.

b. Plaintiff moves this Court to apply the "**snapshot rule,**" its inherent powers and other power granted it under the statutes/laws governing said matters and issue the appropriate Rule 11 sanctions of and against Defendant Crews and her attorney, Clark Monroe. If permissible, Plaintiff moves this Court to sanction each of these Defendants in the amount of $150,000.00 or an amount in which this Court deems

just, proper and fair considering the violations complained of herein. Said sanctions applicable given the facts, evidence and legal conclusions to support their outrageous conduct and conspiracy they have continued to carry out.

c. Plaintiff moves this Court to issue the applicable sanctions of and against Clark Monroe, up to including reporting him to the Mississippi Bar and recommending sanctions to include, "disbarment," "suspension," "contempt," and/or the maximum punishment allowed to deter such blatant judicial abuses and violation of the Code and/or laws governing attorney conduct.

d. If permissible, Plaintiff moves this Court for attorney for attorney fees for the cost, expense incurred in having to defend against Motion to Strike.

e. Any and all other relief permissible under the laws to deter the wrongs complained of herein.

f. Jury Trial Demanded on all Triable Issues.

Respectfully submitted this **6th** day of **March, 2008**.

VOGEL NEWSOME, Plaintiff

Wanda Abioto, MSB No. 8156
ABIOTO LAW CENTER
2353 Syon
Memphis, Tennessee 38119
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Facsimile: (901) 767-4441
E-Mail: Abioto@hotmail.com
COUNSEL FOR PLAINTIFF[5]

[5] Plaintiff being notified by her attorney of her counsel's illness and possible withdrawal issue, therefore submits this pleading on Plaintiff's behalf and in her protected interest in this lawsuit.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the forgoing pleading was mailed via U.S. Mail first-class mail on:

Lanny R. Pace, Esq.
STEEN DALEHITE & PACE, LLP
401 East Capitol Street, Suite 415
Post Office Box 900
Jackson, Mississippi 39205
Counsel for Defendants Spring Lake Apartments and The Bryan Company

Clark Monroe, Esq.
Benny M. "Mac" May, Esq.
DUNBARMONROE, PLLC
1855 Lakeland Drive, Suite P-121
Jackson, Mississippi 39216
Counsel for Defendant Melody Crews

Dated this 6th day of **March, 2008.**

VOGEL NEWSOME

BAKER DONELSON
BEARMAN, CALDWELL & BERKOWITZ, PC

Commission on Civil Rights Appointment

Bradley S. Clanton

May 10, 2007

(Jackson, MS/May 10, 2007) Bradley S. Clanton, of the law firm of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, has been appointed by the United States Commission on Civil Rights (USCCR) to serve as Chairman of its Mississippi Advisory Committee.

The Committee assists the USCCR with its fact-finding, investigative and information dissemination activities. The functions of the USCCR include investigating complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, disability or national origin, or by reason of fraudulent practices; studying and collecting information relating to discrimination or a denial of equal protection of the laws under the Constitution; appraising federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability or national origin, or in the administration of justice; serving as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws; submitting reports, findings and recommendations to the President and Congress; and issuing public service announcements to discourage discrimination or denial of equal protection of the laws.

Mr. Clanton, a shareholder in Baker Donelson's Jackson and Washington, D.C. offices, concentrates his practice in government litigation, securities and other fraud investigations, and litigation, election law and appeals. His appellate practice has included matters before the U.S. Supreme Court, U.S. Courts of Appeals, the Mississippi Supreme Court and Court of Appeals, and various other state appellate courts. His internal investigations and government litigation practice has included matters related to Securities and Exchange Commission investigations, health care fraud investigations, federal campaign finance investigations, and state and federal securities fraud class action litigation and arbitration proceedings. Previously, Mr. Clanton served as Chief Counsel to the U.S. House Judiciary Committee's Subcommittee on the Constitution, where his responsibilities included advising the Chairman and Republican Members of the Judiciary Committee on legislation and Congressional oversight implicating civil and constitutional rights, Congressional authority, separation of powers, proposed constitutional amendments and oversight of the Civil Rights Division of the Department of Justice and the U.S. Commission on Civil Rights.

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News Contact:

Johanna Burkett
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EXHIBIT 59

BAKER DONELSON
BEARMAN, CALDWELL & BERKOWITZ, PC

Commission on Civil Rights Appointment

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT - JACKSON DIVISION

VOGEL NEWSOME — PLAINTIFF

VS. — CIVIL ACTION NO.: 3:07-cv-00099LS

MELODY CREWS, SPRING LAKE APARTMENTS, LLC, DIAL EQUITIES, INC., JON C. LEWIS, individually and in his capacity as Constable of Hinds County, WILLIAM L. SKINNER II, individually and in his capacity as Justice Court Judge, MALCOM McMILLAN, individually and in his capacity as Sheriff of Hinds County, JOHN DOES 1-26, individually and in their official capacities, JANE DOES 1-26, individually and in their Official capacity, COUNTY OF HINDS, MISSISSIPPI — DEFENDANTS

MELODY CREWS AND DIAL EQUITIES, INC.'S JOINDER IN MOTION FOR SECURITY OF COSTS AND SEPARATE MOTION FOR SECURITY OF ATTORNEY FEES

Dial Equities, Inc. and Melody Crews (collectively the "Dial Defendants") by and through counsel, join in the *Motion for Security of Costs* filed herein by Defendants Hinds County, Mississippi, and Malcolm McMillan (collectively "Hinds County"), and separately move this honorable Court for security of attorney fees herein. In support of said joinder and separate motion, the Dial Defendants would show unto the Court as follows:

1. Hinds County filed its Motion for Security of Costs herein on or about July 13, 2007. [Docket # 9]. In its motion, Hinds County points out that the claims asserted in the instant action have already been litigated twice by the Dial and Spring Lake Defendants prior to Plaintiff's filing of this action. *See exhibits to Hinds County's Motion for Security of*

EXHIBIT 60

Costs.

2. Plaintiff's claims herein against the Dial Defendants are identical to those raised against the Dial Defendants in the justice and county court actions. *Id*. Inasmuch as the Justice Court action was finally adjudicated and not properly appealed, and the County Court action was dismissed with prejudice, all claims raised herein against the Dial Defendants are now barred by *res judicata*. There is no question that the claims herein will ultimately be resolved in favor of the defendants. The security requested first by Hinds County, and now by the Dial Defendants, is necessary to protect the interests of all defendants herein.

3. In addition to the security for costs requested by Hinds County and the Dial Defendants, it is also requested that Plaintiff be required to provide security for the attorney fees that the Dial Defendants are likely to expend in defending against the same frivolous claims raised by Plaintiff for this third time.

4. Plaintiff's abuse of the judicial system is not limited to the circumstances giving rise to this litigation. Rather, Plaintiff is a "serial litigator," having shown a propensity for filing repeated, frivolous, harassing lawsuits and appeals in the past, and having been previously sanctioned by the United States Court of Appeals for the Fifth Circuit. *Vogel Newsome v. EEOC*, 2002 WL 31845750 (5th Circuit 2002) (The Clerk of Court for the United States Court of Appeals for the Fifth Circuit ordered to return unfiled any submission by Ms. Newsome until such sums for sanction paid). In the Fifth Circuit

matter, the Court referenced a preceding appeal in which it had warned Ms. Newsome about frivolous filings and so it sanctioned her in the second matter before it. The Fifth Circuit's decision is appended hereto as Exhibit A. *See also* Exhibit B, Westlaw results for a query on the term "Vogel Newsome". Counsel has reviewed each of the twenty-two "hits" on Westlaw and written the outcome of each in the margin. Twenty-one involved Ms. Newsome and she went 0-21 overall with several specific findings that her complaints were frivolous, one in which she was ordered to file nothing further and of course the sanctions from the Fifth Circuit.[1]

5. The Dial Defendants expended $10,036.40 in defending Plaintiff's improper "appeal" to the County Court of the initial ruling by the Justice Court. *Exhibit C*. This was largely due to Plaintiff's repeated abuses of the judicial process in the course of that action, repeated frivolous motions, re-scheduling of hearings, withdrawal of her attorney to whose advice she refused to listen, *pro se* filing of pleadings even when represented and submission of lengthy tedious papers, much like the Complaint filed herein, that each take hours to review. Plaintiff repeatedly made improper filings in violation of Miss. R. Civ. P. 11, lodging a barrage of allegations and insults against the Dial Defendants and their counsel, many of which were defamatory. The Dial Defendants request that this Court take action to stop the Plaintiff's relentless judicial assaults against them. Further, if ever there was a case

[1]Of course, these twenty-one matters only include federal filings. State filings are not as easily located but this matter involved at least one in the County Court of Hinds County. Also of note, counsel has been practicing a number of years and has yet to have the occasion to seek *certiorari* to the United States Supreme Court, yet Ms. Newsome did so twice within a two year period.

to which the Mississippi Litigation Accountability Act will apply, it will be this one.

6. The relief requested is well within the power of the Court. *Ajuluchuku v. Southern New England School of Law*, 2006 WL 2661232, *7 (N.D. Ga. 2006). While the so-called "American Rule" generally prohibits fee shifting in most cases, there are circumstances in which federal courts have inherent power to assess fees. *Pedraza v. United Guar. Corp.*, 313 F.3d 1323, 1335 (11th Cir. 2002). One such circumstance occurs "when a party has acted in bad faith, vexatiously, wantonly, or for oppressive reasons." *Id*.

7. Plaintiff's repeated attempts to extort money from the Dial Defendants through oppressive litigation can only be described as stalking by litigation. Indeed, if ever there were a situation where the "bad faith" exception to the "American Rule" should be applied, it is the instant matter. While much leeway is usually afforded a *pro se* litigant by the Courts, Ms. Newsome, a current or former paralegal, no longer fits that profile nor should she be afforded the usual courtesy provided to *pro se* litigants. Ms. Newsome knows the rules, she "games" the system, she ignores court directives and she maliciously causes significant financial harm to her litigation victims.

8. Ms. Newsome appears to be the proverbial "turnip" from which no funds will be recoverable if the Court later awards a judgment for attorney fees against her. Therefore, she has nothing to lose by filing this harassing litigation which means she is not deterred from proceeding full steam ahead. In this case we ask the Court to provide relief "up front" and require her to put her own assets at risk if she intends to proceed and to do so in the form

of the bond requested. Defendants believe this to be both fair and reasonable under the circumstances in this case and her past litigation history both in this matter and others.

9. Due to the self-explanatory nature of this motion, the Dial Defendants request that this honorable Court excuse them from the necessity of submitting a memorandum in support of this motion as relevant authority is cited herein.

WHEREFORE, PREMISES CONSIDERED, the Dial Defendants request that this honorable Court:

a. require that Plaintiff Vogel Newsome give security of all costs in the amount of $5,000.00 bond that can reasonably be expected to accrue in this action based upon Plaintiff's previous litigation conduct;

b. or, in the alternative, require that Plaintiff Vogel Newsome post a bond in the amount of $759.00, double the award rendered against her by the Hinds County Justice Court, ensuring the payment of court costs should she lose on the merits of this case; and

c. require that Plaintiff Vogel Newsome give security of all attorney fees in the amount of $25,000.00 bond that can reasonably be expected to accrue to the Dial Defendants in this action based upon Plaintiff's previous litigation conduct. If she wishes to move forward in this matter, Defendants should have some recourse against her for their damages at the end of the day.

And if the Dial Defendants have requested wrong or insufficient relief, then they hereby request any and all relief to which they may be entitled in the premises.

This the 1st day of August, 2007.

Respectfully submitted,

DIAL EQUITIES, INC. and MELODY CREWS

By Their Attorneys

DunbarMonroe, PLLC

By: */s/ Clark Monroe*
Clark Monroe
Benny M. May

OF COUNSEL:

Clark Monroe (MSB # 9810)
Benny M. "Mac" May (MSB #100108)
DunbarMonroe, PLLC
1855 Lakeland Drive, Suite P-121
Jackson, Mississippi 39216
(601)366-1805 Office
(601)366-1885 Facsimile

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have this day caused to be served a true and correct copy of the above and foregoing pleading to the following interested parties, and to be delivered via ECF e-mail unless otherwise noted:

Lanny Pace — *lrp@steenrd.com*
Steen Dalehite & Pace, LLP
Post Office Box 900
Jackson, Mississippi 39205

J. Lawson Hester — *lhester@pkh.net*
Clifford A. McDaniel II
Page, Kruger & Holland, P.A.
Post Office Box 1163
Jackson, Mississippi 39215-1163

Vogel Newsome — *Via U.S. Mail*
Post Office Box 14731
Cincinnati, Ohio 45250

THIS the 1st day of August, 2007.

/s/ Clark Monroe
Clark Monroe

Date: Tue, 16 May 2006 07:40:52 -0700 (PDT)

From: "v newsome" <[redacted]> View Contact Details Add Mobile Alert
Yahoo! DomainKeys has confirmed that this message was sent by yahoo.com. Learn more

Subject: VOGEL NEWSOME: PKH's Termination of Employment

To: lbaine3@pkh.net, tpage@pkh.net, lthomas@pkh.net

To Louis/Tommy/Linda:

This email correspondence is being submitted to confirm that as of Monday, May 15, 2006, my employment with Page, Kruger & Holland, P.A. ("PKH") has been terminated – as Mr. Baine put it "effective immediately." This termination has been approved by the shareholders of PKH. Those present at the Termination Meeting were as follows:

Louis J. Baine, III (shareholder)
Thomas Y. Page, Jr. (shareholder)
Linda Thomas (Office Administrator); and
Myself/Vogel Newsome (Employee being terminated)

I requested that PKH provide me with written documentation as to the reasons for my termination and/or documentation acknowledging termination; however PKH declined to do so and advised they would not provide any written documentation.

My understanding as to the reasons for my termination is as follows:

1. PKH was advised of a lawsuit I filed in the Hinds County Court.
   When I requested who informed PKH of this information, PKH declined to provide me with this information
   PKH acknowledged that it checked into whether a lawsuit was filed and confirmed going to the courthouse to review the file and obtaining documents.
   When I requested information regarding how long PKH was aware of the matter I am involved in, PKH advised they have known for quite some time. When requesting specific time frame, PKH declined to give me an exact amount of time they have known about it.

2. PKH acknowledged they had conducted an investigation and it revealed:
   That I had used PKH equipment to conduct personal business
   Faxes sent revealed the PKH name across the top
   Faxes sent wound up in the court file and they did not want their name associated with the lawsuit
   Personal documents were saved on PKH equipment and they have reviewed documents and emails on my computer
   Great deal of time was used to conduct personal business; however, PKH failed to produce how much time was used for personal business.

   (a) While I acknowledged I used PKH equipment for personal business, I shared others in the firm did as well and PKH did not and does not deny that other employees use PKH equipment for personal business.

   (b) I acknowledged that I used PKH fax machine for personal business as did other employees at PKH who used it for personal business – PKH did not and does not deny that other employees use their fax machine to send personal faxes.

   (c) According to PKH the name appear at the top of all faxes that are transmitted from their machines.

   (d) I acknowledged that I saved personal documents to the computer as did other employees of PKH – PKH did not and does not deny that other employees save personal documents to their computer

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(e) PKH acknowledge that it was me that they have been observing and me that they investigated while it having knowledge that other employees engaged in the same practices as I.

(f) While PKH stated that a great deal of my time was used to conduct personal business – which was denied by me, it failed to explain how it affected my work performance.

(g) PKH acknowledged that no personal documentation by me was ever placed on PKH letterhead.

3. PKH acknowledged they conduct conflict checks; however, did not make it clear as to what that had to do with my termination. While PKH having knowledge that if I believed there was a conflict regarding me, they were notified of concerns by me; however, elected not to respond.

4. PKH was made aware of my concerns that the action they have taken against me is prejudicial; however, PKH denied such.

5. PKH acknowledged that they were aware of my personal activities for quite some time; however, elected not to address them or to notify me of any wrongs (if wrong at all) that I may have been committing. Concerns of said failure by PKH was made known to them.

6. PKH was made aware of my displacement situation – information PKH had prior to the meeting (can be based on their long time monitoring and investigation and being notified of my lawsuit, etc.)

7. PKH was made aware of my concerns of my inability of being able to obtain employment elsewhere in that it is apparent (them being notified of lawsuit) that efforts will be taken to prevent me from obtaining gainful employment elsewhere; however, PKH denied they would do anything like that and would handle the matter as they have with others when employment is verified.

8. While PKH acknowledged that I may bring lawsuits and it is of no business to them, the action taken on May 15, 2006, to terminate my employment was to the contrary and PKH acknowledge termination was a result of the lawsuit I filed in the Hinds County Courthouse that was brought to their attention.

9. While PKH acknowledge an investigation was conducted on me and I requested that PKH provide me with written documentation for their termination, PKH declined to provide me with documentation.

10. My concerns as to being singled out when others at PKH did the same things were made known to PKH; however, PKH had already made up their mind that they were terminating my employment.

11. PKH acknowledged that the shareholders were in consensus/agreement with terminating my employment.

In that I believe that I have been unlawfully terminated, I am requesting that PKH preserve my employment records, any other documents, audio, etc. regarding my employment and reasons for termination.

In that PKH was given an opportunity to provide me with written documentation as to their reasons for my termination, I will only conclude that any other reasons which may be offered **AFTER** the fact/termination will be pretext in nature – provided in an effort to cover-up/shield PKH's unlawful employment action taken against me.

Sincerely,

Vogel Newsome

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT – JACKSON DIVISION

VOGEL NEWSOME **PLAINTIFF**

VS. **CIVIL ACTION NO. 3:07cv00099TSL-JCS**

MELODY CREWS, SPRING LAKE APARTMENTS, LLC, DIAL EQUITIES, INC., JON C. LEWIS, individually and in his capacity As Constable of Hinds County, WILLIAM L. SKINNER, II, individually and in his capacity As Justice Court Judge, MALCOM McMILLAN, Individually and in his capacity as Sheriff of Hinds County, JOHN DOES 1-26, individually and in their official capacities, JANE DOES 1-26, individually and in their Official capacity, COUNTY OF HINDS, MISSISSIPPI **DEFENDANTS**

MOTION FOR SECURITY OF COSTS

COME NOW Defendants, Hinds County, Mississippi and Malcolm McMillan, by and through counsel and specifically asserting all defenses under Federal Rules of Civil Procedure 12(b)(1)-(7), and file this their Motion for Security of Costs and in support thereof would show the following, to-wit:

1. Plaintiff, Vogel Newsome, filed the subject Complaint on February 14, 2007 in the United States District Court for the Southern District of Mississippi. Specifically listed were Defendants Melody Crews; Spring Lake Apartments, LLC; Dial Equities, Inc.; Jon C. Lewis, Individually and In His Official Capacity as Constable of Hinds County; William L. Skinner, II, Individually, and In His Capacity as Justice Court Judge; Malcolm McMillan, Individually, and In His Official Capacity as Sheriff of Hinds County; Hinds County, Mississippi; John Does 1 – 26; and Jane Does 1 – 26, Individually and in their Official Capacities. (See Federal Court Complaint).

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2. Plaintiff claims that she bases her Complaint on actions commencing from mid-August 2005 referencing application for admission into an apartment complex known as Spring Lake Apartments. Plaintiff complains of ongoing discriminatory practices by Spring Lake Apartments, LLC, Dial Equities, Inc., and Melody Crews. The facts upon which Plaintiff bases her theories of recovery are related solely to her lease of, occupancy of and eviction from an apartment managed by Defendant Dial Equities and situated at 1434 Hawthorn Cove, Jackson, Mississippi.

3. Plaintiff admits in Paragraphs 62-71 of her Complaint that these facts have already been presented to and decided by the Hinds County Justice Court.

4. Plaintiff then admits in Paragraph 82 of her Complaint that she failed to file an appeal of the Hinds County Justice Court decision to the County Court of Hinds County as required by Mississippi Code Annotated § 11-51-85. Additionally, pursuant to Mississippi Uniform Circuit and County Court Rule 5.04, Plaintiff was also required to file her notice "with the Circuit Court Clerk." However, Plaintiff admits in Paragraph 82 of her Complaint that she failed to do this.

5. Instead, on March 15, 2006, Plaintiff filed suit in the County Court of Hinds County, Mississippi against Spring Lake Apartments, LLC; Dial Equities, Inc.; and Melody Crews. (See County Court Complaint attached hereto as Exhibit "A"). In the County Court Complaint Plaintiff bases her theories of recovery on the same lease of, occupancy of and eviction from the same apartment situated at 1434 Hawthorn Cove, Jackson, Mississippi 39272. (Exh. A, Para. 4).

6. Plaintiff admits in her County Court Complaint that the matters complained of had already been presented to the Hinds County Justice Court. (Exh. A, Para. 36-57). Plaintiff

also admits in the County Court Complaint that she filed her Notice of Appeal with Hinds County Justice Court Clerk on February 5, 2006 and it was the Justice Court's responsibility to forward her Notice of Appeal to the proper court. (Exh. A, Para. 65). Pursuant to Mississippi Code Annotated § 11-51-85, Plaintiff was also required to post a bond of double the amount of judgment against her, together with all costs accrued and likely to accrue in the case. However, Plaintiff did not do this and specifically stated that she was not going to post a bond and was not required to post an appeal bond to secure the notice of appeal filed despite offering no legal precedent to support her position. (Exh. A, Para. 67).

7. Defendant Spring Lake Apartments, LLC was dismissed with prejudice from the County Court Complaint when the court found that, based on the assertions of Plaintiff in the County Court Complaint, Spring Lake Apartments, LLC was not the owner of the premises, did not lease the apartment of the Plaintiff and did not participate in the removal of the Plaintiff from the apartment. The Final Judgment of Dismissal regarding Spring Lake Apartments, LLC was based on failure to state a cause of action upon which relief may be granted and was entered on September 5, 2006. (See Motion to Dismiss attached hereto as Exhibit "B" and Judgment of Dismissal attached hereto as Exhibit "C").

8. Judge William Barnett then ordered, on September 27, 2006, that eviction proceedings were brought against Plaintiff by Spring Lake Apartment a/k/a Dial Equities, Inc. by Melody Crews, Manager for breach of lease agreement on or about January 20, 2006, in the Hinds County Justice Court relating to her lease, occupancy and eviction from an apartment situated at 1435 (sic) Hawthorn Cove, Jackson, Mississippi 39272. Judge Barnett found that a Final Judgment adverse to the Plaintiff was entered on or about January 27, 2006 by the Justice Court after a hearing before the Honorable William Skinner.

9. Further, Judge Barnett found that any and all causes of action or defenses Plaintiff may have had that were litigated in Justice Court arising out of the lease, occupancy or eviction from the premises owned by Dial Equities during the proceedings held thereon were barred under the doctrine of *res judicata* and/or collateral estoppel as the result of the Plaintiff's failure to file a timely and proper appeal from the Final Judgment entered in the Justice Court proceedings. Additionally, he found specifically that issue of service of process and sufficiency of process of the Justice Court proceedings were decided adverse to Plaintiff in the Justice Court matter and could not be re-litigated. (See Order attached hereto as Exhibit "D").

10. In her County Court Complaint, paragraphs 77-82, Plaintiff specifically references Judge Skinner's unlawful Justice Court proceedings (Exh. A, Para. 40-58, 65-70, 124-125, 134-135, 139-140, 145-146, 148-152, 171-173); an alleged conspiracy involving Spring Lake Apartments, Dial Equities, Melody Crews, Jon Lewis and Hinds County to unlawfully remove Plaintiff (Exh. A, Para. 76-78, 87, 129, 138); discriminatory housing practices (Exh. A, Para. 83-86); an alleged conspiracy involving Spring Lake Apartments, Dial Equities, Melody Crews and Judge William Skinner (Exh. A, Para. 93-95, 164); and her arrest for her admitted refusal to leave her residence during an eviction found to be lawful. (Exh. A, Para. 79-82, 157-159). These are the same facts that she now asserts verbatim in the present Complaint.

11. Plaintiff therefore files the subject claim against Defendants Spring Lake Apartments, Dial Equities, Melody Crews, Jon C. Lewis, William L. Skinner, II, Malcolm McMillan, and Hinds County, Mississippi for her lawful eviction and her arrest for her failure to abide by a lawful eviction.

12. Rule 54 of the Federal Rules of Civil Procedure specifically allows costs be awarded to the prevailing party in an action. Rule 54 also allows claims for attorney's fees and

related nontaxable expenses. Further, a district court has an inherent power to require security of costs when warranted by the circumstances of the case prior to the disposition of the merits of a claim. *EHM v. Amtrack Board of Directors,* 780 F. 2d, 516, 517 (C.A. 5th 1986). The factors specifically addressed are the probability of Plaintiff's success on the merits, the background and purpose of the suit, and the reasonableness of the amount of the posted security viewed from the perspective of both Plaintiff and Defendant. *Id.*

13. The merits of Plaintiff's Complaint have already been addressed in Hinds County Justice Court and Hinds County Court. The eviction proceedings were found to be lawful and Plaintiff admits that she was arrested after she was lawfully advised to leave the premises and refused. (Federal Complaint, Para. 94).

14. Further, Plaintiff's records show that she is a veteran *pro se* litigator who has filed numerous frivolous lawsuits, and has been sanctioned by the United States Court of Appeals for the Fifth Circuit in *Vogel Newsome v. EEOC,* 2002 WL 31845750 (C.A. 5th, 2002). (See case attached hereto as Exhibit "E").

15. Additionally, Plaintiff has an extensive record of filing numerous excessive and unfounded lawsuits, several of which were not only ruled against Plaintiff, but also deemed frivolous or without any merit. (See cases attached hereto as Exhibit "F").

16. In light of Plaintiff's admitted refusal to pay mandatory costs and past judgments against her, Plaintiff's history of disregard for the Rules of Court, the excessively frivolous and harassing nature of Plaintiff's Complaint, and the meritorious defense available to all Defendants, Defendants respectfully request the District Court, through its inherent power to require security of costs as warranted by the extenuating circumstances of the case, order

Plaintiff to post a security cost bond and requests a stay of all proceedings until such time this matter can be decided.

17. Further, said relief is not made for delay but to void unnecessary fees and expenses that would be incurred from litigating an unsupported and frivolous claim by this Plaintiff.

18. Plaintiff is also put on notice that Defendants, if forced to defend this matter, will seek full redress available under Federal Rules of Civil Procedure 11 and seek all fees and expenses incurred.

19. Defendants pray they be relieved of the obligation to provide a memorandum in support of this motion because the motion is self-explanatory.

WHEREFORE, PREMSIES CONSIDERED, Defendants respectfully request this honorable court:

a. require Plaintiff Vogel D. Newsome give security of all costs in the amount of a $5,000.00 bond that can reasonably be expected to accrue in this action based on Plaintiff's previous conduct;

b. or, in the alternative, require Plaintiff Vogel D. Newsome post a bond in the amount of $759.00, double the award against her in Justice Court, ensuring the payment of court costs should she lose on the merits of this case; and

c. order a stay of any and all proceedings in the above styled and numbered civil action for all defendants; and any and all other and additional general relief for which Defendants did not specifically pray for that the court deems appropriate.

RESPECTFULLY SUBMITTED, this the 13th day of July, 2007.

HINDS COUNTY, MISSISSIPPI AND
MALCOLM MCMILLAN; Defendants
By: Their Attorneys
PAGE, KRUGER & HOLLAND, P.A.

By: S/C. Allen McDaniel II
J. Lawson Hester
C. Allen McDaniel II

PAGE, KRUGER & HOLLAND, P.A.
J. Lawson Hester (MSB No. 2394)
C. Allen McDaniel (MSB No. 101307)
Post Office Box 1163
Jackson, Mississippi 39215-1163
Telephone: (601) 420-0333
Facsimile: (601) 420-0033

CERTIFICATE OF SERVICE

I, C. Allen McDaniel II, hereby certify that on 13th day of July, 2007, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

And I hereby certify that I have mailed by Certified Mail, Return Receipt Requested, a true and correct copy of the above and foregoing to the following non-ECF participants:

Vogel Newsome, Pro Se
P.O. Box 14731
Cincinnati, OH 45250

This, the 13th day of July, 2007.

By: s/C. Allen McDaniel II
C. Allen McDaniel II

NOTICE TO LEAVE THE PREMISES

TO: Denise V. Newsome, Tenant;
a/k/a V. Denise Newsome, Tenant;
a/k/a Denice V. Newsome, Tenant;
a/k/a Denise Newsome, Tenant

You are hereby notified that we want you on or before January 19, 2009 to leave the premises you now occupy and have rented from us, situated and described as follows:

Storage Unit #173 - 1109 Alfred Street in Cincinnati, Hamilton County, Ohio 45214.

GROUNDS: Non-Payment of Rent

YOU ARE BEING ASKED TO LEAVE THE PREMISES. IF YOU DO NOT LEAVE, AN EVICTION ACTION MAY BE INITIATED AGAINST YOU. IF YOU ARE IN DOUBT REGARDING YOUR LEGAL RIGHTS AND OBLIGATIONS AS A TENANT, IT IS RECOMMENDED THAT YOU SEEK LEGAL ASSISTANCE.

January 9, 2009: Lessor: Stor-All Alfred, LLC
c/o Stor-All
253 Womstead Drive
Grayson, Kentucky 41143

By: Lori A. Whiteside, Agent

EXHIBIT 63

Stor All
253 Womstead Dr
Grayson, Ky 41143

7006 2760 0002 4757 2218



neopost IN042J80030
$4.9
01/09/09
Mailed From 41

NAME LW
1st Notice 1-12-09
2nd Notice 1-17-09
Return

Denise Newsome aka V. Denise Newsome,
AKA Denice V Newsome, aka Denise V Newsome
POBox 14731
Cincinnati, OH 45250

45250+0731

Michael E. Lively (0066536)
Counsel for Stor-All Alfred, LLC

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STOR-ALL ALFRED, LLC,	:	CASE NO. A0901302
Plaintiff,	:	(Judge John Andrew West)
v.	:	
DENISE V. NEWSOME,	:	PLAINTIFF'S MOTION FOR PROTECTIVE/RESTRAINING ORDER AGAINST DEFENDANT DENISE V. NEWSOME
Defendant.	:	

Comes now Plaintiff, Stor-All Alfred, LLC, ("Plaintiff") by and through undersigned counsel, hereby Moves the Court for a Protective/Restraining Order to prevent Defendant from 1) making any personal appearance on the premises of the undersigned counsel's firm without express written authorization or invitation; 2) that Defendant refrain from any communications with the undersigned counsel or his other office personnel other than in writing transmitted via regular mail or fax (fax not to exceed 10 pages in length); and 3) that Defendant refrain from transmitting any communication via email to the undersigned and his office. This Motion is made in good faith, for no intended purpose of undue delay, unfair prejudice or any other improper ulterior motive. The reasons for said Motion are contained in the following Memorandum in Support and supporting affidavit.

EXHIBIT
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Respectfully submitted,

Michael E. Lively (0066536)
Counsel for Plaintiff, Stor-All Alfred, LLC
MARKESBERY & RICHARDSON CO., L.P.A.
P.O. Box 6491
Cincinnati, OH 45206
Phone: (513) 961-6200, ext. 321
Fax: (513) 961-6201
Email: Lively@m-r-law.com

MEMORANDUM IN SUPPORT

This counsel was recently retained to take over defense of Defendant's counterclaim and to substitute for Molly Vance. As indicated in her various Motions and briefs filed in this matter, and as confirmed by other counsel involved in the case, Defendant has made it her practice to hand deliver pleadings, motions and other documents personally to the offices of other counsel.

This counsel has reviewed, and wishes to bring to the Court's attention, "Defendant's Motions to Strike Plaintiff's Motion for Leave to File Memorandum in Opposition to Motion for Rule 11 Sanctions" entered February 25, 2009. Throughout her brief, Defendant consistently lumped Plaintiff, its counsel and insurance carrier together in an alleged multi-state conspiracy against her. Within said Motion, Defendant made reference to unrelated news stories, including that of Carl Brandon in Mississippi (see Defendant's Motion p. 19) and even went so far as to attach an article to the Motion explaining how Mr. Brandon went on a shooting spree targeting county employees and legal counsel involved in his case. In paragraph 47 on pages 21 and 22 of her brief, Defendant stated, "Stor-All *and its representatives* have stooped to criminal acts as a direct intent to cause the Defendant harm/injury. Moreover, efforts taken by Stor All, *its counsel, its insurance provider (Liberty Mutual)* being done in hopes of driving the Defendant to the point they did Carl Brandon, Jena 6 victims, and who knows who else." (*Emphasis* added).

These statements can be reasonably construed as a physical threat to Plaintiff, its representatives, its legal counsel and perhaps even the Court itself.

Given the above, the undersigned respectfully requests that the Court issue an order as requested or as otherwise deemed appropriate in the Court's discretion. A proposed Order is submitted contemporaneously with this Motion for the Court's consideration.

Respectfully submitted,

Michael E. Lively (0066536)
Counsel for Plaintiff, Stor-All Alfred, LLC
MARKESBERY & RICHARDSON CO., L.P.A.
P.O. Box 6491
Cincinnati, OH 45206
Phone: (513) 961-6200, ext. 321
Fax: (513) 961-6201
Email: Lively@m-r-law.com

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served, via regular U.S. Mail, postage pre-paid, upon:

David Meranus
SCHWARTZ MANES RUBY & SLOVIN, L.P.A.
441 Vine Street – Suite 2900
Cincinnati, OH 45202
Attorney for Plaintiff as to Complaint

Denise V. Newsome
P.O. Box 14731
Cincinnati, OH 45250
Defendant, Pro Se

on this 11th day of March, 2009.

Michael E. Lively (0066536)

Michael E. Lively (0066536)
Counsel for Stor-All Alfred, LLC

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STOR-ALL ALFRED, LLC,	:	CASE NO. A0901302
Plaintiff,	:	(Judge John Andrew West)
v.	:	
DENISE V. NEWSOME,	:	AFFIDAVIT OF ATTORNEY MICHAEL E. LIVELY
Defendant.	:	

I Michael E. Lively, being first duly sworn and cautioned, hereby aver and state as follows:

1. I represent Plaintiff Stor-All Alfred, LLC, in connection with Counterclaims in the above-captioned matter.

2. All of the factual assertions and statements made in the attached Motion for Protective/Restraining Order are true, accurate, and to the best of my knowledge and recollection.

3. This Motion is made in good faith and for no intended purpose of unfair prejudice, undue delay, or any other improper ulterior motive.

FURTHER AFFIANT SAYETH NAUGHT.



Michael E. Lively, Affiant

NOTARY PUBLIC

Subscribed and sworn to, before me, a Notary Public, in and for said County and State, on this the 11 day of March, 2009.

STATE OF Ohio)
) ss:
COUNTY OF Hamilton)



AMANDA CASERTA
NOTARY PUBLIC
STATE OF OHIO
Comm. Expires
July 17, 2013
Recorded in
Butler County

Amanda J Caserta
NOTARY PUBLIC
My commission expires:

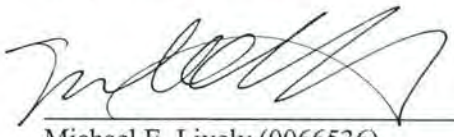
Michael E. Lively (0066536)
Counsel for Stor-All Alfred, LLC

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STOR-ALL ALFRED, LLC,	:	CASE NO. A0901302
Plaintiff,	:	(Judge John Andrew West)
v.	:	PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S
DENISE V. NEWSOME,	:	MOTION TO STRIKE PLAINTIFF'S MOTION FOR PROTECTIVE ORDER
Defendant.	:	AND REQUEST FOR RULE 11 SANCTIONS ; MOTION FOR RULE 11
	:	SANCTIONS
	:	

Comes now Plaintiff, by and though counsel, and offers the following Memorandum in Opposition to Defendant's Motion to Strike Plaintiff's Motion for Protective/Restraining Order captioned above. Further, Defendant's Motion is without any good faith grounds for support and devoid of any legal merit or justification and contains voluminous materials at best wholly irrelevant and at worst, scandalous. Accordingly, Plaintiff moves for Rule 11 Sanctions against Defendant, including but not limited to costs, attorney fees, dismissal or other appropriate sanctions as the Court sees fit. Plaintiff respectfully requests a decision in its favor.

Respectfully submitted,



Michael E. Lively (0066536)
Counsel for Plaintiff, Stor-All Alfred, LLC
MARKESBERY & RICHARDSON CO., L.P.A.
P.O. Box 6491
Cincinnati, OH 45206
Phone: (513) 961-6200, ext. 321

EXHIBIT
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Fax: (513) 961-6201
Email: Lively@m-r-law.com

MEMORANDUM IN OPPOSITION

Rather than file a Memorandum in Opposition to Plaintiff's Motion for Protective/Restraining Order, Defendant has again couched her response in the form of a Motion to Strike and Rule 11 Sanctions, thus necessitating another brief from Plaintiff in Opposition and more waste of the Clerk and Court's resources and space.

Defendant accuses Plaintiff and this counsel specifically in her above captioned motion of making scandalous, slanderous, defamatory, insulting, offensive and derogatory statements within Plaintiff's Motion for Protective/Restraining Order. As the Court can plainly see, all of our references in the subject motion were to the pleadings and motions and they speak for themselves. It is undisputed by Defendant that she has made personal appearances at other attorneys' offices. Given her bold comparison of her case to that of Carl Brandon in her previous motion coupled with this counsel's obligation to preserve the safety of others in his office, this counsel in good faith believed that such a Motion was at least prudent. Given Defendant's 40 page response plus attachments, that now includes asserted parallels between her case and that of O.J. Simpson, this counsel's concerns giving rise to the subject motion would appear to in fact be buttressed (pp. 30-32 + attached article).

Of course, this counsel takes some personal offense at being lumped into Defendant's category of "certain whites" that have and apparently still commit legal violations against and otherwise conspire to deprive Defendant of her civil rights in multiple states (p. 3, paragraph 4; pp. 23-27) including burglary, robbery, assault and kidnapping. For the record and clarity, the undersigned strongly denies any such activity on his part and that of his client.

While interesting for political dialogue, Defendant's discussion of the overarching meaning of President Obama's election and the 2008 Presidential campaign are wholly irrelevant to the case. No one should make light of Scripture and the teachings of the Apostles Paul and Peter and David's Psalms, but their placement by Defendant into the argument is improper for purposes of this motion and the Court in general. (pp. 6, 7)

Additionally, this counsel did not personally attend the March 10, hearing due to a simple scheduling conflict, nothing more. The undersigned was out of town taking depositions on another unrelated case. As for the April 29, report date, this counsel currently has another previously scheduled mediation that afternoon in Butler County, but Mr. Healy will attend if the conflict does not resolve itself before then.

Perhaps most troubling and pertinent to the actual case before the Court, however, is Defendant's statement on Page 31, Paragraph h) of her brief where she states, "Newsome believes that the record evidence will support that Stor-All, their *counsel*/representatives, and others are relying upon their wealth, social status, powers and controls, *relationship to judges*, etc. to get them verdict (sic) and decisions they know are contrary to statutes/laws." Defendant seems to make a veiled accusation of improper collusion between legal counsel in the case and the Court, perhaps in reference to other procedural motions and orders.

Defendant's assertion that Rule 11 sanctions are called for against this counsel and his client are completely unfounded. On the other hand, the bulk of Defendant's instant Motion probably falls within the Rule's parameters. Defendant's brief is full of unsubstantiated and baseless personal accusations against Plaintiff, its representatives and legal counsel, wholly improper for the purposes of this proceeding. Accordingly, Plaintiff requests appropriate

sanctions against Defendant, including but not limited to costs, attorney fees, dismissal of the counterclaim and any other appropriate relief.

Respectfully submitted,

Michael E. Lively (0066536)
Counsel for Plaintiff, Stor All-Alfred, LLC
MARKESBERY & RICHARDSON CO., L.P.A.
P.O. Box 6491
Cincinnati, OH 45206
Phone: (513) 961-6200, ext. 321
Fax: (513) 961-6201
Email: Lively@m-r-law.com

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served, via regular U.S. Mail, postage pre-paid, upon:

David Meranus
SCHWARTZ MANES RUBY & SLOVIN, L.P.A.
441 Vine Street – Suite 2900
Cincinnati, OH 45202
Attorney for Plaintiff as to Complaint

Denise V. Newsome
P.O. Box 14731
Cincinnati, OH 45250
Defendant, Pro Se

on this 20th day of March, 2009.

Michael E. Lively (0066536)

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STOR-ALL ALFRED, LLC 1109 Alfred Street Cincinnati, Ohio Plaintiff	:	CASE NO.: A0901302 JUDGE: JOHN ANDREW WEST
vs.	:	**DEFENDANT'S MOTION FOR DEFAULT JUDGMENT OF AND AGAINST PLAINTIFF STOR-ALL ALFRED, LLC FOR FAILURE TO ANSWER OR OTHERWISE PLEAD; AND MEMORANDUM IN SUPPORT**[1]
Denise V. Newsome Post Office Box 14731 Cincinnati, Ohio 45250 Defendant	:	**(JURY TRIAL DEMANDED IN THIS ACTION)**

COPY FILED
CLERK OF COURTS
HAMILTON COUNTY
MAR 20 2009
PATRICIA M. CLANCY
COMMON PLEAS COURTS

COMES NOW Defendant, Denise V. Newsome – a/k/a Denise Newsome ("Defendant" and/or "Newsome") and files this, her *Motion for Default Judgment of and Against Stor-All Alfred, LLC for Failure to Answer or Otherwise Plead; and Memorandum in Support (Jury Trial Demanded in this Action)* ("MFDJ") pursuant to Ohio Rules of Civil Procedure ("ORCP") Rule 55 governing matters regarding judgment for default and/or the precivil rule(s) governing said matters. Through this instant motion Newsome moves for entry and judgment for DEFAULT JUDGMENT of and against Plaintiff, Stor-All Alfred, LLC ("Stor-All" and/or "Plaintiff") for its failure to Answer or otherwise plead and/or file a responsive pleading/motion governed by the Ohio Rules of Civil Procedure ("ORCP") ***within the time required***. In further support Newsome states:

MOTION FOR DEFAULT JUDGMENT OF AND AGAINST PLAINTIFF

Pursuant to Rule 55 of the Ohio Rules of Civil Procedure, Newsome through this instant motion is entitled and therefore moves this Court to enter a DEFAULT JUDGMENT of and against Stor-All Alfred, LLC. Under said Rule it states in part:

[1] Boldface, italics, underline, etc. added for emphasis. Defendant relied upon legal resources such as WestLaw, Ohio Rules of Civil Procedure, etc. to aid in preparation of this document.

EXHIBIT 66

ORCP RULE 55. Default

(A) Entry of judgment. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules, the party entitled to a judgment by default shall apply in writing or orally to the court therefor; . . . If the party against whom judgment by default is sought has appeared in the action, he (or, **if appearing by representative**, *his representative*) shall be served with written notice of the application for judgment at least seven days prior to the hearing on such application. . . .

(C) Plaintiffs, counterclaimants, cross-claimants. The provisions of this rule apply whether the party entitled to the judgment by default is a plaintiff, a third-party plaintiff or a party who has pleaded a cross-claim or counterclaim. In all cases a judgment by default is subject to the limitations of Rule 54(C).[2]

"Default judgment" is judgment entered against a party ***who has failed to timely*** plead in response to affirmative pleading. Rules Civ.Proc., Rule 55(A) – *Ohio Valley Radiology Associates, Inc. v. Ohio Valley Hosp. Ass'n,* 502 NE2d 599, 28 Ohio St.3d 118. Stor-All has failed to timely plead in response to Newsome's *Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim; and Demand for Jury Trial.* Therefore, in an effort to provide specificity Newsome moves this Court through this instant MFDJ to grant her the relief sought herein. In support thereof and *without waiving* the relief sought Newsome further states:

1. This instant MFDJ is submitted in good faith and is not submitted for purposes of delay, harassment, hindering proceedings, embarrassment, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, etc. and is filed to protect the rights of Newsome. See Defendant's/Newsome's Affidavit attached hereto and incorporated by reference at **EXHIBIT "1."**

2. The record evidence will support that Newsome *timely, properly and adequately* placed Stor-All on notice that said relief for default judgment would be sought if an Answer and/or responsive pleading/motion to her Counter-Claim was not filed *within* the time allowed.

3. This motion is made on the records, papers, and pleadings filed in this instant lawsuit. Entry of default is sought of and against Stor-All for failing to answer or otherwise plead in this action to Newsome's Counter-Claim ***within the time*** allowed under the statutes laws governing said matters. No such **EXCUSABLE NEGLECT** on Stor-All's behalf can be shown for its negligence/delay. *While Newsome is now in*

[2] **ORCP RULE 54. Judgments; Costs**

(C) Demand for judgment. A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment. Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded the relief in the pleadings.

receipt of a filing by Stor-All mailed on March 18, 2009 ***(date of filing of this instant motion being March 19, 2009)****, containing its Answer, said filing is untimely and the record does not support a timely motion for enlargement of time for filing its Answer out of time – Stor-All was timely, properly and adequately placed on notice that its enlargement of time submitted for filing by an attorney (Molly G. Vance) not making an appearance in this action is null and void. Stor-All although timely notified, failed to correct any such errors and mistakes timely brought to its attention*. **THEREFORE, AS A MATTER OF LAW, Newsome will be filing the applicable motion to have Stor-All's pleading containing its Answer STRICKEN from the record as untimely in that it clearly is prejudicial to Newsome and violates rights secured to her under the Constitution (Ohio and United States) and other statutes/laws governing said matters.**

4. The final judgment by default requested is for the relief sought in Newsome's *Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim; and Demand for Jury Trial* filed in this instant lawsuit. No such **EXCUSABLE NEGLECT** on Stor-All's behalf can be shown for its negligence/delay in filing pleading containing its ***untimely*** Answer.

5. In the interest of justice and in compliance with the rules/procedures governing said matters, as with Newsome's *Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim; and Demand for Jury Trial*, **this instant MFDJ has been constructed and is submitted in good faith to eliminate further and/or needless delay, unnecessary expense, and all other impediments to the expeditious administration** of justice pursuant to Rule 1 of the ORCP which states in part:

> **ORCP RULE 1. Scope of Rules: Applicability; Construction; Exceptions**
> **(A) Applicability.** These rules prescribe the procedure to be followed in all courts of this state in the exercise of civil jurisdiction at law or in equity, . . .
> **(B) Construction.** These rules shall be construed and applied to effect just results by eliminating delay, unnecessary expense and all other impediments to the expeditious administration of justice.

6. In support of this instant MFDJ, Defendant presents the following **PRIMA FACIE CASE: (a)** Newsome would be prejudiced by this Court's denial of her Motion for Default Judgment. Newsome is proceeding in this instant lawsuit *pro se* and is governed by the rules and procedures of this Court and/or statutes/laws applicable to this action. Newsome has already lost her job as a direct and proximate result of acts taken against her by Plaintiff/Stor-All and its counsel/representatives. Said actions taken by Stor-All and its counsel/representatives against Newsome were to obtain an undue advantage over her in this instant lawsuit and for means of financial devastation to prevent her from successfully litigating this action. Newsome would be further prejudiced by denial of the relief sought in that she has already suffered irreparable injury/harm as a direct and proximate result of Stor-All's *culpable* acts. *Furthermore, should this Court deny Newsome's Motion for Default Judgment, it would deprive her* ***equal*** *protection of the laws, due process of laws, etc.* Rights secured/guaranteed under the Constitution (Ohio and United States), Civil Rights Act as well as other governing statutes/laws in such matters. **(b**) Stor-All has no meritorious defense. It has brought a

forcible entry and detainer action against Newsome *with knowledge that **it is already in possession** of the storage unit and property at issue here*. Said possession of Newsome's storage unit and property was obtained through unlawful/illegal means and without legal authority and/or court order. Therefore, Stor-All's forcible entry and detainer action is moot. **(c)** Not only did Stor-All's ***culpable** conduct* lead to its default, **said conduct led to Newsome being terminated from her place of employment** – wherein Stor-All and/or its representatives took it upon themselves to contact Newsome's employer as well as rely on its knowledge that Newsome assisted an attorney that was formerly employed with Stor-All's counsel's law firm (Schwartz Manes & Ruby) prior to obtaining employment at the firm Newsome was recently employed – *culpable acts done with intent to obtain an undue advantage in the bringing of this lawsuit against her*. Furthermore the record evidence and that presented in this instant motion will support *Stor-All's culpable acts led to its default* – **a default which is as a direct and proximate result of Stor-All's *defiance* and *reckless disregard* of the rules and procedures governing said matters**. The record evidence supports that Newsome timely, properly and adequately notified Stor-All of the consequences of failing to file a timely Answer and/or file a responsive pleading/motion. To no avail. Stor-All ignored said notifications provided it through Newsome's pleadings/motions filed in this lawsuit. (See ¶ 7 of this instant motion below, as well as Newsome's Answer and Counter-Claim filed in this instant lawsuit as well as her subsequent pleadings/motions filed). To add insult to injury, Stor-All's counsel (Lively) then files with this Court Stor-All's *Motion for Protective/Restraining Order Against Defendant Denise V. Newsome* which contained scandalous, slanderous, defamatory, offensive, etc. assertions against the Defendant alleging she is capable of committing such a hideous crime as murder – i.e going on a shooting spree. Thus, further supporting how Stor-All and its representatives has repeatedly abused its time.

> *Jackson v. Hamilton County Community Mental Health Bd.*,174 FRD 394 (1997) In determining whether . . . to grant default judgment, court must balance the following factors: (1) whether plaintiff will be prejudiced; (2) whether defendant has meritorious defense; and (3) whether culpable conduct of defendant led to the default.
>
> In order to find defendant's conduct culpable, for purpose of determining whether . . . to grant default judgment, conduct must display either intent to thwart judicial proceedings or reckless disregard for effect of its conduct on those proceedings. (*Id.*)

7. *Default judgment* of and against Stor-All is required as a matter of law. This Court will not be abusing its discretion in granting Newsome the relief sought in this instant motion in that Stor-All cannot show EXCUSABLE NEGLECT *for its failure to file a timely* Answer and/or response pleading/motion to Newsome's Counter-Claim filed in this instant lawsuit. The following information is pertinent to decide Stor-All's inability to show excusable neglect for its failure to file a timely Answer and/or responsive pleading/motion to Newsome's Counter-Claim:

(a) On **January 29, 2009**, Stor-All was served with *Defendant's Answer to Complaint for Forcible Entry and Detainer; **Notification Accompanying Counter-Claim**; Counter-Claim; and Demand for Jury Trial* – therefore, giving Stor-All until approximately February 26, 2009 to file an Answer and/or responsive pleading/motion. Stor-All waived said right.

(b) On **February 6, 2009**, the Hamilton County Municipal Court (in Case No. 09CV01690) granted *Defendant's Motion to Transfer* this matter to the Hamilton County Court of Common Pleas – See **EXHIBIT "2"** *Magistrate's Decision* attached hereto and incorporated by reference. Stor-All's counsel and Defendant signed Magistrate's Decision. ***If Stor-All did not agree with the Magistrate's Decision, it could have appealed****; however, elected not to do so*. Therefore, waiving any said right to appeal this matter – thus, failing to stop the clock to allow any such appeal if it desired to do so.

(c) On or about **February 9, 2009**, the Hamilton County Court of Common Pleas notified Stor-All of "*Notice of Transfer*" that the matter from the Municipal Court had been transferred and that Stor-All had "28 DAYS FROM THE RECEIPT OF THIS NOTICE TO ANSWER IN THIS TRANSFERRED ACTION." See **EXHIBIT "3"** – *Notice of Transfer* attached hereto and incorporated herein as if set forth in full. Therefore, giving Stor-All until approximately **March 9, 2009**, to file an Answer or otherwise plead and/or file a responsive pleading/motion to Newsome's Counter-Claim.

(d) On or about **February 13, 2009**, Stor-All filed its *Motion to Bifurcate Claim and Remand to Municipal Court* ("Bifurcation Motion"). As a matter of law, Stor-All's Bifurcation Motion is not a pleading/motion subject to the rules and procedures governing Answer and/or responsive pleadings/motions pursuant to Rules 8 or 12 of the Ohio Rules of Civil Procedure. Stor-All submitting Bifurcation Motion **AFTER** *it had executed the Magistrate's Decision in the Municipal Court matter*. Through said Bifurcation motion, Stor-All's counsel, David Meranus ("Meranus") advised of his ***abandonment*** *of Stor-All as to Newsome's Counter-Claim*. Moreover, filing said Bifurcation Motion rather than appealing Magistrate's decision if it disagreed with the decision. Instead of appealing the decision, Stor-All made a willful decision to file a Bifurcation Motion which is not a pleading and/or motion governed as an acceptable Answer and/or responsive pleading/motion under Rules 8 and/or 12 of the ORCP. On or about **February 17, 2009**, Stor-All was served with *Defendant's Motion to Strike Pleading (Statements and Supporting Documents) of Plaintiff's Motion to Bifurcate Claim and Remand to Municipal Court; and Motion for Rule 11 Sanctions*. Through Defendant's Motion to Strike Stor-All's Bifurcation Motion, it was timely, properly and adequately placed on notice that its Bifurcation Motion was not a pleading permissible and ***was filed prematurely*** *– prior to Answer and/or responsive pleading/motion required under the rules or procedures being filed.* Although Stor-All was timely notified that its Bifurcation Motion was not permissible as a matter of law, it failed to file a timely Answer and/or responsive pleading/motion to Defendant's Counter-Claim.

(e) On **February 17, 2009**, Stor-All filed its *Motion for Enlargement of Time to Answer or Otherwise Plead; and Respond to Discovery*. Said Motion for Enlargement was filed by an attorney, Molly G. Vance ("Vance"), who **had not** entered an appearance in this action. Therefore, Stor-All's Motion for Enlargement of Time ***is not permissible*** *and any ruling granting the relief therein* ***is null/void***. (See *FIA Card Services, N.A. v. Salmon*, --- N.E.2d ----, 2009 WL 57592 (Ohio App. 3 Dist.,2009) attached hereto at **EXHIBIT "4"** and incorporated herein by references – EMPHASIS ADDED). A reasonable mind may conclude that Vance's

failure to enter an appearance was a direct and proximate result of her knowledge that any said entry may present a **CONFLICT OF INTEREST** in that she appears to be counsel for Stor-All's insurance carrier, Liberty Mutual. Liberty Mutual, which *recently* settled a claim with Newsome regarding one of its other insured – See **EXHIBIT "5"** attached hereto. Liberty Mutual which may have an interest in other matters relating to Newsome which is outside this lawsuit and may therefore, present a conflict of interest. Thus, most likely the insurance carrier Stor-All's counsel (David Meranus) on February 6, 2009, advised Newsome would be the one that would be making payment for any damages/injury she has sustained in this instant lawsuit – See **EXHIBIT "6"** attached hereto and incorporated by reference as if set forth in full herein. Thus, a reasonable mind may conclude that Vance's actions in this matter was simply to make Newsome aware of who the insurance carrier was because of Liberty Mutual's recent settlement in another matter involving an insured of its and, therefore, may have hoped that such knowledge and that provided by Meranus of her engagement in protected activities in matters outside this litigation known would cause Newsome to abandon her Counter-Claim (in which it did not).

> *Collins v. Collins,* 844 N.E.2d 910 (Ohio.App.1.Dist.Hamilton. Co.,2006) - For a court to acquire personal jurisdiction, *there* ***must*** *be . . . an entry of appearance*, and a judgment entered without . . . an entry of appearance is **null and void**.
>
> *Miami Exporting Co. v. Brown,* 6 Ohio 535 (Ohio,1834) - *A judgment* ***without*** notice, and ***without*** *the appearance of the party against whom it was rendered,* ***is a nullity***.
>
> *State ex rel. Estate of Miles v. Village of Piketon,* 2009 -Ohio- 786 (Ohio,2009) - *For a court to acquire jurisdiction* there **must** be. . . *an entry of appearance,* and a *judgment rendered* **without** proper . . . *entry of appearance* is a **nullity and void**.

(f) On **February 25, 2009**, Defendant filed *Objection to Plaintiff's Motion for Enlargement of Time*. Through said Objection, Stor-All was ***timely, properly and adequately*** placed on notice that Vance had not entered an appearance in this instant lawsuit. **Stor-All being notified with approximately 12 days left (March 9, 2009 being its deadline)** to file their Answer or otherwise plead and/or responsive pleading/motion to Newsome's Counter-Claim **or** a *motion for enlargement of time by counsel who had made an appearance in this lawsuit*. **Even with said notification, Stor-All failed to file the applicable Notification Form and/or Appearance document for Vance. Therefore, warranting pleadings/motions submitted by her inadmissible and are required to be stricken from the record – as Newsome has requested through the required pleadings/motions. If said assertion is correct, there remains no lawful and/or binding ruling by this Court to allow Stor-All to enter a pleading containing its Answer when said time has lapsed.**

> *Internatl. Lottery, Inc. v. Kerouac,* 657 N.E.2d 820 (Ohio.App.1.Dist. Hamilton.Co.,1995) -Trial court, in overruling motion for relief from default judgment, did not abuse its discretion in ***rejecting*** *defendant's claim of excusable neglect* ***due to his reliance on counsel***; . . .

> counsel signed petition for removal to . . .court, notice of date for trial or default was sent to counsel, clerk mailed notice of judgment against defendant to counsel, and defendant **did not** *appeal* judgment entered against him.

8. The record evidence will support that Stor-all ***seriously transgressed*** and ***flagrantly disregarded*** the rules and procedures governing said matters. Moreover, Stor-All is represented by counsel (***several*** *attorneys*) who are familiar with the rules and procedures of this Court and/or laws of the State of Ohio; however, has made a **willful**, **conscious** and **deliberate** choice not to file an Answer and/or responsive pleading to Defendant's Counter-Claim in this instant lawsuit *within the time required* although they were **timely, properly and adequately** placed on notice of the consequences of said failure to file an Answer and/or responsive pleading/motion.

> *Gibbons v. Price,* 514 N.E.2d 127 (Ohio.App.8.Dist.Cuyahoga. Co.,1986) - Absent a serious transgression or flagrant disregard of procedural rules, defendant should be allowed to fully defend at trial any allegations raised by plaintiff.

9. The record evidence will support that Stor-All was timely, properly and adequately placed on notice of the consequences of its failure to file a timely Answer to Newsome's Counterclaim – i.e. See *Defendant's Answer to Complaint for Forcible Entry and Detainer;* ***Notification Accompanying Counter-Claim****; Counter-Claim; and Demand for Jury Trial* at **page 6**[3] filed in this instant lawsuit as well as *Defendant's Motion to Strike Pleading (Statements and Supporting Documents) of Plaintiff's Motion to Bifurcate Claim and Remand to Municipal Court; and Motion for Rule 11 Sanctions* at ¶4.[4]

Stor-All was timely, properly and adequately placed on notice of the consequences of not Answering Defendant's Counter-Claim in compliance with the statute/laws governing said matters. Moreover, the consequences if answers are not answered in accordance with the statutes/laws governing said matters would be deemed an admission

[3] Stor-All is also **NOTIFIED** that unless it serves and file a written response to the Counter-Claim within the specified time allowed, the Defendant ***will seek judgment of and against it by default for the relief demanded*** in the Counter-Claim.

[4] Stor-All's MTBC&RTMC **does not** alter the time in which its Answer to the Counter-Claim is due, in that said motion **is not** one governed by Rule 12 of the ORCP – ". . .The service of a motion permitted under this rule alters these periods of time. . ." (Rule 12(A)(2)). Moreover, "Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may be at the option of the pleader made by motion: (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person; (3) improper venue; (4) insufficiency of process; (5) insufficiency of service of process, (6) failure to state a claim upon which relief can be granted; (7) failure to join a party under Rule 19 or Rule 19.1. A motion making any of these defenses shall be made **before** pleading if a further pleading is permitted. . ." ORCP Rule 12(B). Therefore, before Stor-All filed its MTBC&RTMC, as a matter of law, a motion under the guise of Rule 12 would first be required before the filing of the motion it has brought. *Therefore, this Court **is not** to entertain Stor-All's MTBC&RTMC before its filing of an Answer and/or responsive pleading to Defendant's Answer and Counter-Claim.*

Stor-All being timely, properly and adequately placed on notice that any such motions under Rule 12 would be met with a Motion to Strike (i.e. See *Notification Accompanying Counter-Claim*); therefore, with knowledge that it could not make any such defenses under Rule 12, Stor-All has provided its sham/frivolous MTBC&RTMC in an attempt to evade a motion to strike by the Defendant. Stor-All's MTBC&RTMC has been filed in *bad faith* for purposes of delay, hindering proceedings, harassment, embarrassment, intimidation, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, deprivation of rights, deprivation of equal protection of the laws, deprivation of due process of laws, etc.

to the averments made in Newsome's Counter-Claim.[5] Therefore, Stor-All's failure to file an Answer or otherwise plead and/or responsive pleading/motion to Newsome's Counter-Claim within the time allowed by law, is to be taken as an admission of the **well-plead** *facts, evidence and legal conclusions* in the Counter-Claim which consisted of the following Counts and Paragraphs 1 through 228:

Count One – *Abuse of Process*
Count Two – *Wrongful Eviction*
Count Three – *Loss of Enjoyment/Disturbance*
Count Four – *Extortion*
Count Five – *Retaliation*
Count Six – *Intentional Infliction of Emotional Distress*
Count Seven – *Action for Neglect to Prevent*
Count Eight – *Negligence*
Count Nine – *Negligent Infliction of Emotional Distress*

and Newsome's entitlement to relief sought through her *Prayer for Relief* set forth in Paragraphs 229 through 237 of the Counter-Claim.

> *Zaperach v. Beaver*, 451 N.E.2d 1249 (Ohio.App.10.Dist.Franklin. Co.,1982) - Failure to answer constitutes an "admission" of well-pleaded facts in the complaint in that case; however, such admission cannot be utilized in other cases unless there has been an express adjudication of the issue by court in the first action.

10. It appears that Stor-All's counsel, Michael E. Lively ("Lively"), is still attempting to have this Court recognize and accept the appearance of Molly G. Vance in this instant lawsuit, for to do so would allow Stor-All to enter him as a "substitution" for Vance – *efforts of masking/shielding clear and knowing errors and mistake of Vance's and/or Meranus' failure to enter Notification Form and/or Entry of Appearance in this instant lawsuit prior to lapse in time to file an Answer and/or responsive pleading/motion to Newsome's Counter-Claim*; when Stor-All **cannot** do this as a matter of law. Newsome filing the applicable document "Notification of Clarification" clearly sustaining her argument that Vance had not entered an appearance in this action. Therefore, Stor-All's pleading containing its Answer filed by Lively is considered untimely and should the laws and justice prevail, will sustain that there is no ruling by this Court that can be upheld to sustain the granting of Stor-All's enlargement of time filed by Vance and objected/opposed by Newsome – with request to have Stor-All's motion for enlargement of time stricken from the record. The statutes/laws governing said matters support such striking and, therefore, said striking is to be had.

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[5] If Stor-All's answer is not sufficiently definite in nature to give reasonable notice of the allegations in the Counter-Claim sought to be placed in issue, the Defendant's, Denise Newsome's ("Defendant"), averments may be treated as admitted (i.e. a corporate defendant's denial of "each and every allegation" did not give "plain notice."). – *Defendant's Answer to Complaint for Forcible Entry and Detainer; **Notification Accompanying Counter-Claim**; Counter-Claim; and Demand for Jury Trial* at ¶6

Normally, Stor-All may not assert lack of knowledge or information if the necessary facts or data involved are within Stor-All's knowledge or easily brought within its knowledge – (i.e. An answer denying information as to the truth or falsity of a matter necessarily within the knowledge of the party's managing officers is a **sham**, and *will be treated* as an **admission** of allegation of the Counter-Claim.) - *Defendant's Answer to Complaint for Forcible Entry and Detainer; **Notification Accompanying Counter-Claim**; Counter-Claim; and Demand for Jury Trial* at ¶8

It is **UNDISPUED** that the Stor-All's Complaint was submitted for filing by its counsel, Meranus. Therefore, it was Meranus who may be the one allowed to enter filings in this lawsuit; however, Vance took it upon herself to file pleadings/motions on February 17, 2009 entitled, "*Motion for Enlargement of Time;"* on February 18, 1009 entitled, "*Motion of Stor-All, LLC for Leave to File Memorandum in Opposition to Motion for Rule 11 Sanctions*;" and on February 18, 2009 entitled, "*Stor-All, LLC's Memorandum in Opposition to Defendant's Motion for Rule 11 Sanctions,*" which **are <u>not</u>** permissible and Newsome has filed the required Motion to Strike and/or Objection/Opposition responsive pleading (requesting court to exercise its discretion and strike). Meranus, who had filed this lawsuit on behalf of Stor-All, is with the law firm of Schwartz Manes Ruby & Slovin, LPA("Schwartz Manes"). *Vance **<u>is not</u** with the law firm of Schwartz Manes, but appears to be counsel for an insurance company, Liberty Mutual* – if she is with a law firm, she fails to identify the firm; therefore, a reasonable mind may conclude said failure in not filing a NOTIFICATION FORM is deliberate and her failure to file said form was a strategic move to which she had hoped Newsome would not contest, that **BACKFIRED** to Stor-All's demise. **Therefore, any such filings submitted by Vance on behalf of Stor-All are <u>null/void</u>**. Moreover, <u>any said entry/ruling granting relief therein is **null/void**</u>. While Stor-All was made aware of said error (*if such, in that said acts by Stor-All may have been a dilatory and strategic move which backfired in that it did not think Newsome – trying to take an advantage of her because she is pro se – would know that such tactics were impermissible*) through documents filed by Newsome, as well as notation on *Certificate of Service* in pleadings/motions filed by her which stated, "**Without waiving objections to this attorney's pleading and participation in this lawsuit for failure to file applicable pleading/document for appearance in this action**," <u>it did nothing to correct any such error</u>. If the acts of Stor-All's counsel was a good-faith error, **said error should have been corrected <u>immediately</u>**; <u>however, Stor-All elected not to do so</u>; therefore any enlargement of time to file an Answer, respond to discovery, should have been filed by Meranus (if from filing Complaint, he is considered counsel of record – this Court's *Notice of Transfer* advising "YOU SHALL HAVE 28 DAYS FROM THE RECEIPT OF THIS NOTICE TO ANSWER IN THIS TRANSFERRED ACTION," was submitted to Meranus on or about February 9, 2009, as attorney of record – See **EXHIBIT "3"** attached hereto and incorporated by reference as if set forth in full herein) or Vance should have filed the proper document entering her as counsel in this action for Stor-All. Instead, both Meranus and Vance made a conscious, willful, deliberate and knowing decision not to enter an appearance for Vance on Stor-All's behalf – said failure which appears to be a mistake and error to Newsome's benefit and *great joy*.

> *FIA Card Services, N.A. v. Salmon*, --- N.E.2d ----, 2009 WL 57592 (Ohio App. 3 Dist.,2009) - [n. 4] An "abuse of discretion" constitutes more than an error of law or judgment and implies that the trial court acted unreasonably, arbitrarily, or unconscionably.
>
> Mr. Warner: Well, your Honor, for the record I would like to at least argue our motion.
>
> **The Court:** Well, no. I'm not going to let you argue your motion. ***<u>You haven't entered an appearance</u>.*** *I'm not going to let you do that.* ***That's not right***.
>
> Mr. Warner: Your Honor, I could-

The Court: Mr. McCann is the one who should be here. ***Either that or has to be some sort of a substitution or some sort of an entry of appearance***.

Mr. Warner: *Well, I am from the same law firm as him, your Honor*.

The Court: ***I don't know that. Don't see it on the record. Not here***.

Mr. Warner: *I can give you one of my business cards.*

The Court: I don't want your business card. So we're done, aren't we?

Mr. Warner: Well, your Honor, I'd ask for a reasonable continuance then of the matter.

The Court: *Well,* ***you haven't even entered an appearance.*** *How can you ask for a continuance*?

{¶ 14} Our review of the record reveals that at the hearing on May 22, 2008, attorney Warner advised the trial court that he was admitted to the Ohio bar and licensed to practice before the courts in the state of Ohio. Additionally, attorney Warner is employed by Javitch, Block & Rathbone, L.L.P., which **is the same firm that employs** attorney McCann, whose name appears on the pleadings in this case on behalf of FIA. Furthermore, we note that the appearance of attorney Warner as substitute counsel for attorney McCann was in no way ***prejudicial*** *to the appellee in this case*.

{¶ 15} Based on the foregoing, as the appearance of attorney Warner as substitute counsel was in no way ***prejudicial*** to the appellee, we find that the trial court abused its discretion by dismissing FIA's case for failure to prosecute pursuant to Civ.R. 41(B)(1). Accordingly, FIA's sole assignment of error is sustained.

See **EXHIBIT "4"** - *FIA Card Services, N.A. v. Salmon*, attached hereto and incorporated by reference as if set forth in full herein. (**EMPHASIS ADDED**)

11. Failure of Stor-All's attorneys to file timely documents with this Court, file an appearance in this instant lawsuit or keep its client abreast of the progress of its case is not EXCUSABLE NEGLECT – nor a defense that can be asserted by Stor-All. Moreover, said failure did not derive from extraordinary circumstances, and therefore, Stor-All cannot escape liability in this instant lawsuit and is subject to a *default judgment* of and against it in this action.

Connors v. Cook, 2004 -Ohio- 589 (Ohio.App.10.Dist.Franklin. Co.,2004) - Failure of defendant's attorney to timely file documents with the trial court, make an appearance at scheduled hearings, or

keep defendant informed of the progress of her case, was not excusable neglect and did not derive from extraordinary circumstances, and thus defendant was not entitled to relief from default judgment entered against her.

12. As a matter of law, Newsome is entitled to *default judgment* in this action for the relief sought through her Counter-Claim filed in this instant lawsuit.

> *New v. All Transp. Solution, Inc.*, 2008 -Ohio- 3949 (Ohio.App.10. Dist.Franklin.Co.,2008) - "Default judgment" is judgment entered against a defendant who has failed to respond to an affirmative pleading.

13. To deny Newsome the relief she seeks through this instant *Motion for Default Judgment* would be prejudicial; moreover, would deprive her **equal** protection of the laws, due process of laws, etc. Rights secured under the Constitution (Ohio and United States), Civil Rights Act and other statutes/laws governing said matters. While Newsome is proceeding in this instant lawsuit pro se, she is held accountable for any errors and/or mistakes made as those who are represented by counsel (as Stor-All) and/or counsel who are representing party(s) in a lawsuit would for the errors and mistakes of its counsel.

> *Burnett v. Motorists Mut. Ins. Co.*, 2008 -Ohio- 2751 (Ohio,2008) - The ***Equal*** *Protection* Clauses of the Federal and State Constitutions require that individuals be treated in a manner similar to others in like circumstances. Const.Amend. 14; Const. Art. 1, § 2.
>
> *E. Liverpool Edn. Assn. v. E. Liverpool City School Dist. Bd. of Edn.*, 2008 -Ohio- 3327 (Ohio.App.7.Dist.Columbiana.Co.,2008) - ***Equal*** *Protection* Clause does not prevent all classification; it simply forbids laws that treat persons differently when they are otherwise alike in all relevant respects. Const.Amend. 14; Const. Art. 1, § 2.
>
> *Columbia Gas Transm. Corp. v. Levin*, 882 N.E.2d 400 (Ohio,2008) - ***Equal*** *Protection* Clauses of state and federal constitutions require that all similarly situated individuals be treated in a similar manner. Const.Amend. 14; Const. Art. 1, § 2.
>
> Discount Cellular, Inc. v. Pub. Util. Comm., 859 N.E.2d 957 (Ohio,2007) - State and federal ***equal*** *protection* clauses require that all similarly situated individuals be treated in a similar manner. Const.Amend. 14; Const. Art. 1, § 2.

14. Newsome is presently proceeding in this instant lawsuit *pro se* and therefore, governed by the rules and procedures of this Court;

> **Pro se civil litigants *are bound by the same rules and procedures* as those litigants who retain counsel**. They **are not** accorded greater rights and **must** *accept the results of their own* ***mistakes*** *and* ***errors***. *Meyers v. First Nat. Bank*, 3 Ohio App 3d 209, 44 NE2d 412 (1981) - OJP&R §10:11 at Fn.22.

therefore, a reasonable mind may conclude that Stor-All (who is represented by counsel) in this instant lawsuit is bound by its attorneys acts and their negligence in the handling of this matter – especially when EXCUSABLE NEGLECT is absent.

> *Vantage Homes, Inc. v. Dailey,* 2002 -Ohio- 1818 (Ohio.App.2.Dist. Miami.Co.,2002) - The neglect of a party's attorney will be imputed to the party, for purposes of relief from judgment based on excusable neglect.

15. This instant precivil MFDJ is filed in good faith and is authorized as a matter of statute/law in that Stor-All has failed to timely plead in response to Newsome's Counter-Claim; moreover it has failed to timely contest the allegations raised in the Counter-Claim and it is, therefore, proper for this Court to render default judgment of and against Stor-All Alfred, LLC for the relief sought. Ohio statutes/laws are clear that Stor-All's failure to deny the averments of Newsome's Counter-Claim within the time allowed is to be deemed an admission to said claims.

> Precivil rule decisions developed the concept of the default judgment as a judgment entered against a defendant who has failed to timely plead in response to a plaintiff's complaint. (*Reese v. Proppe,* 3 Ohio App 3d 103, 443 NE2d 992 (1981)). A default by a defendant consequently arises only when the defendant has failed to contest the allegations raised in the complaint and it is thus proper to render a default judgment against the defendant as liability has been admitted or "confessed" by the omission of statements refuting the plaintiff's claims (*Ohio Valley Radiology v. Ohio Valley Hospital,* 28 Ohio St 3d 118, 502 NE2d 599 (1986); *Reese v. Proppe,* 3 Ohio App 3d 103, 443 NE2d 992 (1981). See Civ R 8(D) which provides: "Averments in a pleading to which a responsive pleading is required . . . are admitted when not denied in the responsive. . .") - OJP&R[6] §68:1

16. It is a long-standing concept that Newsome is entitled to default judgment of and against Stor-All only with Stor-all has not contested the allegations by pleading or "otherwise defending" that no issues remain in this matter. Newsome's Counter-Claim provides adequate facts, evidence and legal conclusions to sustain it. Stor-All was notified through this Court's Notice of Transfer as well as Newsome's Counter-Claim that an Answer and/or responsive pleading was governed by statutory limitations wherein it is to respond.

> It is a long-standing concept that a default judgment is proper when, and only when, a defendant has not contested the plaintiff's allegations by pleading or "otherwise defend[ing]" such that no issues are present in the case. (Civ. R 55(A); *Reese v. Proppe,* 3 Ohio App 3d 103, 443 NE2d 992. See also *Ohio Valley Radiology v. Ohio Valley Hospital,* 28 Ohio St 3d 118, 502 NE2d 599 (1986); *Gibbons v. Price,* 33 Ohio App 3d 4, 514 NE2d 127 (1986)). Civil Rule 55(A) provides that a default judgment may be rendered when a party against whom a judgment for affirmative relief is sought has failed to

[6]Abbreviation for Ohio Jurisprudence Pleading & Practice Forms – Venue & Process.

contest the opposing party's allegations by either pleading or otherwise defending as provided by the Civil Rules. (See *Reese*; *Ohio Valley; Gibbons*; and *Westmoreland v. Valley Homes Mut. Housing Corp.*, 42 Ohio St 2d 291, 328 NE2d 406 (1975)). This rule applies to original claims as well as to counterclaims (See Civ R 55(C)), and is logically consistent with the general rule of pleading contained in Ohio Civil Rule 8(D), which reads in part that "[a]verments in a pleading to which a responsive pleading is required . . . are admitted when not denied in the responsive pleading." - OJP&R §68:1.

ORCP RULE 8. General Rules of Pleading

(A) Claims for relief. A pleading that sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain (1) a short and plain statement of the claim showing that the party is entitled to relief, and (2) a demand for judgment for the relief to which the party claims to be entitled. . . .

(B) Defenses; Form of denials. A party shall state in short and plain terms the party's defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If the party is without knowledge or information sufficient to form a belief as to the truth of an averment, the party shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, the pleader shall specify so much of it as is true and material and shall deny the remainder. Unless the pleader intends in good faith to controvert all the averments of the preceding pleading, the pleader may make the denials as specific denials or designated averments or paragraphs, or the pleader may generally deny all the averments except the designated averments or paragraphs as the pleader expressly admits; but, when the pleader does intend to controvert all its averments, including averments of the grounds upon which the court's jurisdiction depends, the pleader may do so by general denial subject to the obligations set forth in Civ. R. 11.

(C) Affirmative defenses. In pleading to a preceding pleading, a party shall set forth affirmatively accord and satisfaction, . . .and any other matter constituting an avoidance or affirmative defense. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court, if justice so requires, shall treat the pleading as if there had been a proper designation.

(D) Effect of failure to deny. *Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading*. . . .

17. The record evidence will support that this instant MFDJ is permissible under the statutes/laws governing Rule 55 actions and provides for a single-step default procedure when Stor-All has failed to ***timely*** plead or otherwise defend against Newsome's Counter-Claim, then Newsome **after** time for Stor-All to Answer and/or otherwise plead ***has lapsed***, may apply to this Court for default judgment. Through this

instant MFDJ Newsome hereby applies for default judgment. This instant MFDJ is timely filed.

> Unlike its federal counterpart, Ohio Civil Rule 55 provides for a single step default procedure.[7] If the defendant fails to plead or otherwise defend, the plaintiff ***after answer time expires***, applies to the court for a default judgment. A hearing time is set. After hearing, the court grants a default judgment for a liquidated or an unliquidated sum. OJP&R §68:2.

18. Pursuant to Rule 7(B) of the ORCP the record evidence will support that this instant MFDJ meets the pleading requirements for the relief sought herein and contain the grounds to sustain the relief sought.

> Ohio Civil Rule 7(B) provides that the motion should contain the grounds on which the motion is based and the relief sought by the motion. Additionally, the motion or application should contain the pertinent facts, including the fact that the defendant was properly served, that the defendant had failed to answer or otherwise defend, and that the plaintiff is entitled to the default judgment in the amount demanded in the complaint. - OJP&R §68:3.

19. Upon review of the Docket in this action, prior to the lapse in time for filing an Answer and or responsive pleading/motion to Newsome's Counter-Claim, Stor-All had only filed ONE Notification of Appearance and Substitution by its counsel, Michael E. Lively. While Stor-All's counsel, David Meranus – counsel filing the Complaint in this instant lawsuit – he may not have filed a Notification Form and/or Entry of Appearance. Newsome is not clear on status of his appearance in this matter based on such facts. However, is thinking that because he filed the Complaint in this action and Notice of Transfer was served on him by this Court and his name appears on the Complaint filed in this lawsuit, neither Lively nor Meranus filed and Answer and/or responsive pleading/motion prior to the lapse in time for filing of March 9, 2009, on behalf of Stor-All. Therefore, as a matter of law, Newsome is providing Stor-All's counsel of record with Notice of her MFDJ as well as said MFDJ. Under the statutes/laws governing said matters, through this instant MFDJ Stor-All has been timely placed on notice of the default judgment being sought against in this instant lawsuit. Stor-All **need not *attempt* to try and unlawfully/illegal submit an out-of-time** Answer and/or responsive pleading/motion to Newsome's Counter-Claim (in which it apprears it is attempting to do) in that any such hearing on the issues raised herein will be on the ***merits*** *of the default judgment itself* *and* ***nothing else***. Defendant will move within the time allowed to have Stor-All's recent out-of-time filing of its pleading containing its Answer **stricken** from the record.

> If the defending party has appeared in the action, the trial court must, by virtue of Civil Rule 55(A), afford that party seven days' notice of the hearing on the motion for default judgment before entering

[7] Staff Notes, Civ R 55(A). The default procedure under Fed R Civ P 55 is a two-step procedure. If a defendant fails to plead or otherwise defend, the plaintiff, after answer time expires, applies to the clerk for a default entry. If the plaintiff's action involves a sum certain, the clerk may enter the default judgment for the sum certain. If, however, the action involves an unliquidated sum, the clerk may make default entry on the plaintiff's application, but the court after hearing grants the default judgment for a particular unliquidated sum. See Staff Notes, Civ R 55(A); Fed R Civ P 55 (a)(b).

> judgment. (*Ohio Valley*). Where the party against whom judgment by default is sought has appeared in the action, he or she (or his or her representative) must be served with written notice of the application for judgment at least seven days prior to the hearing on such application.
>
> The clear purpose of the seven-day notice provision of Civil Rule 55(A) is to afford notice to the party who has entered an appearance in the case and against whom a default judgment is sought (*Dissent in Ries Flooring Co., Inc. v. Dileno Const. Co.*, 53 Ohio App 2d 255, 373 NE2d 1266 (1977)). The rule was not intended to prevent the trial court from proceeding to enter a judgment in a case that is at issue and is set for trial after notice is given and a party absents himself or herself from the trial. (*Disssent;* see also *Ohio Valley*). Furthermore, due process requires that a defendant who has "appeared" in an action be served with written notice of the application for default judgment seven days prior to the hearing on the application; i.e., *on the* ***merits*** *of the* **default judgment ITSELF**. (*Amiri v. Thropp,* 80 Ohio App 3d 44, 608 NE2d 824 (1992)). - OJP&R §68:4.

20. Newsome's Counter-Claim provides the required burden of proof and establishes a prima facie case which went uncontested by Stor-All. For example, see *Defendant's Answer to Complaint for Forcible Entry and Detainer;* ***Notification Accompanying Counter-Claim****; Counter-Claim; and Demand for Jury Trial* at ¶¶70, 71, 109, 111 and 112. Therefore, warranting this Court's rendering a default judgment of and against Stor-All for the relief Newsome seeks in her Counter-Claim.

> If the plaintiff maintains his or her burden of proof and establishes a prima facie case, the court may render the appropriate judgment. (*Garrison Carpet Mills v. Lenest, Inc.*, 65 Ohio App 2d 251, 417 NE2d 1277 (1979)).

21. While a default judgment ruling may seem to be a harsh remedy, the facts, evidence and legal conclusions in this instant lawsuit supports that Newsome is entitled to *default judgment* in that Stor-All willingly and knowingly waived any rights it may assert in to file an affirmative defense and/or responsive pleading/motion to Defendant's Answer and Counter-Claim filed in this instant lawsuit. Moreover, the record evidence will support that any such failure by Stor-All to file an Answer and/or responsive pleading/motion to the Counter-Claim in this instant lawsuit is a direct and proximate result of its own **bad-faith** and **culpable** acts.

> *Haddad v. English*, 763 N.E.2d 1199 (Ohio.App.9.Dist.Lorain. Co.,2001) - The granting of a default judgment, analogous to the granting of a dismissal, is a harsh remedy that should be imposed only when the actions of the faulting party create a presumption of willfulness or bad faith.

22. Stor-All can present no EXCUSABLE NEGLECT for its failure to file a *timely* Answer and/or responsive pleading/motion to Defendant's Counter-Claim filed in this instant lawsuit. Stor-All is represented by counsel in this lawsuit; therefore, there is

no excuse for its failure to file a timely Answer and/or responsive pleading/motion to Defendant's Counter-Claim filed in this lawsuit.

> *Columbus Show Case Co. v. CEE Contracting, Inc.*, 599 N.E.2d 881 (Ohio.App.10.Dist.Franklin.Co.,1992) - Although defendant's president's letter in response to complaint did not constitute a pleading, trial court properly overruled plaintiff's motion for default judgment, where president was unaware that he could not represent "his" corporation, but upon learning the problem obtained counsel who promptly opposed the motion.

23. No Answer and/or responsive pleading/motion to Newsome's Counter-Claim have been *timely* filed by Stor-All in this instant lawsuit. Therefore, Newsome is entitled to a *default judgment* in this instant lawsuit.

> *Dupal v. Daedlow*, 572 N.E.2d 147 (Ohio.App.8.Dist.Cuyahoga. Co.,1989) - Once party has answered, default judgment cannot be rendered.

24. If Stor-All is disappointed with its attorneys' handling of this matter, its remedy is against its counsel rather than a motion to obtain relief from judgment on grounds of excusable neglect (*which in this instant lawsuit is clearly lacking*). The record evidence clearly supports Stor-All was timely, properly and adequately placed on notice of it errors through Newsome's filing in this instant lawsuit; however, made a conscious and willful decision not to correct any said errors and/or mistakes (if that – in that Stor-All's acts may have been strategic/defense tactics which backfired to its demise and Newsome's advantage). Thus, further supporting Stor-All's bad faith and culpable acts led to its default.

> *Moore v. Emmanuel Family Training Center, Inc.*, 479 N.E.2d 879 (Ohio,1985) - If an attorney's conduct falls substantially below what is reasonable under the circumstances, client's remedy is against attorney rather than motion to obtain relief from judgment on grounds of excusable neglect; "excusable neglect" is not conduct evidencing a complete disregard for the judicial system. Rules Civ.Proc., Rule 60(B)(1).
>
> *Midwest Sportservice, Inc. v. Andreoli*, 444 N.E.2d 1050 (Ohio.App.1.Dist.Hamilton.Co.,1981) - **Neglect of a party's attorney** *will be imputed to the party for purposes of determining merits of claim to set aside default judgment* **on the basis of excusable neglect**. Rules Civ.Proc., Rule 60(B)(1).
>
> *Lazarus v. Cleveland Household Supply Co.*, 154 N.E. 343 (Ohio.App.8.Dist.Cuyahoga.Co.,1926) - Inattention to professional duty on part of attorney with reference to pending litigation, whereby default judgment is entered, will not be excused because party himself is negligent.

Williams v. Heisley, 1 Cleve. Law Rep. 196 (Ohio.Com.Pl.,1878) - The negligence of a party's attorney in not attending to the case is not ground to vacate the judgment for casualty or misfortune.

25. This Court will not be abusing its discretion in granting Newsome's MFDJ in that the record evidence clearly supports timely notification**s** to Stor-All of the consequences of not filing an Answer and/or responsive pleading/motion to the Counter-Claim filed in this instant lawsuit.

New v. All Transp. Solution, Inc., 2008 -Ohio- 3949 (Ohio.App.10. Dist.Franklin.Co.,2008) - Proper standard of review of decisions denying relief from default judgment is abuse of discretion.

Guardian Alarm Co. v. Mahmoud, 849 N.E.2d 58 (Ohio.App.6.Dist. Lucas.Co.,2006) - In appeal involving denial of motion for relief from default judgment in breach-of-contract action concerning alleged failure to pay for security services, Court of Appeals could not reverse trial judge's decision unless trial judge's attitude in reaching that decision was arbitrary, unreasonable, or unconscionable. Rules Civ.Proc., Rule 60(B).

Terwoord v. Harrison, 226 N.E.2d 111 (Ohio,1967) - Court of Appeals, in ruling on propriety or impropriety of order of trial court overruling motion to vacate default judgment, had only to rule upon limited question of whether or not trial judge abused his discretion in refusing to vacate order.

26. Stor-All's failure to answer Newsome's Counter-Claim and/or otherwise plead and/or file a responsive pleading/motion to Counter-Claim, as a matter of law, is deemed an admission of the averments and/or claims asserted. Due to Stor-All's failure to timely answer Newsome's Counter-Claim, allegations in said Counter-Claim must be taken as true. Moreover, Stor-All's failure to answer Newsome's Counter-Claim is a waiver or abandonment of ALL defenses it may want to assert. Any such delayed and untimely pleading containing Stor-All's Answer, will be met with a motion to strike – Stor-All prior to filing any such pleading had been duly notified.

Carter Wood Specialty Co. v. Drug & Store Fixture, 50 N.E.2d 188 (Ohio.App.8.Dist.Cuyahoga.Co.,1942) - ***Allegations in petition must be taken as true*** as against a defendant in default of answer.

Detamore v. Snavely's Adm'r, Dayton 101(Ohio.Super,1872) - A *failure to answer* **is a waiver or abandonment** *of* ***ALL*** *defenses*.

27. Because Stor-All has failed to file Answer Newsome's Counter-Claim, Ohio law provides that she is entitled to *default judgment* and is not required to provide any further proof of the elements of her claims alleged. Newsome's Counter-Claim was supported by facts, evidence and legal conclusion and indeed required a responsive pleading, wherein Stor-All has waived or abandoned in its failure to file an Answer or otherwise plead and/or responsive pleading/motion to Newsome's Counter-Claim.

> *In re Rebarchek,* 293 B.R. 400 (Bankr.N.D.Ohio.,2002) - Ohio law provides that a default judgment obviates a plaintiff's burden to prove the elements of the claim alleged.
>
> *Bingham v. Slabach,* 2008 -Ohio- 5555 (Ohio.App.5.Dist.Stark. Co.,2008) -Passenger . . .was entitled to damages for future pain and suffering, though she did not present any medical testimony regarding her injuries or prognosis, in action brought by car's owner and passenger against tortfeasor to recover damages arising from accident, as tortfeasor ***failed to file an answer to complaint***, default judgment was entered against tortfeasor as to liability, and, thus, tortfeasor *was deemed* ***to have admitted all allegations*** *in complaint*, such that only remaining issue was amount of damages.
>
> *City of Girard v. Leatherworks Partnership,* 2005 -Ohio- 4779 (Ohio.App.11.Dist.Trumbull.Co.,2005) - Record title holders of building that was destroyed in a fire were precluded from arguing that their alleged full payment of contractor in charge of the demolition of the building prevented subcontractor that provided asbestos abatement services from bringing unjust enrichment action; title holders ***failed to answer*** subcontractor's complaint and ***had default judgment entered against them***, and only issue remaining for trial was damages. Rules Civ.Proc., Rule 55(A).

28. At the March 10, 2009, hearing on Stor-All's Bifurcation motion, counsel (Meranus) advised the Court of Stor-All's intent to drag this matter out – i.e. a reasonable mind may conclude from statement by him that he does not know how long this lawsuit may last. Well now he knows through Newsome's instant MFDJ, should justice prevail, not long at all in that she is entitled to the relief she seeks as a direct and proximate result of Stor-All's failure to Answer and/or otherwise plead in the time allowed under the statutes/laws governing said matters.

29. The record evidence supports that Stor-All's and representative's prying into affairs of Newsome – being a busybody in her matters – has cost it *immensely*. Oh never mind, according to Meranus in his conversation with Newsome on February 6, 2009, the insurance company (gather that is Liberty Mutual) will pay. Stor-All and its representatives have gone to great lengths to see that Newsome was terminated from her employment[8] – in furtherance of criminal acts it having knowledge of and efforts of interfering with Newsome's engagement in protected activity. Again, such acts which has cost it *immensely* and to Newsome's advantage. Hey if Newsome is not wanted in such places of employment then Stor-All should be held accountable for its **culpable *acts*** *and punished for its crimes and civil wrongs leveled against Newsome.*

[8] . . . ***Plaintiff experienced substantial difficulty finding subsequent employment, and she ultimately had to leave the state. . . .*** An award of punitive damages. . . An award of exemplary damages against the plaintiff's former employer was affirmed on appeal . . . [FN 89] *Flanigan v. Prudential Federal Sav. & Loan Asso.* (1986), 720 P2d 257. . . 105 CCH LC ¶ 55614 (verdict for $95,000 economic damages, $100,000 compensatory damages for mental distress, and $1,300,000 punitive damages). See also *Cancellier v. Federated Dept. Stores* (1982) 672 F.2d 1312. . . 48 Am. Jur. Proof of Facts 2d 235-240.

WHEREFORE, PREMISES CONSIDERED Defendant in keeping with Rules 1(B) and 55 of the Ohio Rules of Civil Procedure, moves this Court for an entry and judgment granting default judgment of and against Plaintiff, Stor-All Alfred, LLC in the amount set forth in *Defendant's Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim; and Demand for Jury Trial's* **PRAY FOR RELIEF** for the following:

General Damages	$150,000.00
Special Damages	$550,000.00
Compensatory Damages	$1,000,000.00
Punitive Damages	$2,500,000.00
Consequential Damages	$350,000.00
Future Damages	$350,000.00

Attorney's/Reasonable Fees

Declare that the acts of Plaintiff, Stor-All Alfred, LLC, with regards to Defendant's rights under the Ohio Constitution, United States Constitution, Ohio Landlord and Tenant Act and other governing statutes/laws were in violation of Defendant's Constitutional rights.

Enter the applicable injunctions and restraining orders requiring Plaintiff, Stor-All Alfred, LLC, their agents, employees, attorneys, representatives and all persons acting in concert with them to cease their unconstitutional and unlawful practices

Costs of suit incurred herein.

Such other and further relief as the Court may deem just and proper.

Respectfully submitted this **19th** day of **March, 2009.**

Denise Newsome

Denise Newsome, *Defendant Pro Se*
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

MEMORANDUM BRIEF

COMES NOW, Defendant, Denise V. Newsome – a/k/a Denise Newsome ("Defendant" and/or "Newsome"), to the extent a memorandum brief is required, and files this her *Memorandum in Support of Motion for Default Judgment of and Against Stor-All Alfred, LLC for Failure to Answer or Otherwise Plead; and Memorandum in Support (Jury Trial Demanded in this Action).* Newsome hereby relies upon the facts, evidence and legal conclusions set forth above in the Motion for Default Judgment in which this Memorandum Brief supports, including the claims and defenses set forth in *Defendant's Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim; and Demand for Jury Trial* and her subsequent pleadings submitted in this instant lawsuit.

WHEREFORE, PREMISES CONSIDERED, and for the above foregoing reasons, Newsome respectfully moves this Court to grant the relief requested in her M*otion for Default Judgment of and Against Stor-All Alfred, LLC for Failure to Answer or Otherwise Plead* to which this Memorandum Brief supports. The instant relief is sought based upon the *instant motion to which this memorandum supports, supporting Affidavit,* documents, records and files in this action, and such oral and documentary evidence as may be presented at the hearing (if necessary).

Respectfully submitted this **19th** day of **March, 2009.**

Denise Newsome, *Defendant Pro Se*
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the forgoing pleading was HAND DELIVERED to:

Schwartz Manes Ruby & Slovin, LPA
Attn: David Meranus, Esq.
2900 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202

MAILED via U.S. Mail first-class to:

Markesbery & Richardson Co., LPA
Attn: Michael E. Lively, Esq.
Post Office Box 6491
Cincinnati, Ohio 45206

Markesbery & Richardson Co., LPA
Attn: Patrick B. Healy, Esq.
Post Office Box 6491
Cincinnati, Ohio 45206

Dated this **19th** day of **March, 2009.**

Denise Newsome

FILED
MAR 20 2009
PATRICIA M. CLANCY
CLERK OF COURTS

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STOR-ALL ALFRED, LLC 1109 Alfred Street Cincinnati, Ohio Plaintiff	:	CASE NO.: A0901302 JUDGE: JOHN ANDREW WEST
vs.	:	**DEFENDANT'S MOTION TO STRIKE PLAINTIFF'S MOTION FOR PROTECTIVE/RESTRAINING ORDER AGAINST DEFENDANT DENISE V. NEWSOME; REQUESTS FOR RULE 11 SANCTIONS; AND MEMORANDUM IN SUPPORT**
Denise V. Newsome Post Office Box 14731 Cincinnati, Ohio 45250 Defendant	:	**(JURY TRIAL DEMANDED IN THIS ACTION)**

COMES NOW Defendant, Denise V. Newsome – a/k/a Denise Newsome ("Defendant" and/or "Newsome") and files this, her *Motion to Strike Plaintiff's Motion for Protective/Restraining Order Against Defendant Denise V. Newsome; Request for Rule 11 Sanctions; and Memorandum in Support (Jury Trial Demanded in this Action)* ("MTSPMFPRO") pursuant to Ohio Rules of Civil Procedure ("ORCP") Rule 12(F) governing matters regarding motion to strike; ORCP Rule 12(G) governing matters regarding consolidation of defenses and objections; and ORCP Rule 11 and Ohio Revised Code ("RC") §2323.51 governing sanctions and/or signing of pleadings, motions, and other documents. Through this instant pleading Newsome moves to strike and opposes/objects to Plaintiff's, Stor-All Alfred, LLC's ("Stor-All" and/or "Plaintiff") *Motion for Protective/Restraining Order Against Defendant Denise V. Newsome* ("MFPRO") – submitted by its attorney, Michael E. Lively, (hereinafter "Lively"). In support thereof Newsome states and provides testimony herein:

EXHIBIT 67

MOTION TO STRIKE/CONSOLIDATION OF DEFENSES

Pursuant to Rule 12 (F) of the Ohio Rules of Civil Procedure, Newsom e through this instant pleading moves this Court to strike the statements of Stor-All's MFPRO. Under said Rule it states:

> **Rule 12(F) Motion to strike.** Upon motion made by a party *before* responding to a pleading or, if no responsive pleading is perm itted by these rules, . . . *the court may order stricken from any pleading any insufficient claim or defense or any redundant, immaterial, impertinent*, *or* ***scandalous*** *matter*.

Therefore, in an effort to provide specificity Newsome moves for the striking of Stor-All's MFPRO statements which include as follows in: **(1) MFPRO**: (a) Paragraph beginning, "Com es now Plaintiff, Stor-All Alfred, LLC, ("Plaintiff") by and through undersigned counsel," and the remaining contents of MFPRO; and **(2)** Stor-All 's **Memorandum in Support** of MFPRO **(a)** on Page 3, paragraph beginning, "T his counsel was recentl y retained to take over defense;" **(b)** paragraph beginning, "This counsel has reviewe d, and wishe s to bring to the Court 's attention;" **(c)** paragraph beginning, "These statem ents can b e reasonabl y construed a s a phy sical threat of Plaintiff;" **(d)** paragraph beginning, "Given the above, the undersigned respect fully requests that the Court issue an order as requested;" and the remaining contents of Stor-All's Memorandum in Support; **(3)** the entire **Affidavit of Attor ney Michael E. Lively** including paragra ph beginning, "I Micha el E. Lively , being duly sworn;" Para graphs num bered 1., 2. and 3; along with the rem aining contents of said Affidavit; and **(4)** proposed "Order Granting Plaintiff" s Motion for Protective/Restraining Order" (hereinafter, inclusively known as ***"STRICKEN STATEMENT(S)/DOCUMENT(S)"***). Said request is being m ade pursuant to ORCP Rule 12(F) and t he applicable statutes/laws governing said m atters in that Stor-All 's statements and docum ents provided in its MFPRO are insufficient, imm aterial, irrelevant, scandalous, frivolous, vexatious, and/or sham, etc.

Furthermore, for purpose s of expedition, saving of tim e and minimize costs associated with litigation, Newsome consolidates her m otions/pleadings herein pursuant to ORCP Rule 12(G) which states:

> **Rule 12(G) Consolidation of defenses and objections.** A party who makes a motion under this rule must join with it the other motions herein provided for and then available to him. If a party makes a motion under this rule and does not include therein all defenses and objections then available to him which this rule permits to be raised by motion, he shall not thereafter assert by motion or responsive pleading, any of the defenses or objections so omitted. . .

Newsome moves this Court through this instant MT SPMFPRO to strike Stor-All's MFPRO and/or the STRICKEN STATEMENT(S)/DOCUMENT(S) therein.

In support thereof and *without waiving* the relief sought Newsome further states and shares her testimony:

Cliché: "*Oh what a tiny web weave when we practice to deceive!*"

1. This instant MTSPMFPRO is submitted in good faith and is not submitted for purposes of delay, harassment, hindering proceedings, embarrassment, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, etc. and is filed to protect the rights of Newsome.

2. For this Court to grant Stor-All's MFPRO would be prejudicial to Newsome, abuse of discretion, and clearly erroneous, etc.

3. Newsome as a Christian and finds the assertions made in Stor-All's MFPRO to be scandalous, slanderous, defamatory, insulting, offensive, derogatory, assignation of her character/reputation, etc.

4. Newsome believes the record evidence will support that Stor-All's MFPRO is a common practice used by *certain* whites and confirms beliefs shared by Newsome and members of her class that *certain* whites commit criminal/civil violations and when citizens (such as Newsome) comes forth to expose legal wrongs, *certain* whites are careful not to ***leave smoking guns*** which would expose such criminal/civil wrongs, and proceed to attempt (at times are successful) to paint such victims (especially African-Americans) as being hostile, violent, full of anger, terrorist, revengeful, etc. Moreover, *certain* whites using their **masked** terminology (*multi-conspiracy*) to project their victims as **paranoid**, **delusional**, **serial litigators**, **the boy who cried wolf, potential murders,** etc. as evidenced in Stor-All's MFPRO. Thus, using their power, positions relations, etc. to destroy innocent lives African-Americans that object to *certain* whites' criminal/civil wrongs against them.

5. Newsome is a strong and educated African-American. An African-American who for years certain whites have gone to great lengths to destroy her life; however, have been unsuccessful. The record evidence clearly supports that Newsome does not result to such criminal acts as that committed by Carl Brandon to which Stor-All and its representatives were attempting to drive her to; however, believes in taking Stor-All and those who commit such criminal/civil wrongs against her to court. Thus, clearly supporting that Stor-All's MFRPO to be *scandalous, slanderous, defamatory, insulting, offensive, derogatory, assignation of her character/reputation, etc.*

6. A good example of this was clearly evidenced during the 2008 United States Presidential Campaign where there was an African-American candidate (Barack Obama) and a white candidate (John McCain). You had certain white campaign strategist relying on the ignorance and fears of *certain* whites who would bite at such tactics and paint Barack Obama as a terrorist, hostile, angry, etc. person. Instead, it was the white candidate (John McCain) who proved to be short tempered, easily irritable, angry, hostile, etc. Moreover, during one debate disrespectful and would not look at the African American in that he may have felt Obama should not have been on the same platform as he. McCain's strategist preying on the ignorance and fears of certain whites that would feed into such racial prejudices and stereotyping as they were portraying of Obama.

A. STOR-ALL'S ASSERTIONS IN MFPRO CLEARLY GOES AGAINST DEFENDANT'S CHRISTIAN BELIEFS:

7. Newsome can only speak for herself, and that any such assertion addressed by Stor-All and its counsel, Lively, regarding her statement stating, "Stor-All *and its representatives* have stooped to criminal acts as a direct intent to cause Newsome harm/injury. Moreover, efforts taken by Stor All, *its counsel, its insurance provider (Liberty Mutual)* being done in hopes of driving Newsome to the point they did Carl Brandon, Jena 6 victims, and who knows who else" **is true and the record evidence in this instant law suit supports same;** and Stor-All and its counsel has presented **no** *evidence to rebut* that presented by Newsome to support said statement. Therefore, a reasonable mind may conclude that Stor-All's assertion stating, "*These statements can be reasonably construed as a physical threat to Plaintiff, its representatives, its legal counsel and perhaps even the Court itself"* **is scandalous, slanderous, farce, sham, false and misleading** and merely efforts to insult this Court's and the Newsome's intelligence. It was a good thing this Court in its March 10, 2009, hearing in this matter had an opportunity to meet Newsome and observe her demeanor and respect to this Court and opposing counsel. Of course Lively **conveniently** *did not* make an appearance at March 10, 2009 hearing held in this matter; however, used his time to remain behind for purposes of drafting and filing such scandalous and frivolous, etc. document as Stor-All's MFPRO. Further supporting evidence that no such scandalous assertions as that presented by Stor-All and its counsel can be sustained and neither does it support the relief it seeks in its MFPRO.

8. Stor-All's counsel, Lively, has failed to produce any evidence as to where Newsome has shown up at his office. Stor-All's counsel, Meranus and Vance have offices downtown. Newsome has a duty to mitigate and/or save costs – Newsome is currently unemployed as a direct and proximate result of actions taken by Stor-All and/or its counsel/representatives – therefore, it is cheaper to submit copies via hand delivery rather than by U.S. Mail for offices which are in the downtown area. Thus, when necessary, Newsome will mail documents and/or hand deliver to opposing counsel. Furthermore, Stor-All has failed to produce any evidence to support that during any such hand deliveries of documents filed and served by Newsome, that she committed acts warranting the relief sought through Stor-All's MFPRO. Therefore, a reasonable mind may conclude, that Stor-All and its counsel is attempting to seek ways to increase the costs and/or make it difficult for Newsome to litigate this matter – thus to their disappointment, she will be moving for a default judgment to which she is entitled pursuant to the applicable statutes and laws governing said matters.

9. Stor-All and its counsel failed through their MFPRO to present any facts, evidence or legal conclusion to support its motion. All that is presented in said MFPRO are a *clutter of words lacking substance*. Moreover, Stor-All has failed to show that Newsome has a criminal record or has a history of committing such crimes they are asserting she is capable of committing.

10. While Stor-All and its counsel assert, "*As indicated in her various Motions and briefs filed in this matter, and as confirmed by other counsel involved in this case, Defendant has made it her practice to hand deliver pleadings, motions and other documents personally to the offices of other counsel*" – p. 3 of MFPRO; however, it and its counsel has failed to produce any facts or evidence to support that during any such hand delivery of pleadings by Newsome to opposing counsel, that she behaved in a threatening manner, was hostile, disrespectful, etc. Moreover, that there is any evidence of Newsome stalking and/or hanging out around their offices. Therefore, a reasonable mind may conclude that Stor-All's MFPRO is scandalous, slanderous, defamatory, insulting, offensive, derogatory, assignation of her character/reputation, etc. Moreover, Stor-All's MFPRO was provided for purposes of frivolous and ill intent – *delay, hindering proceedings, harassment, embarrassment, intimidation, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, deprivation of rights, deprivation of equal protection of the laws, deprivation of due process of laws, etc.*

11. No there are laws to address the work of evil and malicious acts as Stor-All and its counsel/representatives. Said laws being designed to expose and rid the world of the work of the evil and malicious discriminatory practices that Stor-All and its counsel/representatives seeks to breed through their hatred towards Newsome and members of her class.

> *Neff v. Civil Air Patrol,* 916 F.Supp. 710 (S.D.Ohio.E.Div., 1996) - . . . designed to rid the world of *work of the evil* of discrimination because of individual's race. . .

12. No offense intended; however, Stor-All's MFPRO is merely an underhanded effort to paint African-Americans as those who are hostile, full of hate, revenge, rage, etc. To the contrary. Newsome harbors **no** *ill will* and would commit **no** such criminal acts asserted by Stor-All and its counsel. *Newsome is in a very good position in this lawsuit-in that Stor-All has waived its rights to file an Answer and/or responsive pleading or Rule 12 motion - and even if she was not, no such criminal acts asserted by Stor-All against her in its MFPRO would be committed*. It is a known fact that such unlawful practices as Stor-All, its counsel, its representatives, etc. in contacting Newsome's employer to get her terminated is a common practice by *certain* whites to keep African-Americans oppressed. It was Stor-All who brought this instant lawsuit and, therefore, as a matter of law, Newsome was entitled to file a counterclaim. To Stor-All's disappointment and not taking the Carl Brandon route, Newsome has brought this matter to the Court to allow a jury to decide the matter. Moreover, Stor-All and its counsel/representatives are aware that rather than taking such matters into her own hand, Newsome also believes in bringing such unlawful acts of Stor-All and others to the proper agency's attention to address such criminal/civil wrongs. No, being the Christian that she is, Newsome believes in relying upon the laws to decide this matter – what would be the purpose of claiming to be a Christian and then *stooping* to the level in which Stor-All and its

counsel/representatives were trying to take her. No when one is on the housetop he/she does not need to come down:

> I Timothy 1:
> (8) **But we know that the law is good, if a man use it lawfully;**
>
> (9) Knowing this, that the law is not made for a righteous man, but for the lawless and disobedient, for the ungodly and for sinners, for unholy and profane, for murderers of fathers and murders of mothers, for manslayers.

> I Peter 4:
> (12) Beloved, think it not strange concerning the fiery trial which is to try you, as though some strange thing happened unto you;
>
> (13) But rejoice, inasmuch as ye are partakers of Christ 's sufferings; that, when his glory shall be revealed, ye may be glad also with exceeding joy.
>
> (15) **But let none of you suffer as a murder, or as a thief, or as an evildoer, or as a busybody in other men's matters**.
>
> (16) Yet if *any man suffer* as a Christian, let him not be ashamed; but let him glorify God on this behalf.

It is apparent the laws have been put in place for such as Stor-All, its counsel and representatives; therefore, Newsome is exercising her rights under the governing statutes/laws. It is Stor-All and its counsel/representatives who have engaged in criminal acts, stalking Newsome from job-to-job, contacting her employer to get her terminated, etc. Such evil deeds which are being rewarded with them falling into the traps they set for Newsome – in which Newsome is now allowed to recover from damages/liability. <u>*Oh what a tiny web one weaves when he/she practice to deceive*</u>.

> Psalm 141:
> (9) Keep me from the snares which they have laid for me, and the gins of the workers of iniquity.
>
> (10) **Let the wicked fall into their own nets, whilst that I withal escape**.

> Psalm 35:
> (7) For without cause have they hid for me their net in a pit, which without cause they have digged for my soul.
>
> (8) **Let destruction come upon him at unawares; and let his net that he had hid catch himself; into that very destruction let him fall.**

13. No Stor-All, its counsel, insurance provider (Liberty Mutual), etc. are fully aware of how difficult it is for African-Americans to uncover such unlawful /illegal acts. Because rarely do they leave a smoking gun behind. However, in this instant matter, Stor-All's counsel on February 6, 2009, made it known of his knowledge of Newsome's engagement in protected activity (s); moreover, providing said information in efforts of

furthering their crim inal acts in extorting m onies from Newsom e. Then Stor-All 's counsel (Va nce) for its insurance carrier (Liberty Mutual) thought that entering a pleadings/motions in this lawsuit revealing Stor-All 's insurance carrier' s i dentity since Newsome had recently settled another m atter with an insured of Liberty Mutual,[1] that it as the insurance com pany in this m atter would influence her decision in this m atter – it did, it confir med what Meranus stat ed on February 6, 2009, that Stor-All 's insura nce carrier woul d be the one pay ing for the dam ages/injury sustained; m oreover, provide d Newsome with inform ation needed to determine the *common denominat or* in m atters involving he r. See **EXHIBIT "1"** - Letter to David Meranus of February 6, 2009 attached hereto and incorporat ed by reference. To Stor-All 's and it s counsel's/representatives' disappointm ent, Newsom e knew that they were engaging in criminal activities; however, knew she (being African-Am erican) would have to obtain evidence and patiently wait until th ey revealed such crim inal acts as Meranus did on February 6, 2009. Thus, pertinent inform ation Newsom e believes is very beneficial and crucial to any investigation into the criminal/civil wrongs leveled against her.

> Conducting a **Thorough** Investigation[2]
> Because discrimination often is **subtle**, and there *rarely* is a "**smoking gun**," [Fn. 45 - *See Aman v. Cort Furniture Rental Corp.,* 85 F.3d 1074, 1081-82 (3rd Cir. 199 6)("*It has be come easier to coat various forms of discrimination with the appearance of propriety* , or *to ascribe some othe r less odious intention to what is in reality discriminatory behavior* . In other words, while discriminatory conduct persists, **violators have l earned** ***not to leave the proverbial 'smoking gun' behind***."); *cf. McDonnell Douglas Corp. v. Gree n,* 411 U.S. 792, 801 (1973). . .] determining whethe r race pla yed a role in the decisionmaking requires exam ination of all of the surroundi ng facts and circumstances. The prese nce or absence of any one piece of evidence often will not be determ inative. Sources of inform ation can include ***witness statements***, *including consideration of their credibility* ; docum ents; direct observation; and statistical evidence such as EEO-1 data, am ong others. See *EEOC Compl. Man.,* Vol. I, Sec. 26, *Selection and Analysis of Evidence."*

14. Again, no offense inte nded (just keeping it real), just like during t he campaign fo r the 2008 United States Preside ntial election, with an Afric an-American candidate (Barack Obam a) y ou had *certain* whites attem pting to prey on the fears and ignorance of the uneducated, unlearned, prejudices, etc. of those opposed to having an African-American President by painting Obam a as hostile, quick tem per, unqualified, terrorist, etc. Not only that, attem pted to make it appear that a white Vice-Presidential candidate (Sarah Palin) was a s equal ly qualified as a candida te (Obam a) who finished from Harvard and in the top of hi s cl ass – no need of even address Palin's less inferior credentials, inexperience and qualifications. No there were *certain* whites (which included Palin) who preyed on such ignorance and pounded away in poisoning the minds of *certain* whites to which she knew were prejudice and racist; however, while they were able to convince only a fe w they failed with the majority – *those who sa w through such prejudices, racism and discriminatory tactics* – and on Nove mber 4, 2008, the United States elected their first African-Am erican President. Now the United States has its first African-American President and First Lady who are attorneys and specialize in Civil

[1] See EXHIBIT "5" - Letter ONLY attached hereto.
[2] Taken from EEOC's Compliance Manual Section 15: Race and Color Discrimination

Rights law, etc. – thus, each sharing the same passion/interest. A President, who chose for one of his cabinet seats, U.S. Department of Justice (Eric Holder – an African-American) who also shares the same interest of the President and seeing that justice is rendered **equally** *and not discriminatively and/or prejudicially applied*.

15. In this instant lawsuit, this Court has a defendant who is an African-American female, graduating from one of the top ACCREDITED African-American universities (Florida A&M University) in the United States defending this matter against those who are white and have been schooled in the law – only going three or more years longer to obtain their law degree; however, they have failed in getting the job done. No the traps set for Newsome (implemented by *certain* whites and used repeatedly against Newsome and members of her class), were the very traps which has ensnared Stor-All, its counsel and/or representatives.

B. STOR-ALL'S FAILURE TO FILE ENTRY OF APPEARANCE FOR ATTORNEY MOLLY G. VANCE IS PREJUDICIAL TO DEFENDANT:

16. It appears that Stor-All's counsel, Michael E. Lively ("Lively"), is still attempting to have this Court recognize and accept the appearance of Molly G. Vance ("Vance") in this instant lawsuit, for to do so would allow Stor-All to enter him as a "substitution" for Vance, when Stor-All **cannot** do this as a matter of law. It is **UNDISPUED** that the Stor-All's Complaint was submitted for filing by its counsel, Meranus. Therefore, it was Meranus who may be the one allowed to enter filings in this lawsuit; however, Vance took it upon herself to file pleadings/motions on February 17, 2009 entitled, "*Motion for Enlargement of Time;"* February 18, 1009 entitled, "*Motion of Stor-All, LLC for Leave to File Memorandum in Opposition to Motion for Rule 11 Sanctions*;" and on February 18, 2009 entitled, "*Stor-All, LLC's Memorandum in Opposition to Defendant's Motion for Rule 11 Sanctions*," which **are <u>not</u>** permissible and Newsome has filed the required Motion to Strike and/or Objection/Opposition responsive pleading (requesting court to exercise its discretion and strike). Meranus, who had filed this lawsuit on behalf of Stor-All, is with the law firm of Schwartz Manes Ruby & Slovin, LPA("Schwartz Manes"). *Vance **is <u>not</u** with the law firm of Schwartz Manes, but appears to be counsel for an insurance company, Liberty Mutual* – if she is with a law firm, she fails to identify the firm; therefore, a reasonable mind may conclude said failure in not filing a NOTIFICATION FORM is deliberate and her failure to file said form was a strategic move to which she had hoped Newsome would not contest, that **BACKFIRED** to Stor-All's demise. **Therefore, any such filings submitted by Vance on be half of Stor-All are <u>null/void</u>**. Moreover, <u>any said entry /ruling granting relief therein is **null/void**</u>. While Stor-All was made aware of said error (*if such, in that said acts by Stor-All may have been a dilatory and strategic move which backfired in that it did not think Newsome – trying to take an advantage of her because she is pro se – would know that such tactics were impermissible*) through documents filed by Newsome, as well as notation on *Certificate of Service* in pleadings/motions filed by her which stated, "**Without waiving objections to this attorney's pleading and participation in this lawsuit for failure to file applicable pleading/document for appearance in this action**," <u>it did nothing to correct any such error</u>. If the acts of Stor-All's counsel was a good-faith error, said error should have been corrected immediately; however, Stor-All elected not to do so; therefore any enlargement of time to file an Answer, respond to discovery, should have been filed by Meranus (if from filing Complaint, he is considered counsel of record – this Court's *Notice of Transfer* advising "YOU SHALL HAVE 2 8

DAYS FROM T HE RECEIPT OF T HIS NOTICE TO ANSWE R IN T HIS TRANSFERRED ACTION," was submitted to Meranus on or about February 9, 2009, as attorney of record – See **EXHIBIT "2"** attached hereto and incorporated by reference as if set forth in full herein) or Vance should have filed the proper document entering her as counsel in this action for Stor-All. Instead, both Meranus and Vance m ade a conscious, willful, deliberate and knowing decisi on not to enter an appearance for Vance on Stor-All's behalf – said failure which appears to be a mistake and error to Newsome's benefit and *great joy*.

> *FIA Card Se rvices, N.A. v. Salmon*, --- N.E.2d ----, 2009 WL 57592 (Ohio App. 3 Dist.,2009)
> [n. 4] An "a buse of di scretion" constitutes m ore than an error of law or judgm ent and im plies that the t rial court a cted unreasonably , arbitrarily, or unconscionably.
>
> Mr. Warner: Well, y our Honor, for t he record I would like to at least argue our motion.
>
> **The Court:** Well, no. I'm not going to let y ou argue your motion. ***You haven't entered an appe arance.*** *I'm not going to let you do that.* ***That's not right***.
>
> Mr. Warner: Your Honor, I could-
>
> **The Court:** M r. M cCann is the one w ho s hould be here. ***Either that or has to be some sort of a substitution or some sort of an entry of appearance***.
>
> Mr. Warner: *Well, I am from the same law firm a s him, your Honor*.
>
> **The Court:** ***I don't know that. Don't see it on the record. Not here***.
>
> Mr. Warner: *I can give you one of my business cards.*
>
> **The Court:** I don't want your business card. So we're done, aren't we?
>
> Mr. Warner: Well, y our Honor, I' d ask for a reasonable continuance then of the matter.
>
> **The Court:** *Well,* ***you haven't even entered an appearance.*** *How can you ask for a continuance*?

{¶ 14} Our review of the record reveals that at the hearing on May 22, 2008, attorney Warner advised the trial court that he was adm itted to the Ohio bar and licensed to practice before the c ourts in the state of Ohio. Additionally, attorney Warner is employed by Javitch, Block & Rathbone, L .L.P., which **is the sa me firm that employs** at torney McCann, whose name appears on the pleadings in this case on behalf

> of FIA. Furthermore, we note that the appearance of attorney Warner as substitute counsel for attorney McCann was in no way ***prejudicial*** *to the appellee in this case*.
>
> {¶ 15} Based on the foregoing, as the appearance of attorney Warner as substitute counsel was in no way ***prejudicial*** to the appellee, we find that the trial court abused its discretion by dismissing FIA's case for failure to prosecute pursuant to Civ.R. 41(B)(1). Accordingly, FIA's sole assignment of error is sustained.

See **EXHIBIT "3"** - *FIA Card Services, N.A. v. Salmon*, attached hereto and incorporated by reference as if set forth in full herein. (**EMPHASIS ADDED**)

17. A reasonable mind may conclude that Meranus' assertion in this instant lawsuit through Stor-All's Bifurcation motion is appearance for representation and counsel on the Complaint ONLY and **not** Newsome's Counter-Claim; moreover, Stor-All's acceptance of Meranus' abandonment of the Counter-Claim filed in this lawsuit. The record evidence will support that Stor-All having a great deal of time to retain counsel in that it was served with Newsome's Answer and Counter-Claim on January 29, 2009, and was made aware prior to its filing of a Complaint against Newsome, it would be met with a counter action; moreover, its insurance company having access to an arsenal of law firms to represent its insured Stor-All. Nevertheless, Stor-All elected to allow Molly G. Vance to file pleading/motion on its behalf ***without*** *entering an appearance.*

18. Stor-All and its counsel knew that an appearance need to be filed for Vance; however, waived such. A reasonable mind may also conclude that Stor-All's failure to require that its counsel enter an appearance may be due to its knowledge that there may have been a " CONFLICT OF INTEREST" and/or Vance doing so to avoid liability and sanctions of and against her as well as Stor-All. Moreover, a reasonable mind may conclude that Vance's acts were deliberately done to take advantage of the fact of her knowledge that Newsome was proceeding in this lawsuit pro se and would not think to address such prejudicial practices and filings prohibited by statutes/laws. *Newsome has filed the required pleading/motion requesting the striking of documents or opposition/objection to documents filed by Vance on behalf of Stor-All. As a direct and proximate result of such unlawful practices of Stor-All,* ***Newsome has been prejudiced***. *Newsome filing timely pleadings/motions to preserve her rights on this issue.*

19. Based upon the facts, evidence and legal conclusions presented in Newsome's Answer and Counter-Claim and her subsequent pleadings/motions, a reasonable mind may conclude that Stor-All's acts are in furtherance of its attempts to *obstruct the administration of justice*, vexatiously increase the costs of litigation, etc. in that it and its counsel were successful in getting Newsome terminated from her place of employment.

20. Because Newsome has challenged Vance's appearance in this lawsuit, this Court must decide this issue on the record on this matter. Therefore, upon review of the Docket Sheet and/or Appearance Docket in this action, it is clearly evident that Vance has not filed an appearance in this matter. See **EXHIBIT "4"** - Notification of Clarification, attached hereto and incorporated by reference as if set forth in full herein.

> *Terry v. C laypool,* 65 N.E.2d 8 83 (Ohio. App.3.Dist.Hancock. Co.,1945) - Where appearance of a defendant in an action is in issue, the m atter must be tried by the record alone and not by other evidence.

> *Terry v. C laypool,* 65 N.E.2d 8 83 (Ohio. App.3.Dist.Hancock. Co.,1945) - If jurisdiction of defendant has not otherwise been acquired, it is absolutely essential to establish jurisdiction of co urt to enter a judgm ent in per sonam that *an appearance of a defendant* ***affirmatively appear in the record*** *which is the sole evidence thereof if the matter is placed in issue*.

> *Dillon v. Carlisle Garmont Co.,* 5 Ohio App 347 (1915) - Wh en the appearance of a party and/or its counsel is at issue, the matter must be tried by the record alone and by other evidence.

Lively attempted to mask such deliberate and willful acts of Stor-All by asserting in its Notification of Appearance and ***Substitution*** of Counsel, "*Mr. Lively is hereby substituted for Molly G. Vance as attorney for Plaintiff as to the Counterclaim;*" however, such effort has also hit a brick wall because Newsome picked up on it and addressed such and her opposition again to Vance's failure to enter an appearance on behalf of Stor-All; moreover, the cover-up attem pted by Lively to do dam age control. Se e Newsom e's filing of March 11, 2009 entitled, " ***Notification of Clarification***" attached hereto and incorporated by reference at **EXHIBIT "4"** as if set forth in full herein. Stor-All is represented by counsel (t hose schooled and educated in the law) and therefore, are subject to t he consequences of its counsel 's errors and m istakes. Newsome is pro se and is held accountable for her errors and mistakes if m ade. *Meyers v. First Nat. Bank,* 3 Ohio App 3d 209, 4 4 NE2d 412 (1981) - OJP&R[3] §10:11 at Fn.22.

21. The record evidence supports that Newsom e filed timely objection/opposition documents to Vance 's fi ling of pleading/m otions in this lawsuit. Thus, preserving this defense and issue that St or-All was ti mely, properly and adequately placed on notice of the lack of appearance for Vance in the record of this Court. Had Newsom e not contested such filings by Vance on behalf of St or-All, said defense would have bee n waived. Newsom e, through her opposition filin gs, requesting that plead ings/motions filed by Vance on behalf of Stor-All be stricken.

> *Foddy v. Miller,* 24 Ohio Dec. 604, 1910 WL 869 (Ohio Com.Pl. 1910) - The entry of appearance of a nu mber of defendants in a partition suit in failing t o conform t o court rule requiring proof of signature wa s deem ed waived where not objected to at the tim e nor until three y ears therea fter, even t hough if the defect ha d been objected to at the time of entry the appearances would have been stricken from the files.

[3] Ohio Jurisprudence Pleading & Practice Forms – Venue & Process. ("OJP&R")

22. Not only does this Court 's Local Rule 11 r equire Vance to enter an appearance, the Ohio Revised Code does so as well:

> LOCAL RULE – Hamilton County Court of Common Pleas
> **RULE 11. Pleadings and other papers**
>
> (B) Civil: Case Classification and **Attorney Notification Forms**. Criminal: Counsel ret ained, co-counsel retained and counsel appointed.
>
> (2) *Whenever an attorne y makes the* ***first*** *appearance in a civil case, that attorney shall complete an attorney notification form.*
>
> (4) Whenever an attorney has a change in offi cial mailing address, that attorney shall co mplete and file **a new at torney notification form**.

23. The Ohio Revised Code requires that an appearance docket be kept f or common pleas courts. (RC §§ 2303.12, 2303.13) - OJP&R §10:2

> **RC §2303.12 - Books to be kept by clerk.**
> The clerk of the court of common pleas shall keep at least four books. They shall be called the **appearance** docket, trial docket . . .
>
> **RC §2303.13 - Entries on appearance docket and their effect.**
> The clerk of the court of comm on pleas shall enter upon the **appearance** docket at the tim e of the commencement of an action or proceeding, the nam es of the parties in full, with names of co unsel, and forthwith index the case direct and reverse in the nam e of each plaintiff and defendant. *In like manner and at the time it occur s, he shall also index the name of each person* ***who be comes a party*** *to such action or proceeding*. At the time it occurs and under the case so docketed, he shall also enter the issue of the sum mons or other mesne process or order and the filing of ea ch paper, and he shall record i n full the return of such writ or order with the date of its return to the court, which entry shall be evidence of such service.

Upon review of the record in this instant lawsuit, the record will reflect that there is no appearance on record filed by Vance on behalf of Stor-All.

24. As Newsome (who i s pro se) brought to this C ourt's attention during the March 10, 2009 hearing, that she is required to abide by the rules and proc edures of this Court, there appears to be ***double standards*** when said rules a nd procedures are applied to Stor-All and/or its c ounsel/representatives. As a m atter of law, Stor-All and i ts counsel/representatives m ust accept the conseque nces of their m istakes and errors – as with this issue, they have waived the right to file an Answer a nd/or responsive pleading/motion to Newsom e's Counter-Claim due to its delib erate acts no t to enter an appearance for Vance and Meranus' failure to correct said error.

> **Pro se civil litigants** ***are bound by the same rules and procedures*** **as those litigants w ho retain counsel** . They **are not** accorded greater rights and **must** *accept the results of t heir own* ***mistakes*** *and* ***errors***.

Meyers v. First Nat. Bank, 3 Ohio App 3d 209, 44 NE2d 412 (1981) - OJP&R §10:11 at Fn.22.

25. This is a court of law. However, upon review of the record as well as evidenced during the March 10, 2009 hearing held before this Court, Stor-All and its counsel file pleadings/motions that are not in compliance with the statutes/laws governing said matters.

26. It was Stor-All's counsel, David Meranus, who filed the Complaint in this instant lawsuit. Therefore, Meranus may be presumed to be the attorney of record for Stor-All and perhaps authorized on its behalf to do any act within the scope of his employment – which would have been to re-file the applicable pleadings/motions filed by Vance; however, Meranus made a conscious and deliberate decision not to do so. Neither did Vance file the required appearance document. Without such steps to preserve their right in this action to bring the documents filed by Vance, any said defense set forth in pleadings/motions filed by Vance is null/void and impermissible. Newsome is a party to this action (and not a stranger); therefore, she is permitted to question the authority of Vance, who would be considered a stranger as well as her client Liberty Mutual to this lawsuit, to enter the pleadings/motions filed by her on behalf of Stor-All.

> An attorney who files a complaint on behalf of persons whom he or she claims to represent will be presumed to be the attorney for these parties and will be authorized on their behalf to do any act within the scope of his or her employment. *Coble v. Mills, Dayton 80*. (When a petition is filed by regularly admitted members of the bar, a presumption arises that they were duly authorized to file it. *Minnesota v. Karp,* 84 Ohio App 51, 39 Ohio Op 96, 52 Ohio L Abst 513, 84 NE2d 76 (1948)) - OJP&R §10:13.

> A stranger to the judgment will not be permitted to question the authority of an attorney who represented one of the parties in the cause in which the judgment was rendered. *Bryans v. Taylor, Wright* 245. OJP&R §10:13.

27. A reasonable mind may conclude that Vance's failure to enter an appearance was a *dilatory* and *defense tactic* to keep this Court from obtaining jurisdiction over her as well as her clients, Stor-All and Liberty Mutual. Therefore, any such ruling(s) by this Court on documents filed by Vance on behalf of Stor-All is null/void.

> *Collins v. Collins,* 844 N.E.2d 910 (Ohio.App.1.Dist.Hamilton. Co.,2006) - For a court to acquire personal jurisdiction, there must be . . . an entry of appearance, and a judgment entered without . . . an entry of appearance is null and void.

> *Miami Exporting Co. v. Brown,* 6 Ohio 535 (Ohio,1834) - A judgment without notice, and without the appearance of the party against whom it was rendered, is a nullity.

> *State ex rel. Estate of Miles v. Village of Piketon,* 2009 -Ohio - 786 (Ohio,2009) - For a court to acquire jurisdiction there must be a proper service of summons or an entry of appearance, and a judgment

rendered without proper service or entry of appearance is a nullity and void.

28. Stor-All has waived any such right and/or opportunity to file an Answer or otherwise plead to Newsome's Counter-Claim; moreover, respond to the discovery request served on it. Neither is this Court allowed to accept Stor-All's Motion for Enlargement of Time to Answer or Otherwise Plead; and Respond to Discovery because it was submitted for filing by Vance, who was not allowed to file pleading/motions in this action (i.e. Vance being a stranger to this matter) without making an appearance in this lawsuit. ***The time in which Stor-All was to file an Answer or otherwise plead has lapsed***. *The time for Stor-All to answer discovery served on it has lapsed*. Stor-All cannot rely on any such defense that it was not aware that Vance was not allowed to file pleadings/motions, because it was timely, properly and adequately notified by Newsome that said filings by Vance were impermissible; however, Stor-All failed to correct once notified. If Meranus elected to abandon Stor-All on Newsome's Counter-Claim and failed to retain counsel and enter an appearance in a timely manner, it is to its own demise (errors and mistake) – Stor-All has legal counsel in this lawsuit and is not proceeding pro se and even it was, would still be subject to the rules and procedures of this Court and state of Ohio.

> **ACTS CONSTITUTING APPEARANCE**
> A motion for leave to move or otherwise plead **does not** submit a party to the jurisdiction of the court. (*Maryhew v. Yova,* 11 Ohio St 3d 154, 11 Ohio BR 471, 464 NE2d 538 (1984)(request by defendant to trial court for leave to move or otherwise plead is not motion or responsive pleading contemplated by Civ R 7, and obtaining of such order does not constitute waiver under Civ R 12(H) of any affirmative defenses, nor does it submit defendant to jurisdiction of court.
>
> It should be noted that the Civil Rules provide that certain defenses may, at the option of the pleader, be made by motion (including the defense of lack of jurisdiction over the person) and no defense or objection is waived by being joined with one or more other defenses or objection is waived by being joined with one or more other defenses in a responsive pleading or motion. Civ R 12(B). However, the personal jurisdiction defense or objection is waived by failure to include it either by motion or in a responsive pleading. Civ R 12 (H).) - OJP&R §10:22 at Fn.54.

While Vance attended the hearing in this matter on March 10, 2009, it still would not suffice as an appearance in this matter on behalf of Stor-All.[4]

[4] **PRACTICE TIP:** The defendant and attorney may have the right to be in the courtroom as spectators when the case is called, without submitting the person of the defendant to the jurisdiction of the court, so long as they do not participate in any way in any of the proceedings. Also a defendant who is not, in fact, served with process does not waive service and submit himself to the jurisdiction of the court by reason of having knowledge of the action against him or her. OJP&R §10:22

The following also do not amount to an appearance: the mere examination of papers in the case, filed in the clerk's office; a conversation with the plaintiff's counsel or the judge of the court about the case; a letter to the judge by the counsel for the defendant asking that service of summons be quashed; a letter from counsel requesting a continuance of an action. The action of a waiver of summons is not an appearance where the waiver is filed with the complaint in the case, nor does a promise to settle constitute an appearance, whether the promise is made before or after judgment. Also, an appearance by a defendant in one court does not constitute an appearance in another, entirely different court, regardless of the fact that both actions arise from the same incident and are against the same defendants. - OJP&R §10:22

> Other acts which do not amount to an appearance include, for example, the mere physical presence of the party or his or her attorney in the courtroom. *Wirt v. Wirt,* 13 Ohio L Abst 11 (1932) - OJP&R §10:22.

29. As a matter of law, this Court is required to vacate the March 2, 2009, Docket entries granting relief to Stor-All through pleadings filed by Vance. Newsome's Motions to Strike and/or Objection/Opposition pleadings were timely, proper and adequate in defense regarding such issue.

> **EFFECT OF UNAUTHORIZED APPEARANCE ON BEHALF OF PARTY**
> With regard to the binding effect of a judgment entered on an unauthorized appearance of an attorney, according to the great weight of modern authority, such a judgment is subject to direct attack (46 Am Jur 2d, Judgments §733). The Supreme Court of Ohio has held that where an attorney appears without authority and acknowledges services or files a plea, the judgment is entered against the defendant, the court may on motion, vacate the judgment. - OJP&R §10:33.

C. DEFENDANT HAS THE LEGAL ADVANTAGE IN THIS MATTER – ENTITLED TO JUDGMENT BY DEFAULT:

30. While Stor-All through its MFPRO has slandered and scandalized Newsome's character, it merely filed its MFPRO to purposes of distracting this Court, through its misrepresentation and distortion of information of exposing their criminal behavior. As a matter of law, *Newsome is in a better position for judgment in her favor in this lawsuit* for the following reasons: **(a)** Stor-All has failed to file a timely Answer to the Counterclaim and their time to do so has lapsed. No motion for an enlargement of time to file an Answer or otherwise plead and/or responsive pleading or Rule 12 motion in this action has been filed by counsel for Stor-All who has filed an appearance in this lawsuit before the time permitted under the statutes/laws governing said matters. Stor-All and its counsel took a gamble thinking that Newsome – who is *pro se* and not an attorney – would be ignorant to the point she would not notice such willful, deliberate and intentional acts of Stor-All's counsel not to enter an appearance because of perhaps a *Conflict of Interest* known to Vance as well as such acts may have been strategically done to avoid liability against Stor-All's insured and being subjected to Rule 11 sanctions; and **(b)** Stor-All's Motion to Bifurcate is not a motion allowed under Rule 12 of the Ohio Rules of Civil Procedure ("ORCP") and/or Rule 8 of the ORCP governing answer to Newsome's counterclaim. Therefore, as a matter of law, Newsome is entitled to Judgment by Default in which she will be moving for through the appropriate motion.

> *FIA Card Servs., N.A. v. Salmon,* CASE NO. 14-08-26, COURT OF APPEALS OF OHIO, THIRD APPELLATE DISTRICT, UNION COUNTY, 2009 Ohio 80; 2009 Ohio App. LEXIS 66, January 12, 2009, Decided - The Court: Mr. McCann is the one who should be here. Either that or has to be some sort of a substitution or some sort of an **entry of appearance**.

No, Stor-All allowed an attorney by the name of Molly G. Vance just to submit for filing pleadings/motions on its behalf without abiding by the rules governing said matters and have her file an appearance in this action.

31. Given the fact that Stor-All's insurance company, Liberty Mutual, had recently settled a matter with Newsome on behalf of another insured arising out of another matter; a reasonable mind may conclude Vance's eager filings without making an appearance was an act in furtherance of Meranus behavior on February 6, 2009, to let Newsome know that it has connections and ties to resources involving her in unrelated matters for purposes of attempting to force her to abandon her Counter-Claim in this lawsuit. However, to Stor-All's, its counsel and its insurance company's disappointment, Newsome is entitled (as a matter of law) to seek damages for injury/harm sustained as she did. See **EXHIBIT "5"** – Letter ONLY, attached hereto. A reasonable mind may conclude Vance thinking that Newsome's seeing "Liberty Mutual" on pleadings would have meaning adversely affecting her claims; however, to the contrary, it was information Newsome needed to determine who the *common denominator* working behind the scene on matters Newsome is taking up with the proper authorities. Thus, shining the light and answering a great deal of questions Newsome had.

32. The record is silence on an Entry of Appearance for Stor-All's attorney, Molly G. Vance. Therefore, as a matter of law any such ruling on any pleading submitted for filing by her on behalf of Stor-All is null and void. While the error was timely brought to Stor-All's attention through its attorney, David Meranus, Meranus made a conscious and willful decision not to refile any pleading by Vance to preserve the rights of Stor-All and because he did not want it in the record he was defending Stor-All on the Newsome's counterclaim – said acts by Stor-All's counsel which has proven to be very fruitful in Newsome's favor.

> *Partin v. Pletcher,* Case No. 08CA5, COURT OF APPEALS OF OHIO, FOURTH APPELLATE DISTRICT, JACKSON COUNTY, 2008 Ohio 6749; 2008 Ohio App. LEXIS 5637, December 12, 2008, Date Journalized
>
> **For a court to acquire jurisdiction there must . . . an entry of appearance**, *and* ***a judgment rendered without proper*** *service or* ***entry of appearance*** *is a* ***nullity and void*****.** A decision entered without jurisdiction is unauthorized by law and **amounts to usurpation** of judicial power.
>
> [HN1] . . . HN1"[F]or a court to acquire jurisdiction there must be . . . an entry of appearance, and a judgment rendered without . . . entry of appearance is a nullity and void." *Lincoln Tavern, Inc. v. Snader* (1956), 165 Ohio St. 61, 64, 133 N.E.2d 606; see, also, *Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision* (2000), 87 Ohio St.3d 363, 366-367, 2000 Ohio 452, 721 N.E.2d 40; *Knickerbocker Properties, Inc. XLII v. Delaware Cty. Bod. of Revision*, 119 Ohio St.3d 233, 2008 Ohio 3192, 893 N.E.2d 457, at P20. **A decision entered without jurisdiction "is unauthorized by law and amounts to usurpation of judicial power**." *State ex rel. Ballard v. O'Donnell* (1990), 50 Ohio St.3d 182, 184, 553 N.E.2d 650, [**5] citing *State ex rel. Osborn v. Jackson* (1976), 46 Ohio St.2d 41, 52, 346 N.E.2d 141.

While there is a Doc ket entry of March 2, 2009 on the docket granting relief sought through Stor-All's motions filed by Vance, any such granting of relief sought by Stor-All would be an usurpation of judicial po wer because this Court did not have jurisdiction to do so since Stor-All refused to file an Entry of Appearance for Vance. Thus, if Stor-All knew that Meranus was not going to represent the m on Newsom e's counterclaim, it was required or its counsel to file the appropriate document required entering Vance 's appearance rather than ju st let her ru n am uck an d file pleadings/m otions without filing the legal requirements for said filing.

> *Proctor v. King,* Case No. 2007CA00133, COURT OF APPEALS OF OHIO, FIFTH APPELLATE DISTRICT, LICKING COUNTY, 2008 Ohio 5413; 2008 Ohio App. LEXIS 4564, October 17, 2008, Date of Judgment Entry
> [*P36] On May 17, 200 6, the trial court granted appellant' s second request for a continuance and resc heduled the trial for October 17, 2006. On June 14, 2006, appellant' s **new** counsel filed an *entry of appearance*.

> *Smoske v. Sicher,* CASE NOS. 2006-G-2720 and 2006-G-2731, COURT OF APPE ALS OF OHIO, ELEVE NTH APPELLATE DISTRICT, GEAUGA COUNTY, 2007 Ohio 5617; 2007 Ohio App. LEXIS 4950, October 19, 2007, Decided
> There are three wa ys a c ourt m ay obtain jurisdiction over a person: (1) pursuant to proper service of process; (2) pursuant to the person' s affirmative waiver of service; or (3) pursua nt to the person's **voluntary** *entry of appearance*.

33. It is *axiomatic* that for this Court to be ab le to accep t Stor-All 's pleadings/motions filed by Vance that it should have filed the required Appearance required bec ause it knew that Meranus had *abandoned* it on Newsome's Counterclaim and wanted to sim ply stick with the Com plaint he filed on Stor-All's behalf and a frivolous Bifurcation motion which was prematurely filed without first filing the required Answer or pleadings/motions requi red pursuant Rule 7 or Rule 12 of the ORCP. Therefore, the March 2, 2009 entry by this Court granting the relief Vance sought on behalf of Stor-All is null and void.

> *Northland Ins. Co. v. Poulos,* C ASE NO. 06 MA 160, C OURT OF APPEALS OF OHIO, SEVENTH APPEL LATE DISTRICT, MAHONING C OUNTY, 2007 Ohio 7208; 2007 Ohio App. LEXIS 6310, December 21, 2007. - [*P33] "*It is* ***axiomatic*** that for a court to acquire jurisdiction there **must** be . . . ***entry of appearance***, and a judgment rendered without proper . . . entry of appearance is a nullity and void.

> *Farmers Mk t. Drive-In Shopping Ctrs., Inc. v. Magana, No. 06AP-532* , COURT OF APPEALS OF OHIO, TE NTH APPELLATE DISTRICT, FRANKLIN COUNT Y, 2007 Ohio 2653; 2007 Ohio App. LEXIS 2450, Ma y 31, 2007. . . *Lincoln Tavern, Inc. v. Snader (*1956), 165 Ohio St. 61, 64, 1 33 N.E.2d 606 (st ating that *"[i]t is* ***axiomatic*** that for a court to acquire jurisdiction there m ust be . . . an

> entry of appearance, and a judgm ent rendered without . . .entry of appearance is a nullity and void").
>
> *Knickerbocker Props. v. Del. County Bd. of Revision,* No. 2007-0896, SUPREME COURT OF OHIO, 119 Ohio St. 3d 233; 2008 Ohio 3192; 893 N.E.2d 457; 2008 Ohio LEXIS 1750, April 22, 2008, Submitted, July 3, 2008. - [HN7] *It is* ***axiomatic*** that for a court to acquire jurisdiction there must be . . . an entry of appearance, and a judgment rendered without proper service or entry of appearance is a nullity and void.

D. G RANTING STOR-ALL A PROTECTIVE/RESTRAINING ORDER WOULD BE AN ABUSE OF DISCRETION:

Stor-All has failed to meet its burden of proof that a Protective/Restraining Order is required of and against Defenda nt/Newsome this action. Neither Stor-All nor its counsel/re presentatives assert that imm ediate an d irreparable injury , loss or damage will result to it or its representatives before this matter can be heard. While Stor-A ll with its MFPRO provided an Affidavit by i ts counsel, said Affidavit fails to meet the pleading requirem ents governing said m atters. There is nothing to sustain Stor-All 's MFPR O. Thus su pporting the striking of statements and docum ents provided in its MFPRO. In further support Newsome states:

> **ORCP Rule 65**
> **(A) Tempor ary restraining order; notice; hear ing; duration.** A temporary restraining order m ay be granted without written or oral notice to the adverse party or his attorney **only** ***if*** (1) it clearly appears from specific facts shown by a ffidavit or by the verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before the adverse party or his attorney can be heard in opposition, . . . The verification of such affidavit or verified complaint shall be upon the affiant's own knowledge, inform ation or belief; ***and so far as upon informati on and belie f, shall state that he believes this information to be true*** . Every tem porary restraining order granted without notice shall be filed forthwith in the clerk' s office; ***shall define the injury and state why it is irreparable*** and why the order was granted without notice; . . .
>
> **(C) Sec urity.** ***No . . . restraining*** order or prelim inary injunction *is operative until the party obtaining it gives a bond executed by sufficient surety*, approved by the clerk of the court granting the order or injunction, ***in an amount fixed by the court or judge*** allowing it, *to secure to the party enjoined the damages he may sustain, i f it is finally decid ed that the order or inj unction should not hav e been granted*.

> The party obtaining the order or injunction may deposit, in lieu of such bond, with the clerk of the court granting the order or injunction, currency, cashier's check, certified check or negotiable government bonds in the amount fixed by the court.
>
> **(D) Form and scope of restraining order or injunction.** Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding upon the parties to the action, their officers, agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of the order whether by personal service or otherwise.

Stor-All's MFPRO is *scandalous, slanderous, defamatory, insulting, offensive, derogatory, an assignation of Newsome character/reputation, etc.* and has been submitted for purposes of frivolous and ill intent – *delay, hindering proceedings, harassment, embarrassment, intimidation, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, deprivation of rights, deprivation of equal protection of the laws, deprivation of due process of laws, etc.* For this Court to grant Stor-All's MFPRO would be an abuse of discretion, clearly erroneous, prejudicial to Defendant, etc.

> 34. Stor-All has moved this Court for a Protective/Restraining Order; however, using the ***snapshot rule*** the record will support that it provides no Local Rule of this Court, Rule of the Ohio Rules of Civil Procedure, Ohio Revised Code, etc. to support the relief it seeks through such request. Therefore, a reasonable mind may conclude that Stor-All is attempting to get this Court to grant relief to which it is not entitled. Moreover, to get this Court to abuse its discretion. Abuse in discretion by this Court in granting the relief Stor-All seeks would be more than error of law or judgment; it would imply unreasonable, arbitrary or unconscionable attitude – clearly supporting violation of the statutes/laws governing said matters and Newsome being prejudiced from same.
>
> > *Deacon v. Landers,* 587 N.E.2d 395 (Ohio.App.4.Dist.Ross. Co.,1990) - Decision to grant civil protection order is within discretion of court; abuse of that discretion connotes more than error of law or judgment; it implies unreasonable, arbitrary or unconscionable attitude. R.C. § 3113.31.
> >
> > *Smith v. Wunsch,* 832 N.E.2d 757 (Ohio.App.4.Dist.Hocking. Co.,2005) - The decision to grant a civil stalking protection order (CSPO) is left to a trial court's sound discretion and will not be reversed on appeal absent an abuse of that discretion.

35. Stor-All has failed to meet its burden of proof that a Protective/Restraining Order is required of and against Defendant/Newsome this action. Neither Stor-All nor its counsel/representatives assert that immediate and irreparable injury, loss or damage will result to it or its representatives before this matter can be heard. While Stor-All with its MFPRO provided an Affidavit by its counsel, said Affidavit fails to meet the pleading requirements governing said matters.

36. The record evidence will support that if any protective/restraining order is warranted, it is in favor of Newsome and said relief has been sought through her instant Counter-Claim filed in this lawsuit which for example states, *Enter the applicable injunctions and restraining orders requiring Plaintiff, Stor-All Alfred, LLC, their agents, employees, attorneys, representatives and all persons acting in concert with them to cease their unconstitutional and unlawful practices.* (See Defendant's Counter-Claim in this action ¶¶ 103, 106, 124, 127, 144, 147, 155, 158, 174, 177, 192, 195, 204, 207, 215, 218, 224, 227, 234, 237)

E. FAILURE TO MEET PLEADING REQUIREMENTS:

> **OHIO JUR PL & FORMS - PLEADINGS & MOTIONS**
> §16:11 - In General:
> The Ohio Civil Rules provides that all averments of a claim **must** be made in numbered paragraphs, and the contents of each paragraph shall be limited as far as practicable to a statement of a single set of circumstances. Also, a paragraph may be referred to by number in all succeeding pleadings.
>
> . . .Under the former provisions of the Revised Code, different causes of action could be joined in the same petition, and the defendant in his or her answer could set forth as many grounds for defense or counterclaim as he or she had, legal or equitable, or both [See *Pavey v. Pavey,* 30 Ohio St 600 (1876); *Booco v. Mansfield,* 66 Ohio St 121, 64 NE 115 (1902); *Hooven & A. Co. v. National Cordage Col,* 11 Ohio Dec 434, affd 6 Ohio CC 625, 3 Ohio Cir Dec 613)] . . .
> Under prerule practice, a motion attacking the failure to separately state and number was available [See *Hartford v. Bennett,* 10 Ohio St 441 (1859); *Bailey v. Hughes,* 35 Ohio St 597 (1880); Bear v. Knowles, 36 Ohio St 43 (1880)(remaining citations omitted)]. ***Even though the Civil Rule governing motions does not specifically provide for the motion to separately state and number, such a motion may be used in rule practice, but it should be granted as a practical matter only when confusion is caused by failure to separately state and number, such that opposing party cannot properly answer*** [See *Klein, Browne, Murtaugh, Ohio Civil Practice* §13:02]

37. Because Stor-All's MFPRO fails to set forth its defense and/or averments in numbered paragraphs, it has made it difficult to determine the purpose for said filing. Moreover, difficult to address through a rebuttal pleading such as this instant MTSPMFPRO.

38. Stor-All's MFPRO fails to state upon what statutes/laws its is based because it is fully aware that based on the reasons provided in its motion that it fails to meet the pleading requirements to obtain relief it seeks under the restraining/protective order laws.

39. *Newsome would be prejudiced by this Court's granting Stor-All's MFPRO. Moreover, would be deprived equal protection of the laws and due process of laws secured to her under the Constitution (Ohio and United States), Civil Rights Act and other statutes/laws governing said matters.*

40. Stor-All's MFPRO fails to meet the pleading requirements of the Ohio Rules of Civil Procedure, Local Rules of this Court and statutes/laws governing said matters. If this Court were to examine Stor-All's MFPRO closely, it will find that it **is <u>NOT</u>** founded upon any statutes or laws to sustain it because it is legally and lawfully deficient and cannot be sustained. Thus, warranting the imposition of sanctions sought herein.

F. STOR-ALL'S ASSERTION OF MULTI-STATE CONSPIRACY:

Newsome believes this Court's investigation and/or inquiry into Stor-All's assertion of a multi-state conspiracy is a statement based on matters outside this lawsuit involving Newsome's engagement in protected activities. Moreover, this lawsuit was motivated by ill intent – Stor-All stooping to criminal activities (i.e. contacting Newsome's employer) and relying on relationships to deprive Newsome of life, liberties and the pursuit of happiness – having knowledge of Newsome's engagement in protected activities, Stor-All sought was to obtain an undue advantage over her and relied upon criminal/civil violations (i.e. participating in getting Newsome terminated and to cause her financial devastation – without monies she would not be able to pursue legal actions made known to Stor-All for their violation). Stor-All's counsel's, David Meranus', admission on February 6, 2009 at the hearing held in the Municipal Court further confirmed its knowledge of Newsome's participation in protected activities; moreover, that it went as far as to contact her employer and seek was to get her terminated relying upon Stor-All's counsel's law firm's relationship with Newsome's former employer and the possibility of a "Conflict of Interest" in its representation of Stor-All in this lawsuit as a direct and proximate result of Newsome's employment and working with an attorney that worked with Stor-All's counsel's law firm in

the past. The record evidence in this matter will support that Stor-All has not been required to abide by the rules and procedures governing said matters. While this is a court of law, Stor-All has repeatedly been allowed to take a far departure from the rules and procedures governing said matters and waste this Court's and Newsome's time in filing such sham and frivolous documents. While Newsome is presently proceeding in this action pro se, she is entitled to equal protection and equal application of the laws in the handling of this lawsuit. Stor-All and its counsel and/or representatives are subject to the same rules, procedures and laws that Newsome is subject to and are to abide by same. In support thereof, Newsome further states.

> *Burnett v. Motorists Mut. Ins. Co.,* 2008-Ohio-2751 (Ohio,2008) - The ***Equal*** *Protection* Clauses of the Federal and State Constitutions require that individuals be treated in a manner similar to others in like circumstances. Const.Amend. 14; Const. Art. 1, § 2.
>
> *E. Liverpool Edn. Assn. v. E. Liverpool City School Dist. Bd. of Edn.,* 2008-Ohio-3327 (Ohio.App.7.Dist.Columbiana.Co.,2008) - ***Equal*** *Protection* Clause does not prevent all classification; it simply forbids laws that treat persons differently when they are otherwise alike in all relevant respects. Const.Amend. 14; Const. Art. 1, § 2.
>
> *Columbia Gas Transm. Corp. v. Levin,* 882 N.E.2d 400 (Ohio,2008) - ***Equal*** *Protection* Clauses of state and federal constitutions require that all similarly situated individuals be treated in a similar manner. Const.Amend. 14; Const. Art. 1, § 2.
>
> Discount Cellular, Inc. v. Pub. Util. Comm., 859 N.E.2d 957 (Ohio,2007) - State and federal ***equal*** *protection* clauses require that all similarly situated individuals be treated in a similar manner. Const.Amend. 14; Const. Art. 1, § 2.

41. While Stor-All asserts that Newsome is alleging a *multi-state conspiracy* a reasonable mind may conclude that Stor-All may have an *ulterior/hidden motive* for making such assertion since such ***was <u>not</u>*** stated by Newsome. Newsome addressed *systematic racial/judicial abuse targeting African-Americans*; however, Stor-All is asserting a multi-state conspiracy. Well since Stor-All and its counsel has gone in that direction, it is important for Newsome to bring to this Court's attention information to support that Stor-All's MFPRO is defamatory, insulting, offensive, derogatory, an assignation of her character/reputation, etc., in that the following will support that while Newsome has had to endure such unlawful/illegal practices as that rendered by Stor-All in this instant action, apparently Stor-All's assertion of a multi-state conspiracy is its willful acknowledgement of its engagement similar to and in furtherance of criminal acts rendered Newsome by Stor-All and its representatives. Said criminal acts of Stor-All

against Newsome are prohibited by statutes/laws. Moreover, its reliance of knowledge of Newsome's engagement in protected activities to unlawfully/illegally seize her storage unit and property and repeat acts attem pting to extort m onies from her to receive her storage unit and propert y back is prohibited by st atutes/laws. A reasonable m ind m ay conclude that Stor-All 's assertion of a m ulti-state conspirac y may also be a direct and proximate result of its knowledge of other m atters Newsom e is engaged in ***outside*** *this lawsuit.* Moreover, that Stor-All's unlawful/illegal seizure of Newsom e's storage unit and property may have been a direct and proximate result of inform ation it obtained and, therefore, its acts were deliberately done in furtherance of criminal/civil wrongs known to it that has been rendered against Newsome by others outside this lawsuit. For example:

(A) It is im portant to note for this Court to know that Stor-All and its counsel/representatives m ay be using this process to furthe r criminal and illegal/unlawful acts known to it co mmitted by its cohorts in other states against Newsom e – (i.e. in one state where Newsom e was subjected to cr iminal act such as: **(i)** (1) Conspiracy;[5] (2) Bur glary;[6] (3) Ro bbery;[7] (4) Assault;[8] (5)

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[5] Conspiracy - An agreement by two or more persons to commit an unlawful act, coupled with an intent to achieve the agreement's objective, and (in most states) action or conduct that furthers the agreement; a combination for an unlawful purpose. 18 USC ~371. . . .

"When two or more persons co mbine for the purpose of inflicting upon another person an injur y which is unlawful in itself, or which is rendered unl awful by the mode in which it is infl icted, and in either case the other person suffers damage, th ey commit the tort of conspiracy." P.H. Winfield, *A Textbook of the Law of Tort* ~128, at 434 (5th ed. 1950)

Chain Conspiracy - A single conspiracy in which each person is responsible for a distinct act within the overall plan. . . .*All participants are interested in the overall scheme and liable for all other participants' acts in furtherance of that scheme. (Conspiracy ~24(3) C.J.S. Conspiracy ~~~117-118.

Conspire - To engage in conspiracy; to join in a conspiracy.

Conspirator - A person who takes part in a conspiracy.

[6] Burglary - (2) The modern statu tory offense of breaking and entering any building - not just a dw elling, and not only at night - with the intent to commit a felony.

Burglar - One who commits burglary.

Burglarized - To commit burglary.

Breaking - (Criminal Law): In the law of burglary, the act of entering a building without permission.

"[T]o constitute a breaking at common law, ther e had to be th e creation of a breach or op ening; a mere trespass at law was insufficien t. If th e occupant of the dw elling had created the opening , it was felt that he had not entitled himself to the protection of the law, as he had not properly secured his dwelling . . . In the m odern Am erican crim inal cod es, only seldom is there a requir em ent o f breaking. This is not to suggest, however, th at elimination of this requirement h as left th e 'entry' element un adorned, so tha t an y t ype of ent ry w ill suffic e. Rather, at least som e of what was encompassed within the common law 'breaking' element is reflected by other terms describing what kind of entry is necessary. The most common statutory term is 'unlawfully,' but some jurisdictions use other language, such as ' **unauthorized**,' by '**trespass**,' '**without aut hority**,' '**without consent**,' or '**without privilege**.' Wayne R. LaFave & Austin W. Scott Jr., *Criminal Law* ~8.13 at 793-94 (2d ed. 1986).

[7] Robber y - The illeg al taking o f propert y from a person of an other, or in th e person's presence, b y v iolence o r intimidation; aggravated larceny.

Kidnapping;[9] (6) Battery ;[10] (7) Theft; [11] (8) Larceny;[12] (9) Invasion;[13] (10) Unlawful Entry /Forcible Actions; [14] (11)

Aggravated Robbery – Robbery committed by a person who either carries a dangerous weapon – often called *armed robbery* – or inflicts bodily harm or someone during the robbery.

Armed Robbery – Robbery committed by a person carrying a dangerous weapon, regardless of whether the weapon was revealed or used.

[8] Assault – Criminal & Tort Law. The threat or use of force on another that causes that person to have a reasonable apprehension of imminent harmful or offensive contact; the act of putting another person in reasonable fear or apprehension of an immediate battery by means of an act amounting to an attempt or threat to commit a battery. 2. Criminal law. An attempt to commit battery, requiring the specific intent to cause physical injury.

Aggravated Assault – Criminal assault accompanied by circumstances that make it more severe, such as the intent to commit another crime or the intent to cause serious bodily injury, esp. by using a deadly weapon. See Model Penal Code § 211.1(2).

[9] Kidnapping – The crime of seizing and taking away a person by force or fraud.

Aggravated Kidnapping – Kidnapping accompanied by some aggravating factor (such as a demand for ransom or injury of the victim).

Kidnapping for Ransom – The offense of unlawfully seizing a person and then confining the person in a secret place while attempting to ***extort*** ransom.

[10] Battery – Criminal Law. The use of force against another, resulting in harmful or offensive contact.

Aggravated Battery – A criminal battery accompanied by circumstances that make it more severe, such as the use of a deadly weapon or the fact that the battery resulted in serious bodily harm.

[11] *Theft* - (1) The felonious taking and removing of another's personal property with the intent of depriving the true owner of it; larceny [Cases: Larceny ~1. C.J.S. Larceny ~~1(1,2), 9.] (2) Broadly, any act or instance of stealing, including larceny, burglary, embezzlement, and false pretenses.

Under such a statute it is not necessary for the indictment charging theft to specify whether the offense is larceny, embezzlement or false pretenses." Rollin M. Perkins & Ronald N. Boyce, Criminal Law 389-90 (3d ed. 1982).

Theft by Deception - The use of trickery to obtain another's property, esp. by **(1)** creating or reinforcing a false impression . . . **(2)** preventing one from obtaining information that would affect one's judgment about a transaction, or **(3)** failing to disclose, in a property transfer, a known lien or other legal impediment.

Theft by Extortion - Larceny in which the perpetrator obtains property by threatening to **(1)** inflict bodily harm on anyone or commit any other criminal offense. . . **(4)** take or withhold action as an official, or cause an official to take or withhold action, **(5)** bring about . . .collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act, **(6)** testify or provide information or withhold testimony or information with respect to another's legal claim or defense, or **(7)** inflict any other harm that would not benefit the actor.

Theft of Services - The act of obtaining services from another by deception, threat, coercion, stealth, mechanical tampering, or using a false token or device.

[12] Larceny - The unlawful taking and carrying away of someone else's personal property with the intent to deprive the possessor of it permanently. *Common-law larceny has been broadened by some statutes to include embezzlement and false pretense, all three of which are often subsumed under the statutory crime of "theft."

> "The criminal offence of larceny or theft in the Common Law was intimately connected with the civil wrong of trespass. 'Where there has been no trespass,' said Lord Coleridge, 'there can at law be no larceny.' Larceny, in other words, is merely a particular kind of trespass to goods which, by virtue of the trespasser's intent, is converted into a crime. Trespass is a wrong, not to ownership but to *possession*, and theft, therefore, is not the violation of a person's right to ownership, but the infringement of his possession, accompanied with a particular criminal intent."

Aggravated Larceny - Larceny accompanied by some aggravating factor (as when the theft is from a person).

Grand Larceny - Larceny of property worth more than a statutory cutoff amount, usu. $100.

Obstruction of Justice/Process;[15] (12) Color of Law; [16] (13) Conspiracy Against Rights;[17] (14) Conspiracy to Interfere With Civil Rights; [18] and (15) Power/Failure to Prevent. [19]- wherein

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Mixed Larceny - (1) Larceny accompanied by aggravation or violence to the person. (2) Larceny involving a taking from a house.

[13] *Invasion* - (1) A hostile or forcible encroachment on the rights of another.

> Intentional Invasion - A hostile or forcible encroachment on another's interest in the use or enjoyment of property, esp. real property, though not necessarily inspired by malice or ill will.

Invasion of Privacy - An unjustified exploitation of one's personality or intrusion into one's personal activities, actionable under tort law and sometimes under constitutional law.

Invasion of Privacy by Intrusion - An offensive, intentional interference with a person's seclusion or private affairs.

Intrusion - (1) A person entering without permission. (2) In an action for invasion of privacy, a highly offensive invasion of another person's seclusion or private life.

Intruder - A person who enters, remains on, uses, or touches land or chattels in another's possession without the possessor's consent.

[14] *Unlawful Entry* - (1) The crime of entering another's real property, by fraud or other illegal means, without the owner's consent.

Forcible - Effected by force or threat of force against opposition or resistance.

Forcible Detainer - (1) The wrongful retention of possession of property by one originally in lawful possession, often with threats or actual use of violence.

Forcible Entry and Detainer - (1) The act of violently taking and keeping possession of lands and tenements without legal authority. (2) A quick and simple legal proceeding for regaining possession of real property from someone who has wrongfully taken, or refused to surrender, possession.

Forcible Entry - (1) The act or an instance of violently and unlawfully taking possession of lands and tenements against the will of those in lawful possession. (2) The act of entering land in another's possession by the use of force against another or by breaking into the premises.

[15] *Obstruction of Justice* - Interference with the orderly administration of law and justice, as by giving false information to or withholding evidence from a police officer or prosecutor, or by harming or intimidating a witness or juror. *Obstruction of justice is a crime in most jurisdictions.

Obstruction of Process - Interference of any kind the lawful service or execution of a writ, warrant, or other process. *Most jurisdictions make this offense a crime.

[16] Color of Law: The appearance of semblance, without the substance, of a legal right. *The term u.s.u. implies a misuse of power made possible because the wrongdoer is clothed with the authority of the state.

[17] If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

[18] Conspiracy to Interfere With Civil Rights (42 U.S.C. § 1985):

guns and weapons were present; - a matter in which a formal complaint *has been filed with the appropriate federal agency* with jurisdiction over such issues and is **presently pending** – *Newsome's investigation finding that those involved having ties and relationship to courts, judges, etc*., **thus, in the interest of justice, Newsome knew that other legal resources would be required to assure equal protection of the laws and that those committing crimes brought to justice; (ii)** then in another state,(1) Conspiracy, (2) Burglary, (3) Theft, (4) Larceny, (5) Invasion, (6) Unlawful Entry/Forcible Actions, (7) Obstruction of Justice, (8) Color of Law, (9) Conspiracy Against Right, (10) Conspiracy to Interfere with Civil Rights, (11) Power/Failure to Prevent; - the irony in that matter was that attorneys, etc. thought that their connections with the police department would shield them; however, this action was brought with the appropriate federal agency which has jurisdiction to investigate such matters and is **presently pending** – *Newsome's investigation finding that those involved*

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(2) Obstructing justice; intimidating party, witness, or juror:

> If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges:

> If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

[19] Power/Failure to Prevent (42 USC § 1986):

> **Every** person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, *and having* ***power*** ***to prevent*** *or* ***aid*** ***in preventing*** *the commission of the same,* ***neglects*** *or* ***refuses*** *so to do*, if such wrongful act be committed, **shall be liable** *to the party injured*, or his legal representatives, *for* ***all*** *damages caused by such wrongful act*, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; . . .

having formerly worked with judge and havi ng ties and relationship to courts, judges, etc. **, thus, in the interest of justice, Newsome knew that other legal resources would be required to assure equal protection of the laws and that those committing crimes brought to justice;** and now **(iii)** Stor-All's criminal activities in keeping with furtherance of the criminal activities of its cohorts in April 2008, unlawfully seized Newsome's storage unit and property without legal/statutory authority and without order and/or judgment by a court of law and through such process has resorted to the crime of extortion, etc. to obtain monies from Newsome in exchange for her receiving her property back. Stor-All's counsel's (Meranus) acts on February 6, 2009, sustains such motives for his and his client's unlawful/illegal actions.

(B) A formal complaint has been filed with the appropriate federal agency. With Stor-All's criminal activities to be reported as well. A reasonable mind may conclude that its mention of a "multi-state" conspiracy, that it is aware of the criminal acts of others rendered against Newsome and the unlawful seizure of her property – thus, supporting a pattern-of-criminal activity committed against Newsome by *certain* whites who have placed themselves above the law. Even with such repeated criminal acts taken against Newsome, she has repeatedly relied upon the laws and the proper agencies (courts, etc.) to resolve such matters and has not once taken the laws into her own hands and resorted to crimes as that committed by Carl Brandon.

(C) Common practices known to be committed by *certain* whites as Stor-All, its counsel/representatives because thinking they would not get caught. Then when actions are brought by Newsome it is decided and/or planned (as Stor-All is attempting to do in this matter; however, changed course when Newsome exposed) to label her as a *serial litigator*, *paranoid*, crazy, potential murder (i.e. attempting to push her to the Carl Brandon point), etc. as supported by Stor-All's MFPRO. To Stor-All's disappointment, unlike Carl Brandon, Newsome being aware of what other options were available to her pursued said options in the exercise of her rights.

42. To put into perspective the **disparity** in the application of the laws when it involves African-Americans and/or people of color *versus* whites, **Newsome will rely upon the handling of the O.J. Simpson matter which a ruling was just handed down recently on his sentencing**. For information provided on the O.J. Simpson Matter column, Newsome relies upon the Complaint filed in the O.J. Simpson matter – See **EXHIBIT "6"** attached hereto and information cut and pasted from:

http://www.cnn.com/2008/CRIME/12/05/oj.simpson.sentencing/index.html

See **EXHIBIT "7"** attached hereto and incorporated by reference. Information Newsome believes is important to drive home her defense and the criminal actions leveled against her by Stor-All and its representatives. Therefore, supporting the relief

sought herein.

a) **O.J. Simpson Matter** : Former gridiron great O.J. Simpson will serve at least **nine** years in prison for his role in an **armed** confrontation with sports memorabilia dealers. . . .

Simpson was sentenced to a maximum of 33 years with the possibility of parole after nine.

b) **O.J. Simpson Matter** : . . .believed he did nothing wrong. Glass, however, brushed his apology aside, saying his actions amounted to " **much more than stupidity**," and calling him both **arrogant** and **ignorant**.

"Earlier in this case, at a bail hearing, I said to Mr. Simpson, I didn't know if he was arrogant, ignorant or both," Glass said. "During the trial and through this proceeding, I got the answer, and it was both."

c) **O.J. Simpson Matter** : "It could have been a lot worse," Yale Galanter said, noting that Simpson and co-defendant Clarence "C.J." Stewart both could have been sentenced to life in prison.

d) **O.J. Simpson Matter**: A jury convicted Simpson, 61, and Stewart, 54, on 12 charges including ***conspiracy to commit a crime***, ***robbery***, ***assault*** and ***kidnapping with a deadly weapon*** stemming from a September 13, 2007, incident at Las Vegas' Palace Station hotel and casino.

e) **O.J. Simpson Matter**: Prosecutors alleged that **Simpson** led a group of men who used threats, guns and force to take sports memorabilia from dealers Bruce Fromong and Al Beardsley. Simpson claimed that he was attempting to recover items that belonged to him.

f) **O.J. Simpson Matter**: "The back of his head looks the same as it did every day that we watched him in the criminal case, and we feel very proud of our efforts," Kim Goldman said. "We feel very strongly that because of our pursuit of him for all these years, that it did drive him to the brink of this."

"If that pushed him over the edge, great," Fred Goldman said afterward. "Put him where he belongs."

Defendant's Matter - Newsome believes that an investigation into the issues and allegations of this instant lawsuit will support how Stor-All, their counsel and others have engaged in criminal and civil wrongs – such as ***stalking*** Newsome from job-to-job (contacting her employer(s)) and notifying said employer(s) of lawsuit(s) Newsome has filed and/or is engaged in. Said acts are clearly in violation of the laws; however, Stor-All and their counsel/representatives have embarked on carrying out such criminal and civil wrongs against Newsome.

A reasonable mind may conclude, Stor-All 's counsel engaged in such criminal acts with their goal being to drive Newsome to the point of such

acts as those committed by O.J. Simpson, Carl Brandon – a man stalked from job-to-job and repeatedly having to start over because of persons committing criminal and civil acts against him by contacting his employer and notifying of lawsuit/complaint involving him; with the intentions of getting him terminated (wherein they would succeed). It appears that Carl Brandon, not able to take such acts any more, resorted to committing criminal acts and embarked on a shooting spree targeting those he believed to be behind such criminal and civil wrongs against him.

In the instant lawsuit, rather than resort to such criminal acts, that named Stor-All, its counsel and/or representatives and others were trying to force Newsome to resort to, she has brought this instant counterclaim and will be filing the applicable criminal charges against Stor-All, its counsel and/or representatives based on the information obtained from its counsel on February 6, 2009, after the hearing and during the signing of the Magistrate's Decision in the Municipal Court action. See EXHIBIT "1" – letter of February 6, 2009 to David Meranus attached hereto and incorporated by reference (copy being sent to D.C. – it was a good thing Stor-All's counsel and now their insurance carrier has identified itself, because Newsome was able to obtain additional information to sustain her beliefs and concerns of Stor-All's insurance carrier's ties to law firms such as Baker Donelson).[20] However, to Stor-All's disappointment Newsome

[20] How big is Baker Donelson? Its boasting of its legal arsenal is apparent. Moreover, its *vast* financial wealth/power, vast political ties/relationships to Washington, D.C, **ties/relationships to the courts** are prevalent, etc. No, Stor-All, its counsel, insurance provider (Liberty Mutual) relied upon such vast legal resources as that of Baker Donelson – a law firm with approximately 540 attorneys - against a sole single African-American female. Moreover, Liberty Mutual relying upon information perhaps obtained through other means (***confidential and protected*** sources, claims, insurance, etc.) to track the Defendant and embark on criminal sprees with others to destroy the Defendant's life. Criminal/Civil wrongs leveled against the Defendant which are clearly UNACCEPTABLE, in VIOLATION OF THE LAWS/STATUTES and worthy of an investigation.

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BEARMAN, CALDWELL & BERKOWITZ, PC

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Size of Organization: 540
Year Established: 1888
Main Office: Memphis, Tennessee
Web Site: http://www.bakerdonelson.com

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, is ranked by The National Law Journal as one of the 100 largest law firms in the country. Through strategic acquisitions and mergers over the past century, the Firm has grown to include ***more than 540 attorneys*** and public policy and international advisors. Baker Donelson has offices located in five states in the southern U.S. **as well as Washington, D.C.,** plus a representative office in Beijing, China.

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filed the proper Counter-Claim to which it has waived its rights to file an answer to. Therefore, as a matter of law, Newsome is entitled to the relief sought through her Counter-Claim.

As like the Goldman's (white), Stor-All, their counsel and others have conspired with others to destroy Newsome's life without legal or just cause. While such practices commonly used amongst certain whites were successful with Carl Brandon, O.J. Simpson and most likely others, Newsome (regardless of the past injustices and criminal and civil wrongs committed against her to destroy her life, character, reputation, etc) filed this instant Counter-Claim as well as proper complaints with the proper agency and/or government entity.

g) **O.J. Simpson Matter**: Although Simpson was acquitted in the deaths, a civil jury later found him liable, slapping him with a $33 million judgment. Attorneys for the Goldman family have doggedly pursued Simpson's financial assets to pay the judgment.

Newsome Matter- Newsome believes that while O. J. Simpson relied upon the laws and his attorneys to defend him in the criminal lawsuit, the Goldman's were not satisfied and, it appears, they filed a civil lawsuit and were granted a $33 million judgment. An African-American man using the judicial process and was acquitted. However, this just was not enough. The Goldman's just would not stop until they destroyed his life. Whether O.J. Simpson was "guilty" or "innocent" of the Nicole Simpson and Ron Goldman murders, the Goldman's were not satisfied with the result of the criminal trial.

Department of the Treasury; **Director of the Administrative Office of the United States Courts**; Chief Counsel, Acting Director, and Acting Deputy Director of U.S. Citizenship & Immigration Services within the United States Department of Homeland Security; Majority and Minority Staff Director of the Senate Committee on Appropriations; a member of President's Domestic Policy Council; Counselor to the Deputy Secretary for the United States Department of HHS; ***Chief of Staff of the Supreme Court of the United States***; **Administrative Assistant to the Chief Justice of the United States**;[20] Deputy Under Secretary for International Trade for the U.S. Department of Commerce; Ambassador to Japan; Ambassador to Turkey; Ambassador to Saudi Arabia; Ambassador to the Sultanate of Oman; **Governor of Tennessee**; **Governor of Mississippi**; Deputy Governor and Chief of Staff for the Governor of Tennessee; Commissioner of Finance & Administration (Chief Operating Officer), State of Tennessee; Special Counselor to the Governor of Virginia; **United States Circuit Court of Appeals Judge**; **United States District Court Judges**; **United States Attorneys**; ***and Presidents of State and Local Bar Associations***.

Baker Donelson represents local, regional, national and international clients. The Firm provides innovative, results-oriented solutions, placing the needs of the client first. Our *state-of-the-art technologies* **seamlessly link** *all offices, provide* ***instant*** *information exchange, and* ***support clients nationwide*** *with secure access to our online document repository.*

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What is sad is how there are certain whites that use the judicial process and/or administrative process to destroy innocent lives (such as Newsome's) because she legally and lawfully sought relief for criminal and civil wrongs leveled against her.

Now it is time to see whether or not Newsome (who is African-American) get the relief sought as well as the millions of dollars she is entitled to since Stor-All did not contest her Counter-Claim. The Goldman's who are white obtained a judgment of $33 million. Will Newsome get the millions as well as the other relief she is seeking for the civil wrongs rendered against her in this instant lawsuit.

h) **O.J. Simpson Matter**: Denise Brown, the sister of Nicole Brown Simpson, issued a statement on the sentence saying, "It is very sad to think that an individual who had it all, an amazing career, beautiful wife and two precious children, has ended up like this.

"Allowing wealth, power and control to consume him self, he made a horrific choice on June 12, 1994, which has spiraled into where he is today."

Newsome Matter- Newsome believes that the record evidence will support that Stor-All, their counsel/representatives, and others are relying upon their wealth, social status, powers and controls, relationship to judges, etc. to get them verdict and decisions they know are contrary to statutes/laws.

i) **O.J. Simpson Matter**: "I just wanted my personal things. I was stupid. I'm sorry," Simpson said. "I didn't know I was doing anything illegal. I thought I was confronting friends. I thought I was retrieving my things. I didn't mean to hurt anybody, and I didn't mean to steal anything."

Newsome Matter - Newsome believes Stor-All knew and/or should have known it were committing a crime. In fact, a reasonable mind may conclude because it solicited the services of those in law, it was fully aware of the crimes and civil wrongs being rendered Newsome. Moreover, Stor-All's counsel – as officers of this Court - did nothing to deter[21] any such crimes although timely, properly and adequately placed on notice Stor-All was committing criminal acts.

j) **O.J. Simpson Matter**: But Glass rejected those statements in imposing the sentence.

"When you take a gun with you and you take men with you ... in a show of force, that's not just a 'Hey, give me my stuff back,' " Glass said. "That's something else. And that's what went on here, and that's why we're all here.

[21] 42 USC § 1986: **Every** person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, *and having **power to prevent** or **aid in preventing** the commission of the same, **neglects** or **refuses** so to do*, if such wrongful act be committed, **shall be liable** *to the party injured*, or his legal representatives, *for **all** damages caused by such wrongful act*, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; . . .

"I have to tell you, it was much more than stupidity. ... You went to the room, you took guns -- meaning you and the group -- you used force, you took property, whether it was yours or somebody else's, and in this state, that amounts to robbery with the use of a deadly weapon."

k) **O.J. Simpson Matter**: The judge said Simpson's contrite words in court were not as powerful as his angry words, as caught on tape, during the confrontation. "Everything in this case was on tape," Glass said. "The evidence in this case was overwhelming."

Newsome Matter- Newsome believes ***officers were swift to move in on an African-American man (i.e. O. J. Simpson), have him arrested, tried and sentenced in approximately a year's time.*** The O.J. Simpson matter happened in September 2007.

MOTION FOR SANCTIONS

COMES NOW, Defendant/Newsome, without waiving her rights and relief sought through the above referenced MTSPMFPRO (herein incorporating the above statements, facts, evidence and legal conclusions of Motion to Strike), and files this, her *Motion for Rule 11 Sanctions Of and Against Plaintiff's Counsel* in this instant pleading pursuant to Rule 11 of the Ohio Rules of Civil Procedure, Ohio Revised Code ("RC") §2323.51 governing sanctions and/or signing of pleadings, motions, and other documents and any/all applicable statutes/laws governing said matters. Through this instant motion Newsome seeks sanctions of and against Stor-All's Counsel, Michael E. Lively (Ohio Bar No. 0066536).

Newsome through this instant motion, request this Court exercise its own discretion and/or accept this motion and issue the applicable sanctions (if permissible – via **"snapshot rule"** and **"inherent power,"** etc.) in that Stor-All's Counsel, Michael E. Lively ("Lively) knew and/or should have known that MFPRO lacked legal and evidentiary support and has been submitted for purposes of annoyance, delay, sham, frivolousness, ill motive, bad faith, hindering proceedings, harassment, embarrassment, intimidation, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, deprivation of rights, deprivation of equal protection of the laws, deprivation of due process of laws, etc. of Newsome; therefore warranting sanctions for violation of Rule 11 of the

Ohio Rules of Civil Procedure and/or applicable statutes/laws governing said matters. In support thereof, the Newsome states:

> **OHIO RULES OF CIVIL PROCEDURE:**
> **RULE 11. Signing of Pleadings, Motions, or Other Documents**
> Every pleading, motion, or other document of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address, attorney registration number, telephone number, telefax number, if any, and business e-mail address, if any, shall be stated. A party who is not represented by an attorney shall sign the pleading, motion, or other document and state the party's address. Except when otherwise specifically provided by the se rules, pleadings need not be verified or accompanied by affidavit. ***The signature*** of an attorney or *pro se* party ***constitutes a certificate by the attorney or party that the attorney or party has read the document; that to the best of the attorney's or party's knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay***. If a document is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though the document had not been served. **For a willful violation of this rule**, an attorney or *pro se* party, **upon motion of a party** *or upon the court's own motion*, **may be subjected to appropriate action, including an award to the opposing party of expenses and reasonable attorney fees incurred in bringing any motion under this rule**. Similar action may be taken if scandalous or indecent matter is inserted.

Skidmore Energy, Inc. v. KPMG, 455 F.3d 564, 569-570 (2006) – Under the **"snapshot"** rule, sanctions based on a frivolous pleading were proper because the lack of legal and evidentiary support for the pleading at the time it was filed. The . . .court found the claims lacked both legal and factual support and imposed more than $500,000 in sanctions against plaintiffs and their counsel, based on defendants' reasonable expenses incurred in litigating against the claims. . . . This test focuses on the instant when the signature is placed on the document, and the state of mind of the signer at the time. The test ensures the Rule 11 liability is assessed only for violation existing at the moment of filing. The . . . court had clearly concluded that the pleadings were frivolous when filed. The fact that they continued to lack evidentiary support throughout the proceedings only underscored the violation.

Skidmore Energy, Inc. v. KPMG, 455 F.3d 564 (5th Cir. 2006) - **(n. 4)** Both client and attorney have duty to conduct reasonable inquiry into facts or law before filing lawsuit; **(n. 5)** In lawsuit addressing ongoing dispute . . .court did not abuse its discretion in awarding Rule 11 sanctions against plaintiffs; rather than sanctioning them for legally frivolous nature of pleadings, it sanctioned them for . . .factually groundless allegations in their complaint; and **(n. 7)** Fifth Circuit's

"snapshot" rule/test ensures that Rule 11 liability is assessed only for a violation existing at moment of filing.

43. Sanctions are required of and against Stor-All and its attorney(s) pursuant to ORCP Rule 11 and RC §2323.51. Based on the facts, evidence and legal conclusions submitted in this instant MTSPMFPRO Stor-All submitted its MFPRO for frivolous and ill intent – *delay, hindering proceedings, harassment, embarrassment, intimidation, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, deprivation of rights, deprivation of equal protection of the laws, deprivation of due process of laws, etc.* Stor-All counsel, Lively, is one schooled in the laws and has been practicing for approximately 13 year. Therefore, a reasonable mind may conclude that he is not a novice and aware that Vance's pleadings filed on behalf of Stor-All was in violation of the Rules of this Court and the Ohio Rules of Civil Procedure. Moreover, Lively knew that without Vance's filing of an Appearance in this lawsuit made the March 2, 2009 Docket entry granting the relief Stor-All sought through the pleading filed by her null and void. Stor-All's MFPRO has been submitted for such ill purposes/motives as warranting sanctions and the relief sought through this instant MTSPMFPRO. *There is **no** evidentiary support to sustain Stor-All's MFPRO*.

RC §2323.51 Frivolous conduct in filing civil claims.

(A) As used in this section:

(1) "Conduct" means any of the following:

(a) **The filing of a civil action**, the assertion of a claim, defense, or other position in connection with a civil action, **the filing of a pleading, motion, or other paper in a civil action**, including, but not limited to, a motion or paper filed for discovery purposes, **or the taking of any other action in connection with a civil action**;

(2) "Frivolous conduct" means either of the following:

(a) Conduct of an party to a civil action, of an inmate who has filed an appeal of the type described in division (A)(1)(b) of this section, or of the inmate's or other party's counsel of record that satisfies any of the following:

(i) **It obviously serves merely to harass or maliciously injure another party to the civil action** or appeal **or is for another improper purpose, including, but not limited to, causing unnecessary delay or a needless increase in the cost of litigation**.

(ii) **It is not warranted under existing law, cannot be supported by a good faith argument for an extension, modification, or reversal of existing law, or cannot be supported by a good faith argument for the establishment of new law**.

(iii) ***The conduct consists of allegations or other factual contentions that have <u>no</u> evidentiary support or, if specifically so identified, are not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery***.

> (iv) **The c onduct consists o f de nials or factual contentions that are not w arranted by the evidence** *or, if specifically so identified, are not reasonably based on a lack of information or belief.*

44. As set forth more fully herein, it is clear that Stor-All' s MFPRO has no good grounds to support it and have been filed merely for purpose of *delay, hindering proceedings, harassment, embarrassment, intimidation, obstruc ting the administration of justice, vexatious litigation, increasi ng the cost of litigatio n, deprivati on of rights, deprivation of equal protection of the laws, deprivation of due process of laws, etc.* Stor-All cannot possibl y hope to succeed on its m otion, and is m erely attem pting by thi s device to slander and sca ndalize Newsome and increase *vexatiously* the cost of litigation to Newsome and to further delay a trial of this cause.

45. **Pursuant to RC §2323.51, Defendant is entitled to move this Court for an award of attorney fees to compe nsate Defe ndant for fee s w hich she reasona bly incurred and w hich were necessitated by the frivolous conduct of Stor-All and i ts Counsel.**

46. Stor-All's MFPRO is frivolous in its entirety and therefore, this Court has the inherent power to strike a pleading on such gro und that it is frivolous. Moreover, the record evidence will sustain that Stor-All 's bringing of this lawsuit was for unlawful/illegal purposes.

> A trial court has the inherent power to strike a pleading on the ground that it is frivolous [*Brown v. Lamb,* 112 Ohio App. 116, 1 3 Ohio Op.2d 430 , 16 Ohio Op .2d 47, 171 N.E.2d 19 1 (6th Di st. Lucas County 196 0)]. 75 Ohio Jur. 3d §314 – *Frivolous, Equivocal, or Evasive Pleading*].

47. Through Newsome's instant MTSPMFPRO, she seeks this Court's regulation over Stor-All's MFPRO as to prevent further harm/injury to her.

> A m otion to strike is a method where by court can regulate pleadings to prevent real harm to movant. *H.K. Porter Co. v. Bremer,* 11 F.R.D. 89 (N.D. Ohio 1950) (West Ohio Digest).

48. In the im position of sanctions of and against Stor-All and/or its counsel , Lively, for the filing of its MFPRO, this Court needs to consider the relevant facts presented in this instant pleading/motion, including the duties that Stor-All 's counse l breached/violated, it is ap parent that Lively mental state is that shared by certain whites to paint Newsom e (Afri can-American) as a potential murder, hostile, angry , revengeful person that is going to ca rry out acts of those com mitted by Carl Brandon (when she i s not) and sanctions that have been imposed in similar matters.

> *Disciplinary Counsel v. Davis,* 2009 -Ohio- 500 (Ohio,2009) - When imposing sanctions for attorney m isconduct, the Suprem e Court considers re levant factors, including the dutie s the re spondent breached and the sanctions imposed in similar cases.

> *Warren Cty. Bar Assn. v . Marsh all,* 2009 -Ohio- 501 (Ohio,2009) - When im posing sanctions for attorney m isconduct, the Suprem e Court consi ders relevant factors, including the duties the lawy er violated, the lawy er's m ental state, and sanctions i mposed in sim ilar cases.
>
> *Disciplinary Counsel v. Zigan,* 2008 -Ohio- 197 6 (Ohio,200 8) - In determining the appropriate sanction to impose for attorney misconduct, the Suprem e Court considers the duties violated, the actual or potential injury caused, the attorney 's m ental state, the existence of aggravating or m itigating circum stances, and sanctions imposed in similar cases.

49. Lively: **(a)** had sufficient tim e to investigate m atter prior to filing Stor-All's MFP RO on behalf of Stor-All; **(b)** did not have to rely on Stor-All's f or information underlying the reasons provided in its MFPRO; **(c)** knew that its MFPRO was not based on a plausible view of the law; moreover, upon review of Stor-All's MFPRO this Court will find that Lively provides no facts, evidence or legal conclusion to support MFPRO – not even mention under what st atutes/laws it is bringing MFPRO; and **(d)** did not have to depend on inform ation forwarded to him from another attorney or m ember of the bar, he had sufficient inform ation that contained legal authorities presented by Newsom e to support the pleadings/m otions she filed in this lawsuit.

> *Davis v. Crush,* 862 F.2d 84 (C.A.6.Ohio,1988) - Relevant factors for determ ining whether party' s conduct in signing pleading was not reasonable under the circum stances so as to warrant Rule 11 sanctions include (1) tim e available to signer f or investigation; (2) whether signer had to rely on client for inform ation as to facts underlying pleading, motion, or other paper; (3) whether pleading, motion, or other paper was based on plausible view of law; (4) or whether signer depended on forwarding counsel or another member of the bar.
>
> *Neighborhood Research Institute v. Campus Partners for Community Urban Development,* 212 F.R.D. 374 (S.D.Ohio.E.Div.,2002) - Relevant factors for determ ining whether the attorney acted reason ably in compliance with Rule 11 include: (1) the tim e available to the signo r for inves tigation; (2) w hether the signor had to rely on a client for inform ation as to the facts underlying the pleading, m otion, or other paper; (3) whether the pleading, motion, or other paper wa s based on a plausible view of the law; (4) or whether the signor depended on forwarding counsel or another member of the bar.

50. Based upon the facts, evidence and legal conclusions pre sented Newsom e in this instant filing, this Court m ay subject Stor-All's counsel, Lively, to appropriate action under Rule 11 because he willfully violated said rule in the filing of Stor-All 's MFPRO, Lively having knowledge that MFPRO was not supported by good ground and/or brought

in good faith. Newsome is therefore entitled to fees associated with costs in defending Stor-All's MFPRO; moreover, this Court's striking of Stor-All's MFPRO.

> Before a court may subject an attorney to "appropriate action" under Rule 11, the attorney must willfully violate said Rule; in particular, the attorney to the best of his knowledge, information and belief, was not supported by good ground [*Haubeil & Sons Asphalt and Materials, Inc. v. Brewer & Brewer Sons, Inc.,* 57 Ohio App.3d 22, 565 N.E.2d 1278 (4th Dist. Ross County 19890); 74 Ohio Jur. 3d § 55 – *Willful Violation of Rule; Sanctions*].
>
> In addition to striking a sham or false pleading, the court may impose sanctions on the attorney or party who signed the pleading. Thus, a trial court has authority to award attorney fees incurred in meeting a sham pleading. . . 74 Ohio Jur. 3d § 56 – *Sham or False Pleading*.

51. While Lively under the Ohio Rules of Professional Conduct has an ethical obligation of zealous advocacy on behalf of Stor-All, this does not amount to his using the judicial process to burden this Court and Newsome with motoins such as Stor-All's MFPRO in which he knew and/or should have known that allegations asserted were frivolous; moreover, that he knew and/or should have known were submitted for needlessly increasing the costs of litigation, obstructing the administration of justice, to deprive Newsome equal protect of the laws, due process of laws, harassment, threats, coercion, ill motive, malicious intent, etc. Therefore, at the expense of Stor-All, Lively continues to file vexatious pleadings, etc.

> Attorney's ethical obligation of zealous advocacy on behalf of his or her client does not amount to carte blanche to burden the . . .courts by pursuing claims that are frivolous on the merits, and, when attorney knows or reasonably should know that claim pursued is frivolous, or that his or her litigation tactics will needlessly obstruct the litigation of nonfrivolous claims, trial court does not err by assessing fees attributable to such actions against the attorney . *Wilson-Simmons v. Lake County Sheriff's Dept.,* 207 F.3d 818, 2000 Fed.App. 104P (6th Cir., Ohio 2000) (West Ohio Digest).
>
> When attorney knows or reasonably should know that claim pursued is frivolous, or that his or her litigation tactics will needlessly obstruct litigation of nonfrivolous claims, assessment of fees attributable to such actions against attorney is proper. *Fifth Third Bank v. Boswell,* 125 F.R.D. 460 (S.D. Ohio, 1989) (West Ohio Digest)

52. Lively signed Stor-All's MFPRO with willful and deliberate intent to defeat the purpose of Rule 11 of the ORCP. Therefore, said document (and/or statements and supporting document) may be stricken as sham and false and this Court and Newsome are to move forward in this action as though Stor-All's MFPRO had not been served. While Lively provided an Affidavit with MFPRO, it does not meet the pleading requirements for said actions, fails to state the need for Protective/Restraining, that averments are true, etc. – thus, Affidavit alone is a sham.

> If a document is signed with intent to defeat the purpose of Rule 11, it may be stricken as sham and false and the action may proceed as though the document had not been served. (ORCP Rule 11)

> A sham answer or other pleading is defined as one good in form but false in fact, and one which may or may not be pleaded in good faith (Am. Jur. 2d §36). **The Common Pleas Court's power to order a sham answer stricken from the files** [*Butterick Pub. Co. v. Smith,* 24 Ohio N.P. (n.s.) 573, 1924 WL 2695 (Super. Ct. 1924), aff'd, 112 Ohio St. 73, 3 Ohio L. Abs. 185, 146 N.E. 898 (1925)] **has been held to be a power existing at the common law, and is one of the *powers inherent* in the court to be exercised in the due and speedy administration of justice** [*Butterick Pub. Co. v. Smith,* 112 Ohio St. 73, 3 Ohio L.Abs. 185, 146 N.E. 898 (1925); Thomas v. Kalbfus, 97 Ohio St. 232, 119 N.E. 412 (1918); *Crew v. Pennsylvania R. Co.,* 21 Ohio App. 143, 4 Ohio L. Abs. 451, 153 N.E. 95 (1st Dist. **Hamilton** County 1926); 75 Ohio Jur 3d § 313 – *Sham Pleading or Part of Pleading*]

53. As an appropriate sanction, Newsome, as a matter of law, is entitled to reasonable fees in which she has incurred for defending MFPRO which has been filed without justification to be imposed against Stor-All's counsel who has brought MFPRO in flagrant disregard of norms of proper legal practice and/or total disregard to the statutes/laws governing said matters which was easily discernible by counsel (Lively).

> Reasonable counsel fees for defending a suit pursued without justification was an appropriate sanction to be imposed against plaintiff, whose counsel was evidently operating in a flagrant disregard of norms of proper legal practice or in flagrant ignorance of legal principles easily discernible and relevant to the case. *Costanzo v. Plain Dealer Pub. Co.,* 715 F.Supp. 1380 (N.D. Ohio, 1989) (West Ohio Digest)

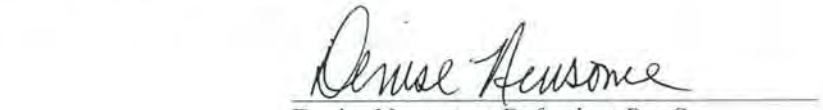
54. Newsome request that this Court impose sanctions on Stor-All's counsel, Lively, under its inherent powers, should it find from the facts, evidence and legal conclusion that Stor-All's MFPRO was submitted in bad faith; moreover, violation of Rule 11 of the ORCP.

55. Stor-All's MFPRO is frivolous and lacks any legal basis or evidentiary facts and/or evidence to sustain it. Stor-All and its counsel knew at the time of filing of MFPRO, that it was a sham and/or frivolous. Moreover, patently frivolous.

WHEREFORE, PREMISES CONSIDERED Defendant moves this Court to: **(a)** Strike the ***"STRICKEN STATEMENT(S)"*** and deny relief sought by Stor-All in its MFPRO for the reasons mentioned above in this instant filing; **(b)** impose sanctions of and against Stor-All's counsel,

Michael E. Lively, in the amount of **$3,572.50**[22] for the costs associated with researching/drafting and preparation of this instant motion - which is approximate hours of 30.50 @ $115 hr, plus out-of-pocket expenses approximately **$65.00**]; **(c)** if permissible, report any such violations (i.e. under the Ohio Rules of Professional Conduct) known to this Court to the appropriate disciplinary body for the enactment of disciplinary process; and **(d)** as well as any and all other relief this Court deems appropriate to deter such acts of Plaintiff and its counsel.

Respectfully submitted this **19th** day of **March, 2009.**



Denise Newsome, *Defendant Pro Se*
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

MEMORANDUM BRIEF

COMES NOW, Defendant, Denise V. Newsome – a/k/a Denise Newsome ("Defendant" and/or "Newsome"), to the extent a memorandum brief is required, and files this her *Memorandum Brief in Support of Motion to Strike Plaintiff's Motion for Protective/Restraining Order Against Defendant Denise V. Newsome; Request for Rule 11 Sanctions; and Memorandum in Support (Jury Trial Demanded in this Action).* Newsome hereby relies upon the facts, evidence and legal conclusions set forth above in the Motion in which this Memorandum Brief supports, including the claims and defenses set forth in Defendant's Answer, Counter-Claim and her subsequent pleadings submitted in this instant lawsuit.

WHEREFORE, PREMISES CONSIDERED, and for the above foregoing reasons, Newsome respectfully moves this Court to grant the relief requested in her *Motion to Strike Plaintiff's Motion for Protective/Restraining Order Against Defendant Denise V. Newsome* to which this Memorandum

[22]Includes time in drafting of original pleadings which include Motion for Sanctions of and Against Plaintiff and Its Counsel, and this instant pleading ONLY.

Brief supports. This instant relief is sought based upon the *instant motion to which this memorandum supports, Motion for Sanctions*, documents, records and files in this action, and such oral and documentary evidence as may be presented at the hearing (if necessary).

Respectfully submitted this **19th** day of **March, 2009.**

Denise Newsome, *Defendant Pro Se*
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the forgoing pleading was HAND DELIVERED to:

Schwartz Manes Ruby & Slovin, LPA
Attn: David Meranus, Esq.
2900 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202

MAILED via U.S. Mail first-class to:

Markesbery & Richardson Co., LPA
Attn: Michael E. Lively, Esq.
Post Office Box 6491
Cincinnati, Ohio 45206

Markesbery & Richardson Co., LPA
Attn: Patrick B. Healy, Esq.
Post Office Box 6491
Cincinnati, Ohio 45206

Dated this **19h** day of **March, 2009.**

Denise Newsome

P. 01

TRANSACTION REPORT

NOV-12-2008 WED 12:46 PM

FOR:

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EXHIBIT 68

P.01

TRANSACTION REPORT

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DENISE NEWSOME

Mailing: Post Office Box 14731
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Phone: 513/680-2922 or (513) 852-6053(work)

November 12, 2008

VIA FACSIMILE – (202) 228-4260 and **(312) 886-3514**
President-Elect Barack Obama
Senator Barack Obama
United States Senate
713 Hart Senate Office Building
Washington, D.C. 20510

RE: UPDATE AND URGENT REQUEST REGARDING: *Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Finding*

Dear President-Elect/Senator Obama:

CONGRATULATIONS on your November 4, 2008 **PRESIDENTIAL** Victory!!!! Truly history was made on this date and America spoke for CHANGE. Congratulations to you, Michelle, Joe Biden, Jill, your family, friends and the many supporters and citizens (as me) who voted for you and for CHANGE! I pray that you remain *HUMBLE* and seek God for direction in all that you do.

I am going to be brief because those who know me know that I can be long winded. ☺

On or about August 2, 2008, I submitted to your attention a copy of the Complaint I submitted for filing entitled, *Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Finding*. The original was mailed on or about July 13, 2008, and sent to the attention of Senator Patrick Leahy; while copies were later mailed to you and a few others in efforts to assure that the ball is not dropped on this Complaint. To date I have heard nothing.

Now that you have been elected as our next President of the United States, I am hoping that, if you do not take this matter with you to the White House to monitor, that you brief your successor in the Senate as to what is taking place. I believe a **SPECIAL COMMITTEE** is going to be needed to handle this because of the magnitude of issues and evidence provided and to be obtained during an investigation of the claims/issues raised. Will you please check with your staff in regards to receipt of this Complaint if you are not familiar with it? Your attention to this matter is greatly appreciated.

The **URGENCY** of this matter is also as a direct and proximate result of an **October 9, 2008**, attack on me which I believe **could have resulted in my death** (*by being shot and killed*) had I been at my residence. An official criminal complaint has been filed in regards to this incident with the FBI; however, still oversight will be needed by your Administration in that I have very strong feelings the FBI will not perform their duties without oversight from your Administration and the perpetrators of such criminal actions will not be punished for such legal

wrongs if not watched. A copy of the FBI Complaint I filed in regards to this incident is attached for your review.

I believe you will find not only from my July 13, 2008 Complaint filed with the Legislature/Congress, but also with the FBI that I am definitely in the trenches fighting for the little people and have been doing so since leaving Florida A & M University ("FAMU"). However, due to the systematic prejudices and injustices which has plagued African-Americans and/or people of color – justice has been delayed; however, now with the new administration, not denied and believe the laws will be applied equally, just and fair.

I take the fight for Civil Rights and many other protected rights very seriously and believe you will find from the documentation provided you and/or sent you that this is true. Not only that that I was fighting for such causes during the times you were working in the communities – just in different states. I am still fighting and will continue to fight; however, like you advised you are going to need us working with you as President in our communities, ***I am going to need you working for me as well as those on whose behalf I am fighting for*** while you are our President and believe this can be done (**YES *WE* CAN**!!!!). Therefore, please take the time to review the attached documents as well as the July 13, 2008 Complaint sent to your attention and advise or have your Aid(s) contact me regarding the status.

Please find the following documents attached:

1. FBI Criminal Complaint (Brief Only) submitted for filing October 13, 2008 – regarding October 9, 2008 incident;
2. Injunction and Restraining Order that was in place at time of October 9, 2008, criminal invasion/wrongs;
3. Receipt of Payment of October 2008 Rent into Escrow;
4. Letter (Only) of November 8, 2008 to Governor Steve Beshear (Kentucky) – requesting your support for change and efforts to move the State of Kentucky in this direction;
5. An electronic copy of my August 2, 2008 letter to you (Senator Barack Obama);
6. My PowerPoint Slide of you with some of the Rattlers;
7. Picture of you with "Cal" – the one holding the Obama sign. Cal provides security service in the building in which I work and also knows my passion for the causes in which I fight as well as my support and happiness for the November 4, 2008 victory;
8. November 9, 2008 MSNBC article entitled, "Obama' Business Backers Look Ahead – A powerful group of African American executives helped get Obama elected President. Now they hope he can provide solutions to

the economic crisis. An article I was happy to see feature a Rattler, Lyle Logan.

9. Last of all me (an Alumni of FAMU) wearing and supporting the Orange & Green – well you can't tell because its in black and white, so take my word ☺ !.

Your most **URGENT** attention to this matter *prior* to taking the Presidential Office is greatly appreciated. I need your assistance in seeing that the ball is not dropped and that CHANGE happens. ☺ While I would love to attend the Inauguration in January 2009, I am sure you can understand from what has transpired in my life and as recent as October 9, 2008, it makes it financially difficult. Nevertheless, just know that I am in the trenches fighting for you as well as working towards the CHANGE you and so many other Americans seek.

Should you have any questions, please do not hesitate to contact me at the above address or phone number. My direct fax at work is (513) 419-6453.

With Warmest Regards,

Denise Newsome

Denise Newsome



If you don't hear our RATTLE, then feel the BITE!!



P.01

TRANSACTION REPORT

NOV-14-2008 FRI 12:25 PM

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P. 01

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DENISE NEWSOME

FACSIMILE

To:	**President-Elect/Senator Barack Obama (202) 228-4260 and (312) 886-3514**	**From:**	Denise Newsome
		Pages:	9 (including blank cover page)
Re:	**UPDATE AND URGENT REQUEST REGARDING:** *Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Finding*	**Date:**	11/14/08

☒ **Urgent** ☒ **For Review** ☒ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

- **Comments:**

DENISE NEWSOME

Mailing: Post Office Box 14731
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Phone: 513/680-2922 or (513) 852-6053(work)

November 14, 2008

VIA FACSIMILE – (202) 228-4260 and (312) 886-3514
President-Elect Barack Obama
Senator Barack Obama
United States Senate
713 Hart Senate Office Building
Washington, D.C. 20510

RE: UPDATE AND URGENT REQUEST REGARDING: *Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Finding*

Dear President-Elect/Senator Obama:

I read on yesterday that you are resigning your seat in the Senate effective Sunday, November 16, 2008. You mentioned that you want the public to feel free to come to you, well here I am.

Therefore, please accept this as my **FINAL** request and plea to you in your remaining days as Senator and your remaining days as President-Elect to see that a ***Special* Committee** and/or the appropriate actions are taken to see that the July 2008 Complaint submitted to your attention and others is handled most urgently. I ask that you do not take on what I call the "Pilate" syndrome, wherein, in this story, this leader (Pilate) had the opportunity to do what was right by a just man; however, buckled under the pressure and I gathered having the need to be accepted and liked - simply put, "*While Pilate saw that he could not prevail nothing, but that rather a tumult was made, he took water, and washed his hands before the multitude, saying, I am innocent of the blood of this* ***just*** *person; see ye to it*" (Matthew 27: 24) – allowed an innocent man to be killed. However, he was just as guilty as the rest because he had the opportunity, power and authority to stop the actions, but elected to allow the people to proceed and threw a just and innocent man to the wolves. Clearly actions repeatedly rendered today by those in authority. Rather than do what is right, they allow the just to suffer persecution needlessly while either looking the other way or laughing with those who commit such criminal acts. From this story, because of the coward acts of Pilate, a precious life was lost and/or destroyed because this leader gave into the pressure of those who sided with freeing a criminal. While I realize there was only one King Solomon who was known for his wisdom, I realize that such gifts as "wisdom," "courage," "strength," "integrity," etc. is also given freely to those who ask of it. There is no respect of person.

Although November 4, 2008 seemed so far away, to others, there are those that believed that upon your announcement of running for office, the milestone of your becoming the next President as well as the first African-American President of the United States was indeed possible. I just hope that you remain *humble* and continue to seek wisdom, guidance and other tools needed for your journey in this position.


If you don't hear our RATTLE, then feel the BITE!!


Again, the **critical and/or urgency** for my request is because I have had to suffer and endure a great deal of injustices for approximately **20** years. Nevertheless, I patiently waited for the fulfillment of so many dreams and visions spoken and seen for the change that occurred on November 4, 2008. It is no secret to many that know me that I have repeatedly been victimized by our government and the judicial process; nevertheless, it did not stop me from continuing to believe that one day, rather than work against me, the judicial process and justice would work for me. With my July 2008 Complaint submitted to the United States Legislature/Congress I provided factual documentation and/or evidence which many knows is very hard/difficult to come by. Information to support the corrupt judicial process and systematic injustices in place to keep myself and people of color oppressed. With the July 2008 Complaint I provided information such as:

1. Evidence of the unlawful/illegal stalking of me from job-to-job – wherein there are certain persons stalking and tracking me down, finding out where I was working and contacting my employers to notify them of lawsuit(s) filed by me. The reasons' being was to get me terminated from my jobs. Such civil/criminal acts in which such persons were successful in accomplishing their goals. Each and every time I tried to move on, they just would not let go and followed me to the next job – even to the one I hold today. However, to their disappointment, the law firm at which I am presently employed in their employment policy prohibits discrimination against persons who have filed lawsuits. Even with such policy in place, it has not stopped those in pursuit of me from pressuring my employer to let me go and/or look for a Judas among them. What was I to do especially when the system is designed to break and destroy me? Many people sharing with me that with such repeated attacks as I have suffered and had to endure, they would have given up a long time ago. However, those who know me know I am not a quitter and believe in finishing the race/course (being the former athlete I am) that has been set for me. I realize there is no way that some of the evidence I have been blessed to obtain such as:

    (a) tape recording by co-worker advising me to go home and take a bath because my skin is the wrong color; (b) racial literature mocking mother with interracial children being distributed in workplace; (c) racial remarks being written in the newspaper and left in the break room for others to view, etc. (*documents memorialized in courts and agency records*).

    is very difficult to obtain and to sustain the discriminatory environments in which I have worked. Nevertheless, employer(s) was allowed to continue practicing in such a manner without any intervention and/or regulation by the EEOC and/or the appropriate agencies that are supposedly designed to deter such practices. While I was required to look the other way and just to

take it, this simply was something I could not do and simply behavior I could not condone and did not condone while it came with consequences and the government relying on their vast resources and ties to scandalize my name and reputation all because I decided to take them and others on. Did it cost me? Yes. The government has seen to it that my name is posted on the internet and through such efforts for exposing them to see that my life is destroyed. Their reason for doing so is to destroy my life, character and to make it difficult for me to get a job, etc. Nevertheless, it has not stopped me and I continue to fight. I have been very blessed to work with people who can vouch for my work ethics and character as shown in the attached references obtained. So while it is obvious I have been projected and/or the government has tried to paint me as a "mental" case for going after them and now are trying to shut the Courts down to me, I continue to fight for my rights secured to me under the Constitution, Civil Rights Act and other laws/statutes in place.

2. Evidence of employer's witnesses (under oath) **admitting** to discriminating against me and subjecting me to a ***hostile*** work environment and the government set by and allowed them to do this. How easy does one think it was to get persons on tape and ***under*** **oath** to admit to such civil wrongs? Nevertheless, I was blessed to get this and provided portions of the transcript in which such testimony was provided under cross-examination (by me) because they came in with well rehearsed testimony and had no clue that I was using this opportunity to obtain key testimony that will assist me in the future. *I provided portion of transcript verifying this in my July 2008 Complaint filed with the U.S. Legislature/Congress*.

3. I have been laughed at and mocked by attorneys for stating my preservation of matters; however, as I share with others, I believed that November 4, 2008 was possible and I believed that a change would eventually come. So while they laughed and mocked me for preserving evidence and memorializing evidence, etc. for a later date and/or time, I just simply kept believing that the tide would eventually turn and that the CHANGE and pursuit for justice would eventually prevail. I believe that the November 4, 2008, election clearly supports that our nation is looking for CHANGE. No, prior to the November election, in July 2008, I moved to have cases transferred to the forum/jurisdiction of the United States Legislature/ Congress.

4. I have been falsely imprisoned – tape recording to the incident stolen off of my persons and officer destroyed this evidence. Clearly through all my situations when one would think I had the right to be hostile, angry, bitter, etc. I maintained my patience, temperance, etc. Always being subjected to situations where it was obvious that I was being provoked; however, would

not allow them to take me there (or to bring the streets out one may say) and continued to look towards the future and that justice will prevail.

5. While the Court records in proceedings I am presently engaged in ***cannot*** *be certified* because the record has been **compromised, tampered** with and **documents submitted for filing *withheld* from the file**, etc. while they launched various attacks against me and in their efforts of shutting the courts' doors to me, it was a good thing I listened to an attorney I met at a conference in June 2008 and filed the July 2008 Complaint with the U.S. Legislature/Congress and requesting its intervention. Yes, it was clear that I was on my way to another railroading and/or lynching by the certain persons at the helm of the judicial process and consenting to such criminal acts; however, to their disappointment, they never knew I would file a Complaint with the U.S. Legislature/Congress exposing such criminal/civil wrongs as I did.

While I am presently employed with a law firm in Cincinnati (since 9/11/06 – contracted prior to accepting permanent job offer) my passion is fighting for the little people and working with getting our system cleaned up – whom better than a victim of the process. It is no secret that the system has been designed to destroy innocent lives such as Carl Brandon (an African-American guy stalked from job-to-job in Mississippi and repeatedly and in which there were certain persons who sought to see that his employer terminated him and were successful; however, this man could not take it and one day went on a shooting spree) – he is discussed in my July 2008 Complaint submitted to the U.S. Legislature/Congress. Look at what happened in the Jena 6 matter and so many others. ***Unlike so many, rather than take the road the system set up for me, I elected to use the judicial process regardless of how they would attempt to turn it and use it against me and/or now even try and deprive me access to keep me from bringing civil lawsuits they know are inevitable.***

No it is obvious there are those (certain persons) using a systematic process to close the doors to protect their own and through a systematic process designed to destroy African-Americans and to incarcerate us. Then when you beat them at their own game (as I have done), they still try and steal the rug out from underneath you and close the Courts down on you. This is not right and it is definitely time for CHANGE!!!

I close with a plea and request that you do as much as possible in the power you have been blessed to acquire to help in the fight and change you promised. Please do not allow your promise to become empty/hollow words.

Should you have any questions, please do not hesitate to contact me at the above address or phone number. My direct fax at work is (513) 419-6453.

With Warmest Regards,
Denise Newsome
Denise Newsome



If you don't hear our RATTLE, then feel the BITE!!



THAD COCHRAN
MISSISSIPPI

United States Senate

WASHINGTON, DC 20510-2402

COMMITTEE ON
APPROPRIATIONS
CHAIRMAN

COMMITTEE ON
AGRICULTURE, NUTRITION,
AND FORESTRY

COMMITTEE ON
RULES AND
ADMINISTRATION

June 1, 2006

Ms. Denise Newsome
Post Office Box 31265
Jackson, Mississippi 39286

Dear Ms. Newsome:

Thank you very much for your recent letter. I appreciate hearing from you.

This appears to be a private, legal matter. However, in an effort to be of assistance, I have contacted the proper Office of the Attorney General officials in your behalf. As soon as I receive a report from them, I will get back in touch with you.

Sincerely,

THAD COCHRAN
United States Senator

TC/kc

EXHIBIT
69

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FIRST ELECTED: 1978
NEXT ELECTION: 2014

SENATOR (R - MS)

Thad Cochran

Select cycle and data to include:

2010

- (•) Campaign Cmte Only
- ( ) Leadership PAC Profile Only
- ( ) Campaign Cmte & Leadership PAC Combined

Committee Assignments:

Agriculture, Nutrition and Forestry
Appropriations, Ranking Member
Rules and Administration

Leadership PAC:

Senate Victory Fund

Cycle Fundraising, 2005 - 2010, Campaign Cmte

Raised:	$2,599,353
Spent:	$2,726,140
Cash on Hand:	$327,364
Debts:	$0
Last Report:	Wednesday, June 30, 2010

Top 5 Contributors, 2005-2010, Campaign Cmte

Contributor	Total	Indivs	PACs
Baker, Donelson et al	$21,300	$12,300	$9,000
Pfizer Inc	$15,000	$0	$15,000
Northrop Grumman	$14,050	$4,050	$10,000
BancorpSouth	$12,500	$2,500	$10,000
Raytheon Co	$12,500	$0	$12,500

...view more data

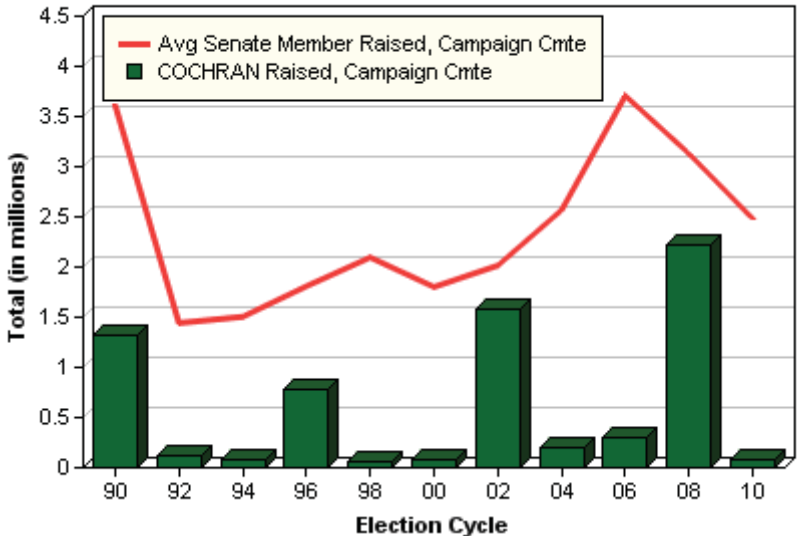
Top 5 Industries, 2005-2010, Campaign Cmte

Industry	Total	Indivs	PACs
Lawyers/Law Firms	$200,064	$132,064	$68,000
Crop Production & Basic Processing	$174,044	$106,044	$68,000

Agricultural Services/Products	$103,700	$9,200	$94,500
Health Professionals	$98,550	$32,050	$66,500
Pharmaceuticals/Health Products	$98,000	$9,500	$88,500

...view more data

Total Raised vs. Average Raised



Cycle Source of Funds, 2005-2010, Campaign Cmte only



	Individual Contributions	$1,248,733	(48%)
	PAC Contributions	$1,232,432	(47%)
	Candidate self-financing	$0	(0%)
	Other	$118,188	(5%)

NOTE: All the numbers on this page are for the 2005-2010 election cycle and based on Federal Election Commission data available electronically on September 01, 2010 (for Fundraising totals, Source of Funds and Total Raised vs Average) and on August 01, 2010 for Top Contributors and Industries. ("Help! The numbers don't add up...")

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BAKER DONELSON
BEARMAN, CALDWELL & BERKOWITZ, PC

White Collar Crime and Government Investigations

Few companies or executives plan for a criminal investigation. But in the complex regulatory environment facing modern businesses, few corporations can safely assume that their operations and employees are immune from government investigations and even prosecution. For many companies, the very existence of such probes can do substantial damage. When the stakes are highest, corporations and individuals need lawyers versed in the unique challenges of such cases.



Robert E. Hauberg Jr.

When the unthinkable happens, businesses and executives need a law firm that moves quickly to answer and defend against charges of illegal behavior. Attorneys in the White Collar Crime Group limit client exposure in government and internal investigations of employee wrongdoing, and defend companies and executives in parallel proceedings involving agency litigation, civil lawsuits and criminal prosecutions.

When a government contractor's operations are out of compliance with contractual or regulatory obligations, they can often find themselves defending multiple fronts simultaneously. While defending a qui tam or other civil suit, the company may also find itself responding to a governmental agency or grand jury investigation. In such cases, the company needs experienced counsel to guide it proactively to an efficient, global resolution or to respond on the civil side while working to avoid indictment.

Relying upon attorneys with backgrounds in state law enforcement, heavily-regulated industries, DOJ, FBI, EPA and various agencies, this Group assists clients in responding to grand jury, administrative or inspector general subpoenas; monitoring grand jury proceedings; and negotiating immunities, pleas, settlements and corporate integrity agreements. If negotiated resolution is not possible, our teams try both civil and criminal cases, handle appeals and fight threats of suspension, debarment and exclusion. We counsel and defend clients from every industry, from Boston to Los Angeles and from London to Tokyo.

The best defense against a government investigation is to have effective compliance policies in place. Attorneys in the White Collar Crime Group prepare and review compliance plans, negotiate corporate integrity agreements, advise on reimbursements under government contracts, plan responses on whistleblower issues, and defend against debarment and exclusion from federal programs.

Arms Export Control Act and Foreign Asset Control

- Defended defense contracting business and its principal indicted under the Arms Export Control Act. Judgment of acquittal entered in favor of the defendants; attorney's fees awarded to defendants.
- Represented exporter of medical equipment in raid and subsequent internal investigation and resolution of exposure with OFAC and the Department of Commerce.
- Represented engineering company in OFAC and U.S. Attorney investigation resulting in settlement.

Bank/Insurance Fraud

- Represented agents in Department of Insurance investigations.
- Represented a law firm and diamond dealers in Martin Frankel litigation and investigation by Department of Insurance.
- Represented bank president in OCC-negotiated resolution and three-week trial of RICO case which resulted in favorable verdict with no recovery.
- Conducted internal investigation for bank and mortgage sub of insider mortgage fraud in qualification of borrowers.

Economic Espionage Act and Intellectual Property Crimes

- Represented engineer indicted under the Economic Espionage Act based on allegations of trade secret theft; case is pending.
- Represented individual defendant in investigation and civil litigation over industrial espionage allegations.
- Represented internet seller of counterfeit DVDs charged in both China and United States.

False Claims Act and Qui Tam

- Represented defense contractor in investigation by Air Force Office of Special Investigations of processes regarding over and above claims for aircraft parts.
- Counseled major defense contractor on disclosure to government of billing irregularities and successfully avoided False Claims Act liability.
- Represented small business contractor in voluntary disclosure to Department of Justice of internal investigation of qualifications for contracts.
- Represented minority small business company in Department of Energy and Department of Justice investigations into alleged False Claims Act and Truth in Negotiation Act violations; client cleared of all charges.
- Represented contractor accused of fraudulently billing under various contracts with the U.S. Army Corps of Engineers.
- Represented NASA contractor in three-month trial accused of submitting false claims for reimbursement of labor charges incurred under cost reimbursement contract. Verdict for less than 3% of amount sought by government.
- Represented government contractor engaged to expand commuter railway servicing major New England municipality, accused of making false claims in an environmental impact statement. Claims dismissed on summary judgment.
- Represented Department of Energy contractor accused of making false statements in worker and environmental safety documentation.
- Represented neurosurgeon under investigation by HHS-OIG regarding alleged kick-backs from surgical device manufacturers.
- Represented billing coding company in Department of Justice investigation and qui tam lawsuit regarding upcoding of claims.
- Won summary judgment in civil False Claims Act litigation by Department of Justice alleging materially false certification by HUD contractor of "decent, safe, and sanitary" apartment complex.
- Represented property manager in False Claims Act litigation regarding HUD rental assistance payments; dismissed on summary judgment.
- Represented university executive in state perjury investigation arising out of legislative testimony; prosecution declined.

Foreign Corrupt Practices Act

- Represented companies in Foreign Corrupt Practices Act investigations by Department of Justice and SEC in Indonesia, Turkey and other countries. SEC consent order with no DOJ action in one matter. Declination of prosecution by DOJ in another matter. Internal investigation with no reporting in another matter in China.

EXHIBIT 70

- Represented university researcher in fraud charges arising out of NSF grant administration.
- Represented convenience store chain in civil litigation and criminal investigation of alleged violations of contraband Cigarette Trafficking Act, leading to favorable civil settlement and corporate pretrial diversion agreement.

General Crimes

- Represented defendant in federal firearms prosecution and plea agreement.
- Represented civilian employee of Department of the Navy in investigation of misuse of transportation funds; settled for partial repayment without loss of employee's security clearance or job.
- Represented defendant in federal perjury investigation; no indictment resulted.
- Represented purchasers of assets potentially subject to forfeiture in negotiations with sellers and Department of Justice.
- Represented death row inmates in state and federal post-conviction proceedings.
- Represented residents of Veterans Administration facility charged with federal misdemeanors under Assimilative Crimes Act.
- Represented private provider of prisons in multiple internal investigations.

Government Contracts

- Represented Navy officials in Department of Justice investigation of improper communication of bid solicitation information.
- Conducted timecard internal investigation for civil engineering company/government contractor.
- Represented officers of technical college in grand jury investigation of student loans.
- Represented university professor in U.S. Attorney and Department of Education investigation of consulting contracts.
- Represented university research foundation in qui tam action alleging false scientific data in applications for research grants.
- Represented computer company in grand jury and Department of Labor investigation of job training contracts.
- Represented government subcontractor in Department of Defense investigation of supplier to military commissaries.
- Represented Department of Energy contractor in qui tam lawsuit; settled for minimal amount following filing of motion to dismiss.

Public Corruption

- Represented congressman in House Bank investigation and FEC proceeding and resolved matters without further action.
- Represented congressman and cabinet secretary in U.S. House of Representatives House Banking investigation, Federal Elections Commission review of records and Independent Counsel investigation of gifts. Won acquittal after trial with Washington co-counsel.
- Represented public officials in investigations of bank fraud, federal election, bribery and extortion violations.
- Represented contractors in bribery investigations of state and local officials; resolved matters.
- Conducted internal investigation of government-sponsored corporation regarding violations of lobbying rules and ethical standards; following submission of our report, regulator took no further action against corporation.
- Represented field warehouse company in suit alleging RICO violations; successful verdict upheld by Fifth Circuit Court of Appeals.

Tax Fraud and Other Criminal Matters Involving Taxation

- Represented sole shareholder of three corporations investigated for federal income tax and state sales tax evasion; investigation is pending.
- Represented KPMG partner in Department of Justice investigation of tax shelters and related civil suits by taxpayers; settled civil cases, investigation is pending.

EXPAND YOUR EXPECTATIONS

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examiner.com

Possibility that Omar Thornton did not act alone

August 8, 7:24 PM · Edward Nelson - NY Public Policy Examiner



Courtesy of Getty Images by Douglas Healey

Unfortunately, the Connecticut workplace shooting leaves more facts that have not been considered. In college Psychology, I recall researching the ABCs (an acronym for Antecedents, Behaviors, and Consequences) of Psychology. These principles provide tremendous assistance in understanding what happened in Manchester, Connecticut this past Tuesday. Some people don't want to discuss racism as being a form of violence because it would reveal that they themselves are in fact extremely violent and in denial about it.

Omar Thornton's incident has a host of websites spewing hate talk toward African-Americans. Hartford Distributors may have used racism and gradually managed to kill Omar Thornton mentally and emotionally before the killing spree via attrition. Jessica Anne Brocuglio, an ex-girlfriend of Omar Thornton, comes forward with character evidence:

> He always felt like he was being discriminated (against) because he was black[.]" "Basically they wouldn't give him pay raises. He never felt like they accepted him as a hard working person."

This statement corroborates with what Kristi Hannah, Omar Thornton's fiancée before his death, had been telling the Manchester Police Department about Hartford Distributors treating him like a persona non grata.

Plus, a fellow co-worker who was employed with Omar Thornton at Hartford Distributors has come forward stating that he had seen the racist taunts: "Stuff on walls. Racist comments. I saw with my own eyes." More importantly, the fellow co-worker said Mr. Thornton was hired as a truck driver; yet, he was assigned to loading boxes in the warehouse. Mr. Thornton had to fight to get behind the wheel. The co-worker then states that Hartford Distributors are lying and the evidence is in Omar's cell phone. These statements are serious and they are not based upon speculation. This places the co-worker in a position to be called as a key witness to racism within Hartford Distributors. Although the co-worker is no longer under the employ of Hartford Distributors, he has witnessed these incidents first-hand. These statements make it appear as if Hartford Distributors is deliberately being obtuse to shield themselves from potential liability. As Marcellus said in William Shakespeare's play "Hamlet," "[s]omething is rotten in the state of Denmark." Thus far, the answers provided by Hartford Distributors just rubs me the wrong way.

If Hartford Distributors created an atmosphere of institutionalized racism within the workplace, then Omar Thornton's contributing accomplice would be Hartford Distributors who subtly enraged Mr. Thornton to kill 9 employees. In no uncertain terms am I expressing that Omar Thornton was justified by what he did. However, I am expressing that if employers are allowed to continue with business as usual without being held accountable, the contributing employer accomplice will continue its uncorrected racist practices with the result being identical to the facts currently before us. Albert Einstein defined insanity as "doing the same thing over and over again expecting different results." Let's not wait until something else happens before we correct this, let's get it right . . . right now!

If not, the subjective side of the alleged violence will continue without correction. Racist employers are in dire need help to redirect their violent tendencies in the workplace! If Mr. Thornton is correct, racism (his employer's racism) motivated him to do what he did. A Latin term used in the legal community is *ipse dixit* (he himself said it). How is it that a fair minded person can incriminate Omar Thornton for what he did; yet, absolve the Hartford Distributors for their alleged racist conduct? If there was no shooting spree, many have suggested that he could have used the administrative process to report the racism. What that indicates is that many actually believe Omar had enough to file a complaint. Otherwise, why suggest filing a complaint when you don't believe anything happened? That would be a futile gesture. It also suggests that a large population of people believe Mr. Thornton was subjected to racism. Normally, it's the employer that recommends that the employee receive help with a problem that affects his/her job performance. In this case, it could be the employer who needs help with its entrenched racist practices toward African-Americans. But who will direct the employer to enroll in training to correct the problem? I'd bet dollars to doughnuts that neither of the supervisors or managers have had training regarding racism as a form of violence in the workplace. According to Omar Thornton, racism directly contributed to his shooting spree.

In a company that quickly identifies people by color, Hartford Distributors knew that its employees recognized which color was in the minority and the majority. The 911 tape is replete with descriptions of Omar Thornton being Black and one caller adds that he

EXHIBIT 71

is the only Black guy that works there. The racism herein may have been cloaked in secrecy and a higher mind and set of eyes are reviewing the evidence in this case to find it. The Manchester Police Department must be applauded for their diligent effort to find the truth regarding this atrocity. When law enforcement acts professionally, the result is an important lesson being learned in the community. As the facts unfold, you can guarantee that they will be reported here.

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Author



Edward Nelson is an Examiner from New York. You can see Edward's articles at:
"http://www.Examiner.com/x-48240-NY-Public-Policy-Examiner"

Beer warehouse shooter long complained of racism

By JOHN CHRISTOFFERSEN (AP) – 2 days ago

NEW HAVEN, Conn. — To those closest to him, Omar Thornton was caring, quiet and soft-spoken. He was excited to land a well-paying job at a beer delivery company a few years ago and his longtime girlfriend says they talked of marrying and having children.

But underneath, Thornton seethed with a sense of racial injustice for years that culminated in a shooting rampage Tuesday in which the Connecticut man killed eight and wounded two others at his job at Hartford Distributors in Manchester before killing himself.

"I know what pushed him over the edge was all the racial stuff that was happening at work," said his girlfriend, Kristi Hannah.

Thornton, a black man, said as much in a chilling, four-minute 911 call.

"You probably want to know the reason why I shot this place up," Thornton said in a recording released Thursday. "This place is a racist place. They're treating me bad over here. And treat all other black employees bad over here, too. So I took it to my own hands and handled the problem. I wish I could have got more of the people."

Thornton, 34, went on his killing spree moments after he was forced to resign when confronted with video evidence that he had been stealing and reselling beer.

Hartford Distributors president Ross Hollander said there was no record to support claims of "racial insensitivity" made through the company's anti-harassment policy, the union grievance process or state and federal agencies. Relatives of the victims also rejected the claims.

Thornton, who grew up in the Hartford area, complained about racial troubles on the job long before he worked at Hartford Distributors.

"He always felt like he was being discriminated (against) because he was black," said Jessica Anne Brocuglio, his former girlfriend. "Basically they wouldn't give him pay raises. He never felt like they accepted him as a hard working person."

One time Thornton had a confrontation with a white co-worker who used a racial slur against him, she said. Thornton changed jobs a few times because he was not getting raises, Brocuglio said.

"I'm sick of having to quit jobs and get another job because they can't accept me," she said he told her.

Brocuglio, who said she dated Thornton until eight years ago, said Thornton helped her become a certified nursing aide. She said he never drank or smoked and remained calm, even when she would yell or grab him.

"He was such a caring person," said Brocuglio, who is white. "He showed me so much love. He was like a teddy bear."

Brocuglio's sister, Toni, said Thornton would come home and say co-workers called him racial slurs. He was also upset by comments made by passers-by about the interracial couple, she said.

"He just didn't understand why people had so much hatred in their lives," Toni Brocuglio said.

Brocuglio said Thornton put her family up in a hotel after a fire at her house and was "like a second dad" to her children.

"Omar was the best man I ever met in my life," Brocuglio said.

Thornton ran into his own troubles a decade ago when he filed for bankruptcy protection. His debts were discharged in 2001 and the case was closed.

Around that time, Thornton was hired as a driver with Chemstation New England, a chemical company in South Windsor. But he was let go after 10 months, unable to master the mechanical skills involved handling the equipment, said Bruce LeFebvre, the owner.

"He was a real nice kid when he was with us," LeFebvre said. "Certainly I would never have expected anything like this from him."

LeFebvre said Thornton handled it well when he was let go.

Thornton was hired for a warehouse job at Hartford Distributors about two years ago and was later promoted to driver. Drivers can make up to $60,000 and receive excellent benefits, said John Hollis, legislative liaison for the Teamsters who represent employees at the company.

"He had this huge smile on his face" when he was hired, Hannah said.

Thornton seemed happy outside of work, too, playing basketball and video games and occasionally shooting his gun at a local range with a friend.

Thornton and his mother were especially excited when Barack Obama was elected the first African American president, Hannah said. He listed Obama and the gun range among his

interests on his Facebook page.

But Hannah said he showed her cell phone photos of racist graffiti in the bathroom at the beer company and overheard a company official using a racial epithet in reference to him, but a union representative did not return his phone calls. Police said they recovered the phone and forensics experts would examine it.

"Nothing else bothered him except these comments he would make about them doing the racial things to him," Hannah said.

(This version CORRECTS spelling of former girlfriend's last name to 'Brocuglio' instead of 'Brocuglia' in paragraphs 12-13.)

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Man in custody after fatal shooting in Port Gibson

Full story: The Sun Herald

The attorney for the Claiborne County Board of Supervisors was gunned down Friday and at least one other person was wounded during a shooting spree by an apparent disgruntled former county employee, officials ...

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Comments

Sarah Kelly
Elgin, IL

Mar 20, 2006 #1 | **Judge it!** | Report Abuse | **Reply »**

What ever happened to "Love One Another"? I heard of the disaster / murder and it felt as if my heart was ripped from my body. Not that I don't hear of murders daily but because I cannot believe that my small home town has taken on the same problems as the Big Cities. I am extemeely sorry to know that my classmate was the person who did the shooting. As a young person growing up in that small town and not returning for decades, as I look back on how people in other parts of the country measure up to the people in Small Town Port Gibson, I would Put Carl Brandon as a model from my town. I think he was one of the more intellegent and well manners persons in the class. i cannot imagine this guy waking up one morning to decide that he want to destroy his life and others. I think that this is a tragedy and that fact cannot be denied, but the greater issue is that behind all of this there was a reason. For every action there is a reaction. Sometimes the reaction is hard to understand but it has to be caused by some action first. We can only pray that God will forgive because there are no winners in this situation. Everyone lost something. I am over 18 hundred miles away and have not in that small town in years but I felt a lost.

" May God Bless and don't forget to love ,embrace and forgive one another.

Have a Great Day !!!!!

Distressed
Chicago, IL

Mar 20, 2006 #2 | **Judge it!** | Report Abuse | **Reply »**

This story is so sad.

Angel
Chicago, IL

Mar 20, 2006 #3 | **Judge it!** | Report Abuse | **Reply »**

> ***Distressed wrote:***
> *This story is so sad.*

Yes, I heard about this and it is very very sad. My heart goes out to everyone involved in this tragedy.

Shelly jones
Nashville, TN

Mar 21, 2006 #4 | **Judge it!** | Report Abuse | **Reply »**

I was sad to hear what had happend in my home town, and shock to find out that it was Carl, that went off. Some time a person try to walk away from a problem, but there are people in this world that want let them do that. This man had left this job and move on, but that was not good enough. They had to call his job and tell them what happend

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EXHIBIT 72

9 years ago, and got this man fired. I hate that he let the devil take over him at the time, but I do understand. My heart goes out to Carl and his family, and to Miller & Burrell family as well. I hope that we can learn something from this tragedy. I will keep everyone in my Prayer.

Joe
Albany, OR

Mar 21, 2006 #5 | **Judge it!** | Report Abuse | **Reply »**

Wow. You understand why this coward shot another human being in the face with a 12 guage shotgun and your heart goes out first to him and his family. He set in his vehicle in ambush to kill another human being. He knew exactly what he was doing, the snuffing out of a life as well as the trauma and devestation he was going to cause Michelle and the kids. What a despicable, cowardly act. My sympathy is with the victims families, and I don't mean the guy who had his house shot into and has to replace some windows. Brandon should face the full wrath of our Justice system ASAP!

Shelly Jones
Nashville, TN

Mar 21, 2006 #6 | **Judge it!** | Report Abuse | **Reply »**

> ***Joe wrote:***
> *Wow. You understand why this coward shot another human being in the face with a 12 guage shotgun and your heart goes out first to him and his family. He set in his vehicle in ambush to kill another human being. He knew exactly what he was doing, the snuffing out of a life as well as the trauma and devestation he was going to cause Michelle and the kids. What a despicable, cowardly act. My sympathy is with the victims families, and I don't mean the guy who had his house shot into and has to replace some windows. Brandon should face the full wrath of our Justice system ASAP!*

Wow it is so sad that the person you can feel sorry for is the Burrell family. When there was a young lady shot and is fighting for her life and a young man home was shot up. Everyone lost, the Burrell, Miller, Porter and the Brandon. They all have children, and these kids are going to need some help. The damage have been done, now it is time to move ahead. I still pray for all the family's including the Brandon.

Joe
Albany, OR

Mar 21, 2006 #7 | **Judge it!** | Report Abuse | **Reply »**

You are correct that I should have specifically stated that the lady that was shot is also a victim. From what I have read she is not "fighting for her life" but I very much count her as a victim in this and she will be traumatized by this cowards actions for some time to come. Any children involved are victims as well. However, in your previous post you seem to blame the victims for their actions that you have ZERO proof of. I've read nothing about anyone else pursuing this matter and getting Brandon fired from his new job. If this did in fact take place Brandon would have ample legal recourse. My objection was, and is, to your excusing this animal's actions and blaming the victims as you so obviously did in your initial post. You are so right that lots of people are going to need help in this situation. My objection is only to any notion that the blame should be anywhere but squarely on the shoulders of the man that pulled the trigger. In my opinion he should face the death penalty without delay.

Angel
Chicago, IL

Mar 21, 2006 #8 | **Judge it!** | Report Abuse | **Reply »**

My dear God, this is a time for understanding and healing, not name-calling and a recommendation of more violence.

This story is very confounding because not much has been reported in the news but there is a lot of “he-said she-said ” surrounding the situation. Here is what I’d like to know. Is it true that Mr. Burrell falsely accused Mr. Brandon of sexually harassing a child, which resulted in Mr. Brandon losing his county job about nine years ago?(I say “falsely accused Mr. Brandon” because it’s my understanding the charges were never proven or even believed by anyone who knew Mr. Brandon). If this is true, we can't gloss over it. If it's not true, may an end be put to the rumors.

It also has been said that Mr. Burrell recently called Mr. Brandon's latest employer and repeated those same unproven charges of sexual harassment about him, which prompted Mr. Brandon's employer to terminate him.

Perhaps all the pertinent information involving this unfortunate incident will be revealed in court. So far, it’s all so sketchy.

It is particularly disturbing that even before this case has been to trial and Mr. Brandon’s innocence or guilt has been proven, someone has suggested the death penalty. What if, and only if, the rumors are true that Mr. Burrell virtually stalked Mr. Brandon and robbed him of his livelihood and happy family life? If that is so, it’s possible that Mr. Brandon is already dead emotionally, spiritually and mentally at the hands of Mr. Burrell. It’s not so farfetched that we should be exploring a double homicide, one of the spirit and one of the flesh –both tragic.

This is indeed a gloomy time for friends and family of Mr. Burrell, Mr. Brandon and Ms. Porter and Mr. Miller. Importantly, it is a time for understanding, for example, understanding that violence is not the best way, as Mr. Burrell’s death shows. It is time to understand the Golden Rule: do unto others as you would have them do unto you.

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escaped injury or murder. I grieve for my own family, Allen's family, Loretha's family, and the human family.

Gloria
Las Vegas, NV

Mar 23, 2006 #16 | **Judge it!** | Report Abuse | **Reply »**

I was a classmate of Carl Brandom. We were very good friends growing up in Mississippi.
It was very surprising to me that he would commit this crime. It grieves my heart for him and his family; also the lawyer's and the other families that were invovled. It has affected the small town, and many of us who live in other cities.

By the way, James Miller and I are cousins, and I hope that his wife Carolyn realizes that God spared she and her family's life. I give God praise for that. I am praying for them all. I pray that those involved can come to a place of forgiveness, because anger only wil produce more harm.
(Gloria Williams), Las Vegas, NV

Carolyn Miller
AOL

Mar 23, 2006 #17 | **Judge it!** | Report Abuse | **Reply »**

> ***Gloria wrote:***
> *I was a classmate of Carl Brandom. We were very good friends growing up in Mississippi.*
> *It was very surprising to me that he would commit this crime. It grieves my heart for him and his family; also the lawyer's and the other families that were invovled. It has affected the small town, and many of us who live in other cities.*
>
> *By the way, James Miller and I are cousins, and I hope that his wife Carolyn realizes that God spared she and her family's life. I give God praise for that. I am praying for them all. I pray that those involved can come to a place of forgiveness, because anger only wil produce more harm.*
> *(Gloria Williams), Las Vegas, NV*

Gloria,

I KNOW that God saved our family. Maybe you should be Christ like and call your cousin and express your empathy directly to him.

CASSANDRA COOK BUTLER
AOL

Jul 11, 2007 #18 | **Judge it!** | Report Abuse | **Reply »**

> ***Joe wrote:***
> *Wow. You understand why this coward shot another human being in the face with a 12 guage shotgun and your heart goes out first to him and his family. He set in his vehicle in ambush to kill another human being. He knew exactly what he was doing, the snuffing out of a life as well as the trauma and devestation he was going to cause Michelle and the kids. What a despicable, cowardly act. My sympathy is with the victims families, and I don't mean the guy who had his house shot into and has to replace some windows. Brandon should face the full wrath of our Justice system ASAP!*

Carl Brandon was a victim also. He had lost his job because someone said he had harrassed them. He lost his reputation and the respect of some. When he tried to move on some vindictive, vicious persons went to his next job and scandalized him. He fought through every legal avenue available to him and found no justice. I am so sorry for him and the entire Brandon family. They are a proud old family who have made Port Gibson their home for over a century
True lives were lost in this tragedy. True families were wounded and have to live with the irrevocable loss of their loved ones.
But Carl's life has been lost also. The rest of his life to be spent in a penal institution. His family also has suffered irrevocable loss.
my sympathy goes out to all concerned.

see
Chicago, IL

Aug 17, 2007 #19 | **Judge it!** | Report Abuse | **Reply »**

What street did you live on in Port Gibson? Did you live near Vine street.

> ***Sarah Kelly wrote:***
> *What ever happened to "Love One Another"? I heard of the disaster / murder and it felt as if my heart was ripped from my body. Not that I don't hear of murders daily but because I cannot believe that my small home town has taken on the same problems as the Big Cities. I am extemeely sorry to know that my classmate was the person who did the shooting. As a young person growing up in that small town and not returning for decades, as I look back on how people in other parts of the country measure up to the people in Small Town Port Gibson, I would Put Carl Brandon as a model from my town. I think he was one of the more intellegent and well manners persons in the class. i cannot imagine this guy waking up one morning to decide that he want to destroy his life and others. I think that this is a tragedy and that fact cannot be denied, but the greater issue is that behind all of this there was a reason. For every action there is a reaction. Sometimes the reaction is hard to understand but it has to be caused by some action first. We can only pray that God will forgive because there are no winners in this situation. Everyone lost something. I am over 18 hundred miles away and have not in that small town in years but I felt a lost.*
> *" May God Bless and don't forget to love ,embrace and forgive one another.*
> *Have a Great Day !!!!!*

see
Chicago, IL

Aug 17, 2007 #20 | **Judge it!** | Report Abuse | **Reply »**

What street did you live on in Port Gibson? Did you live near Vine street?

Tell me when this thread is updated!

WAPT.com

Accused Port Gibson Shooter Arraigned, Denied Bond

POSTED: 11:29 am CST March 20, 2006
UPDATED: 3:07 pm CST March 21, 2006

PORT GIBSON, Miss. -- Carl Brandon walked into his initial court appearance on Tuesday morning without an attorney.

WAPT was not allowed to videotape the proceedings but Brandon certainly had plenty to say.

County prosecutor Michael Keyton told the court Brandon should be denied bond because he's a too dangerous.

"I don't know how you can consider me a danger. I was made a criminal through the system ... The sexual harassment charges made against me were trumped up, yet the system allowed the board of supervisors to take them and run with them," Brandon said in court.

Karl Devine, Brandon's longtime friend, said Brandon never got over the fact that the courts upheld the board's decision to fire him in 1997.

Devine believes the years Brandon spent unsuccessfully trying to clear his name, caused him to finally snap.

"Carl, would always talk about it he said 'The one thing that I want, I just want them to clear my name. They don't have to pay me, they don't have to give me no job, just clear my name," said Devine.

Sheriff Frank Davis said he warned two of the victims of Brandon's alleged shooting rampage, Allen Burell and James Miller, that they might be in danger.

Davis said he even spoke to Brandon the day before the shootings and that Brandon appeared to be visibly upset about being fired.

But Davis said he had no just cause to bring Brandon in and not enough means to keep under constant surveillance.

"We can't stay with anybody 24 hours a day. We can't follow them around. I'm limited on a budget, I'm limited from my board of supervisors as to how much money I have. I'm limited with manpower," said Davis.

Keyton said they would have enough evidence to prove that Brandon should spend the rest of his natural life behind bars.

"We have the witnesses to prove each element of each crime and we'll just see how Mr. Brandon

responds," said Keyton.

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2010 Austin plane crash

Coordinates: 30°23′6″N 97°44′37″W

From Wikipedia, the free encyclopedia

The **2010 Austin suicide attack** occurred on February 18, 2010, when Andrew Joseph Stack III, flying his Piper Dakota, crashed into Building I of the Echelon office complex in Austin, Texas, United States,[4] killing himself and Internal Revenue Service manager Vernon Hunter.[5] Thirteen others were injured, two seriously. The Internal Revenue Service (IRS) field office was located in a four-story[6][7] office building along with other state and federal government agencies.[8] Prior to the crash, Stack had posted a suicide note dated February 18, 2010 to his business website.

2010 Austin Plane Crash



Panorama of the building the day after the plane crash

Location	9430 Research Boulevard Austin, Texas, United States
Coordinates	30°23′6″N 97°44′37″W
Date	February 18, 2010 9:56 local (15:56 UTC)[1] (UTC-6)
Target	Internal Revenue Service field office in Austin, Texas
Attack type	Suicide attack
Weapon(s)	Fixed wing aircraft
Death(s)	2
Injured	13[2]
Victim	Vernon Hunter[3]
Belligerent	Andrew Joseph Stack III

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- 2 Perpetrator
  - 2.1 Suicide note
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Incident

Approximately an hour before the crash, Stack allegedly set fire to his $230,000[9] house located on Dapplegrey Lane in North Austin.[10][11] He then drove to a hangar he rented at Georgetown Municipal Airport, approximately 20 miles to the north.[12] He boarded his single-engine Piper Dakota airplane and was cleared to take off around 9:45 a.m. Central Standard Time.[8][13][14][15] He indicated to the control tower his flight would be "going southbound, sir."[16] After taking off his final words were "thanks for your help, have a great day."[17]

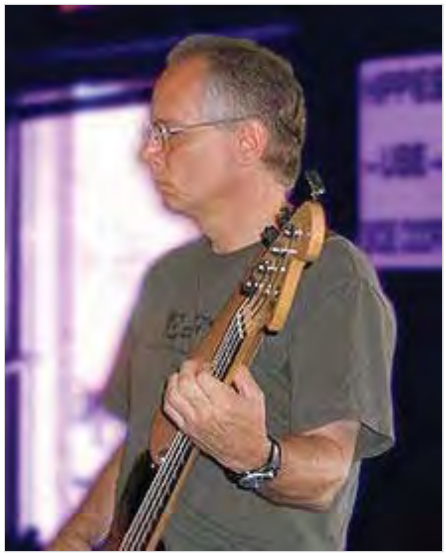
About ten minutes later his plane descended and collided at full speed into Echelon I, a building containing offices for 190 IRS employees, resulting in a large fireball and explosion.[8][18][19] The building is located near the intersection of Research Boulevard (U.S. Route 183) and Mopac Expressway (Loop 1).

Perpetrator

The plane was piloted by Andrew Joseph Stack III of the Scofield Farms neighborhood in North Austin, who worked as an

EXHIBIT 73

embedded software consultant.[10][20][21] He grew up in Pennsylvania and had two brothers and two sisters, was orphaned at age four, and spent some time at a Catholic orphanage.[16] He graduated from the Milton Hershey School in 1974 and studied engineering at Harrisburg Area Community College from 1975 to 1977 but did not graduate.[22][23] His first marriage to Ginger Stack, which ended in divorce, produced a daughter, Samantha Bell.[16][24] In 2007 Stack had remarried to Sheryl Housh who had a daughter from a previous marriage.[16]



Joseph Stack in The Billy Eli Band (2006)

In 1985, Stack, along with his first wife, incorporated Prowess Engineering. In 1994, he failed to file a state tax return. In 1998, the Stacks divorced and a year later his wife filed Chapter 11 Bankruptcy, citing IRS liabilities totaling nearly $126,000. In 1995, Stack started Software Systems Service Corp, which was suspended in 2004 for non-payment of state taxes.[16] It was revealed in CNN and ABC news broadcasts by another software consultant who testified that the IRS had taken away a tax status for software consultants, which might have set off the incident with Stack.[25][26]

Stack obtained a pilot's license in 1994 and owned a Velocity Elite XL-RG plane, in addition to the Piper Dakota (aircraft registration N2889D) he flew into the Echelon building.[16] He had been using the Georgetown Municipal Airport for four and a half years and paid $236.25 a month to rent a hangar.[1] There has been speculation that Stack replaced seats on his aircraft with extra drums of fuel prior to the collision.[9]

Stack's accountant confirmed that he was being audited by the IRS for failure to report income at the time of the incident.[27]

Suicide note

On the morning of the crash, Stack posted a suicide note on his website, embeddedart.com.[21][28][29][30][31] The HTML source code of the web page shows the letter was composed using Microsoft Word starting two days prior, February 16, at 19:24Z (1:24 p.m. CST).[32] The document also shows that it was revised 27 times with the last being February 18 at 06:42Z (12:42 a.m. CST).[32]

In the suicide note, he begins by expressing displeasure with the government, the bailout of financial institutions, politicians, the conglomerate companies of General Motors, Enron and Arthur Andersen, the unions, the drug and health care insurance companies, and the Catholic Church.[31] He then describes his life as an engineer; including his meeting with a poor widow who never got the pension benefits she was promised, the effect of the Tax Reform Act of 1986 on engineers, the September 11 attacks airline bailouts that only benefited the airlines but not the suffering engineers and how a CPA he hired seemed to side with the government to take extra tax money from him. His suicide note included criticism of the FAA, the George W. Bush administration, and a call for violent revolt.

The suicide note also mentions, several times, Stack's having issues with taxes, debt, and the IRS and his having a long-running feud with the organization.[33] While the IRS also has a larger regional office in

Austin, the field office located in Echelon I performed tax audits, seizures, investigations and collections.[33]

The suicide note ended with:[31]

> I saw it written once that the definition of insanity is repeating the same process over and over and expecting the outcome to suddenly be different. I am finally ready to stop this insanity. Well, Mr. Big Brother IRS man, let's try something different; take my pound of flesh and sleep well.
>
> The communist creed: From each according to his ability, to each according to his need.
>
> The capitalist creed: From each according to his gullibility, to each according to his greed.
>
> Joe Stack (1956-2010)
>
> 02/18/2010

Big Brother is the name of George Orwell's fictional omniscient dictator in the novel *Nineteen Eighty-Four*. The phrase "pound of flesh" dates back to William Shakespeare's play *The Merchant of Venice*.[34] The communist creed was penned by Karl Marx.

Aftermath

Killed in the incident along with Stack was Vernon Hunter, a 68-year-old Revenue Officer Group Manager for the IRS and a military veteran of the Vietnam War; Hunter was survived by his wife IRS Revenue Officer Valerie Hunter and their six children.[5][35] Thirteen people were reported as injured, two of them critically. Debris from the crash reportedly struck a car being driven on the southbound access road of Route 183 in front of the building, shattering the windshield.[3] Another driver on the southbound access road of Route 183 had his windows and sunroof shattered during the impact, and had debris fall inside his car, yet escaped uninjured.[5][36] Robin Dehaven, a glass worker and former combat engineer for the United States Army, saw the collision while commuting to his job, and used the ladder on his truck to rescue five people from the building.[37] By coincidence, Travis County Hazardous Materials Team - an inter-agency group of firefighters from outside the City of Austin - had just assembled for training across the freeway from the targeted building, observed the low and fast flight of Stack's plane, and heard the blast impact.[38] They immediately responded, attacking the fire and initiating search-and-rescue.[38] Several City of Austin fire engines for the area of the Echelon building were already deployed at the fire at Stack's home at the time of the impact.[38]

Stack's North Austin home was mostly destroyed by fire.[5][39]

Georgetown Municipal Airport was temporarily evacuated while a bomb disposal team searched Stack's abandoned vehicle.[40]

An inspection into the Echelon building's structural integrity was concluded six days after the incident and a preliminary decision was made to repair the building rather than demolish it.[41]

Response

The United States Department of Homeland Security issued a statement saying that the incident did not appear to be linked to organized international terrorist groups.[8] White House spokesman Robert Gibbs reaffirmed what Homeland Security said, and that President Barack Obama was briefed on the incident.[42] The President expressed his concern and commended the courageous actions of the first responders.[42] The North American Aerospace Defense Command (NORAD) launched two F-16 fighter aircraft from Ellington Airport in Houston, Texas, to conduct an air patrol in response to the crash. That action was reported as standard operating procedure in this situation.[28]

The company hosting embeddedart.com, T35 hosting, took Stack's website offline "due to the sensitive nature of the events that transpired in Texas this morning and in compliance with a request from the FBI."[43][44] Several groups supporting Stack on the social networking website Facebook appeared following the incident and the news of the accompanying manifesto. These were immediately shut down by Facebook staff.[45][46][47]

Austin police chief Art Acevedo stated that the incident was not the action of a major terrorist organization. He also cited "some heroic actions on the part of federal employees" that "will be told at the appropriate time."[48]

The Federal Bureau of Investigation stated that it was investigating the incident "as a criminal matter of an assault on a federal officer" and that it was not being considered terrorism at this time.[49]

However, two members of the United States House of Representatives made statements to the contrary. Rep. Lloyd Doggett (D-Texas) stated, "Like the larger-scale tragedy in Oklahoma City, this was a cowardly act of domestic terrorism." Mike McCaul (R-Texas), told a reporter that, "it sounds like it [was a terrorist attack] to me." Nihad Awad, the Executive Director of the Council on American-Islamic Relations (CAIR), is also asking the federal government to classify this as an act of terrorism. In a statement on February 19, he said, "Whenever an individual or group attacks civilians in order to make a political statement, that is an act of terror. Terrorism is terrorism, regardless of the faith, race or ethnicity of the perpetrator or the victims. If a Muslim had carried out the IRS attack, it would have surely been labeled an act of terrorism."[50] Georgetown University Professor Bruce Hoffman stated that for this to be considered an act of terrorism, "there has to be some political motive and it has to send a broader message that seeks some policy change. From what I've heard, that doesn't appear to be the case. It appears he was very mad at the [IRS] and this was a cathartic outburst of violence. His motivation was the key."[51] A USA Today headline used the term "a chilling echo of terrorism."[19]

Citing the copy of Joseph Stack's suicide note posted online,[31] the liberal Daily Kos website observed that, "Obviously Stack was not a mentally healthy person, and he was embittered at capitalism, including crony capitalism, and health insurance companies and the government." They also noted that while Stack cannot be connected with the popular Tea Party movement, it "should inject a bit of caution into the anti-government flame-throwers on the right."[52] The website Ace of Spades HQ disputed any connection to the movement and additionally stated Stack was not "right wing", citing Stack's criticism of politicians for not doing anything about health care reform.[53]

In an interview with ABC's *Good Morning America*, Joe Stack's adult daughter, Samantha Bell, who now lives in Norway, stated that she considered her father to be a hero, because she felt that now people might listen. While she does not agree with his specific actions involving the plane crash, she does agree with his actions about speaking out against "injustice" and "the government."[24] Bell subsequently retracted aspects of her statement, saying her father was "not a hero" and adding, "We are mourning for Vernon

Hunter."[54]

Five days after her husband Vernon Hunter's death, Valerie Hunter filed a wrongful death lawsuit against Sheryl Mann Stack, Andrew Joseph Stack's widow in District Court. The lawsuit alleges that Sheryl had a duty to "avoid a foreseeable risk of injury to others," including her late husband and failed to do so by not warning others about her late husband. The lawsuit also mentions that Stack was required by law to fly his plane at an altitude 1,000 feet above the highest obstacle.[55] At a March 8, 2010 benefit event, Stack's widow Sheryl publicly offered condolences for the victims of the attack.[56]

Iowa congressman Steve King (R-Iowa) has made several statements regarding Stack including "I think if we'd abolished the IRS back when I first advocated it, he wouldn't have a target for his airplane. And I'm still for abolishing the IRS, I've been for it for thirty years and I'm for a national sales tax (in its place)."[57][58]

Noted libertarian socialist American intellectual Noam Chomsky cited Joe Stack's suicide letter as indicative of some of the public sentiment in the U.S., stated that several of Stack's assertions are accurate or based on real grievances, and urged people to "help" the Joseph Stacks of the world get involved in constructive popular movements instead of letting the Joseph Stacks "destroy themselves, and maybe the world," in order to prevent a process similar to how legitimate and valid popular grievances of the German people in the 1920s and 1930s were manipulated by the Nazis towards violent and away from constructive ends.[59][60]

The Internal Revenue Service formally designates certain individuals as potentially dangerous taxpayers (PDTs). In response to an inquiry after the attack, an IRS spokesperson declined to state whether Stack had been designated as a PDT.[61]

See also

- Tax protester (United States)

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External links

- "Well Mr. Big Brother IRS man... take my pound of flesh and sleep well." - Archive of Stack's suicide note from his website, *Embeddedart.com*
- News related to Plane crashes into office block in Austin, Texas at Wikinews
- News related to Facebook takes down groups supporting Austin crash pilot at Wikinews

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CBS NEWS
POLITICAL HOTSHEET

May 3, 2009 1:07 PM

That's Specter With A "D"

Posted by David S Morgan | 85

The newest member of the Democratic Party, Senator Arlen Specter of Pennsylvania, said his decision to switch parties was motivated by what he viewed as his dismal prospects in the Republican primary in 2010, for which he blamed far-right activists whose interests were not those of the party as a whole — and whom he faulted for the GOP's loss of control in Congress in 2006.

Appearing on **CBS News' *Face The Nation***, Specter said that the party should stop listening to far-right activists like the Club for Growth, which has campaigned against (and sometimes helped defeat) moderate Republicans in primary races, thereby weakening the party's chances in the general election by fielding far-right candidates.



(CBS)

Specter *(left)* said his vote to pass President Obama's stimulus bill caused a "precipitous drop" in support among right-wing GOP members.

"The prospects were very bleak to win the Republican primary," Specter said. Knowing that right-wing conservatives were more likely to participate in primary voting, Specter said, "I simply was not going to put my 29-year record before the Republican primary electorate."

Asked if the Senator's party switch would "mutate" and encourage other Senators to jump over to the President's party, Specter said instead, "It would be my hope that this would be a wake-up call, and the party would move to a broader big tent."

Host Bob Schieffer asked what Specter believes is the problem with the Republican Party today.

"I would tell the party to take the advice of Olympia Snowe," who wrote a scathing New York Times op-ed earlier this week in which she said the party had failed to learn lessons from the 2001 defection of Vermont Senator Jim Jeffords and be more — not less — inclusive.

Specter said the GOP should "try to bring back the party to the Reagan big tent," advocating more diversity.

"I was sorry to disappoint many people," he said of Republicans who had voted for him out of party loyalty. "Frankly, I was disappointed that the Republican Party did not want me as their candidate."

He added that, "as a matter of principle I am becoming much more comfortable with the Democrats' approach."

EXHIBIT 74

While Specter's switch has generated expectations that the Democrats would gain a 60-vote, filibuster-proof majority (pending the outcome of the Minnesota race), **Schieffer** asked the Senator to outline legislative areas where he would not necessarily go along with the Democratic caucus or side with President Obama.

Citing his independence, Specter said that he disagrees on the issue of employee choice -- legislation important to many labor unions.

President Obama allegedly told Specter that he would be looking for the new Democrat's advice, particularly regarding issues on which they do not agree.

On President Obama's pending nomination to fill retiring Supreme Court Justice David Souter's seat, **Specter supported a broader range of experience on the Court and said the future Justice should represent minorities.**

"I would like to see more diversity," he said. "I think another woman. Ultimately maybe now we need a Hispanic; African Americans are underrepresented."

"Would you favor anyone who was not pro-choice on the issue of abortion?" Schieffer asked.

"I would not use a litmus test, Bob," Specter responded, noting that he had supported Justices Rhenquist, Scalia, Ginsberg and Breyer, who have ruled on opposite sides of the abortion issue.

He said he would not support someone who was not mainstream.

"I would like to see someone with broader experience," he said, arguing that all of the current Justices came from the Appeals Court which he said limits their breadth of experience.

"I'd like to see more diversity," he said. "I think another woman would be good. I think that ultimately maybe now we need an Hispanic. African-Americans are underrepresented."

Specter also said that he could envision, and could support, someone who was not a lawyer for the opening seat, acknowledging that there is no Constitutional requirement that a Supreme Court Justice be an attorney.

Surprisingly, after complaining that some party stalwarts are ready to vote him out of office over a single vote, Senator Specter admitted that he himself does not agree with all of the estimated 10,000 votes he has cast during his career.

When nudged by **Schieffer** to reveal which of his votes he regrets, Specter demurred, hastening to add that he is comfortable with his votes on the big issues.

George's Bottom Line

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Sonia Sotomayor's Big Day

September 25, 2009 11:00 AM

With the first Monday in October just around the corner, Justice Sonia Sotomayor sat for an interview with C-Span's Susan Swain and **reveals the dramatic tale of how she came to learn that she was being nominated to the Supreme Court:**

SWAIN: I believe this might be the first time that you sat down with television since your appointment was announced. I'm wondering if you would mind, for history, telling us the story of when you got the telephone call?

SOTOMAYOR: I was told that Monday that the President would - I had been told all weekend that the president would be making up his mind, making his decision sometime on Monday, and I had been sitting in my office from 8:00 that morning waiting for a phone call. The phone calls I got instead were from my family telling me, or asking me what was happening, and I was getting the calls almost hourly. And almost - and every hour I would say, 'I don't know.' Two o'clock was arriving and my family had been told that they would have to start moving to the airport shortly, and so they were more and more anxious about whether they should be going to the airport or not and my response was, 'I don't know.'

Finally, at about 5:00 p.m., they're at the airports and they're still calling asking me whether they should get on the planes, and my response was 'I still don't know. If they haven't pulled you back, I guess you should.' My brother calls me from, I think its Baltimore, he had to make a stop at Baltimore and then take a shuttle over to Washington and he says, should I keep going? I said, 'if they haven't told you to stop you should.'

EXHIBIT 75



It's now nearly 7:00 in the evening, and I call the White House and say, 'Well you're getting my family to Washington, have any of you given any thought about how I'm going to get there?" And they stopped and said, 'Oh I guess we should figure that out, shouldn't we?' Literally that was the response. What I was told was that the president had gotten distracted with some important other business that was going on at the time, and that he would call me at about 8:00 p.m. but that I should go home and pack to come to Washington, and that they would prefer that I didn't take a plane.

So I rushed out of my office, home, put a suitcase on top of my bed, and with my assistant, Theresa, who had come home with me, we started packing a suitcase, and I called a friend to ask him to drive me to Washington. And he came, or was on his way, and at 8:10 p.m. I received a call at my - on my cell phone. The White House operator tells you that the president is on the line.

SWAIN: And you were somewhere on the road at this point?

SOTOMAYOR: Nope, I was in …

SWAIN: Still at home.

SOTOMAYOR: Still at home, still packing. I actually stood by my balcony doors, and I had the - my cell phone in my right hand and I had my left hand over my chest trying to calm my beating heart, literally. And the president got on the phone and said to me, 'Judge, I would like to announce you as my selection to be the next Associate Justice of the United States Supreme Court.'

And I said to him--I caught my breath and started to cry and said, 'Thank you, Mr. President.' That was what the moment was like.

SWAIN: And then what?

SOTOMAYOR: He asked me to make him two promises. The first was to remain the person I

was, and the second was to stay connected to my community. And I said to him that those were two easy promises to make, because those two things I could not change. And he then said we would see each other in the morning. Which we obviously did.

SWAIN: And did you in fact drive?

SOTOMAYOR: Uh-hmm.

SWAIN: What was that drive like?

SOTOMAYOR: Well, it was - it went very quickly in parts because I was working the entire time on my speech for the next day, so I had a draft that they had told me to anticipate making a speech, so I had a draft, but I was still working on it.

SWAIN: It's about - for most people watching this who aren't from this part of the country, it's about four hours plus from New York to Washington?

SOTOMAYOR: It took us a little longer because it started to - a torrential rain started on the drive and it knocked out our GPS, and so we got lost and all of sudden I'm in Virginia and looking up because I had been scrambling on the piece of paper - scribbling on the piece of paper and making changes and all of a sudden I look up and I look at my friend and say, 'Tom, we're not going into Washington, we're going away from Washington, we'd better stop.' So we pulled over on a road and I started calling up a friend and saying please get on the computer and figure out how we get back to where we have to go. And I had a law clerk who was also - my law clerks and my staff and my assistant and everybody had been driving down in separate cars, and he was from Washington and he actually talked us back onto the road and to the hotel.

So it was a very busy five and a half, close to six hours between the rain and getting lost, it was a very eventful night.

SWAIN: It sounds like it, not much sleep before the next day.

SOTOMAYOR: No, we arrived in Washington at 2:30 a.m. I practiced my speech for an hour. The last thing I did before I went to bed was to reread it and try to commit it again to memory. And three hours later when I got up, the first thing I did was to give the speech without the papers in front of me and when I was able to do that I said, I got it. And then I was able to shower and get dressed comfortably.

- George Stephanopoulos

WIMN's Voices: A Group Blog on Women, Media, AND…

Sotomayor and Progress



Posted by michelle garcia

September 29th, 2009

He called. He made an offer. She cried. She thanked him.

Such were some of the details about the 8 p.m. conversation between President Obama and Sonia Sotomayor, then a judge on the 2nd Circuit Court of Appeals, in which he informs Sotomayor that he will announce her as the nominee for U.S. Supreme Court.

But my attention lingers on the two promises Obama asked Sotomayor to keep:

"The first was to remain the person I was, and the second was to stay connected to my community," she said. "And I said to him that those were two easy promises to make, because those two things I could not change."

As we saw in the confirmation hearings, Sotomayor's ethnicity, gender, heritage, public service, judicial philosophy came under fire and Sotomayor while demonstrating intellectual acumen and an impressive cool, did, in fact, distance herself from the very details that define her self.

To witness the substance of "diversity" drained from her nomination, to watch as the race conversation around her quickly get shoved inside the archaic black/white box made clear the lack of understanding about Latinos identity and contribution to U.S. jurisprudence.

The Sotomayor experience spurred me and a few women including our host Professor Cristina Rodriguez to organize a symposium that was held at New York University School of Law.

And from that came a Manifesto, that lays out key challenges regarding Latinos, diversity, legal constructions, a call to action.

While the chattaratti focused on the *"wise Latina"* comment, we might have gained some important insights into her and Latinos by—adding some context to that comment or examining her other writing, such as a paper that examines issues derived from U.S. colonialism. I invite you to listen to my commentary on NPR's Latino USA, and pass around the manifesto.

Sotomayor's elevation to the high court should inspire the many she is said to represent –women, Latinas/non-whites– and the nation that has presumably been enriched by the social advancement that her confirmation heralded, to embrace the challenges that were left in the wake of "progress."



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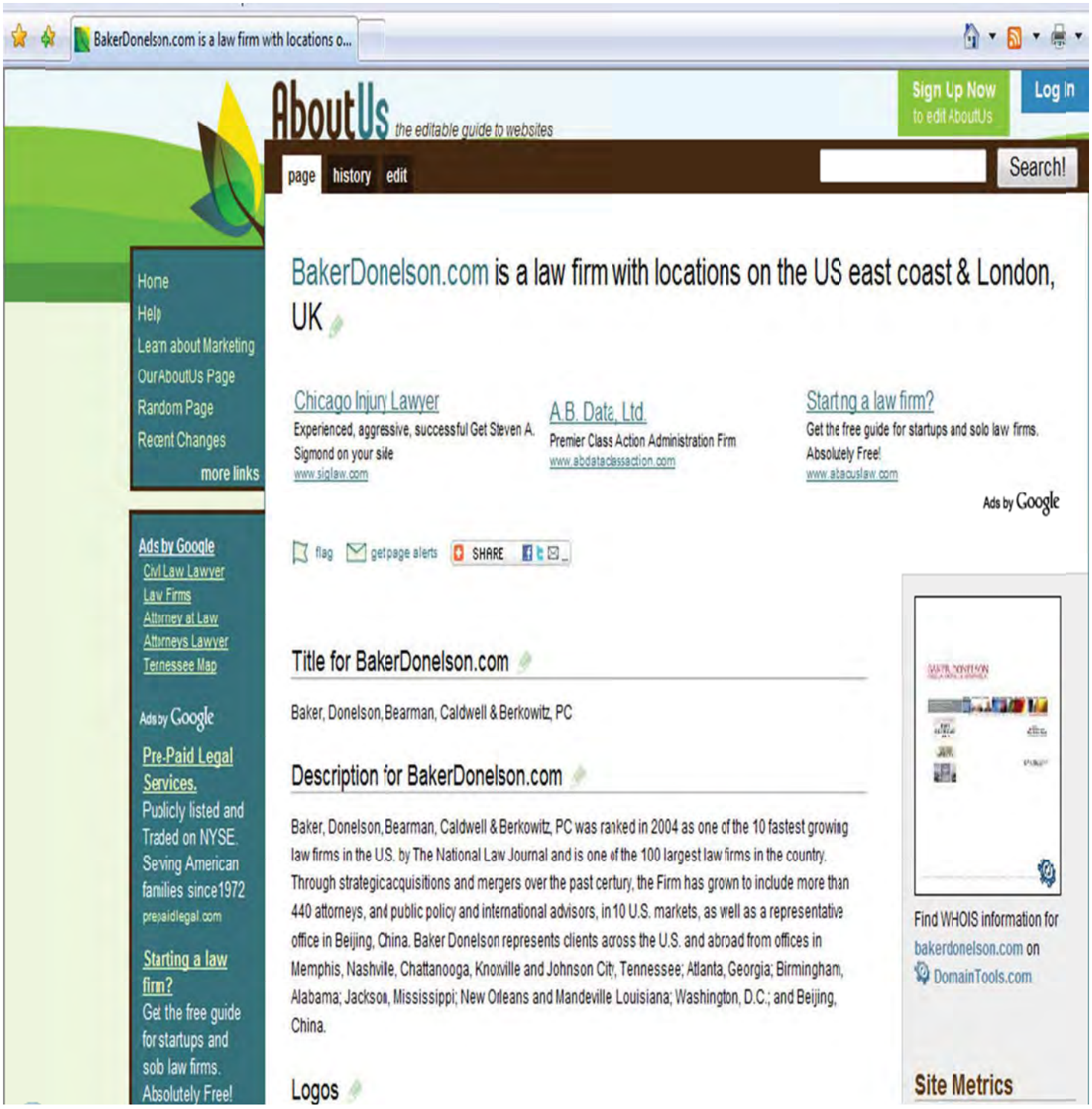
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EXHIBIT 78

Tom Daschle

Current Position: Policy Adviser, DLA Piper (since December 2009)



Credit: Washington Post

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Why He Matters

On Feb. 3, 2009, Daschle withdrew his name from consideration as Barack Obama's nominee for secretary of the Health and Human Services Department after he revealed that he owed until recently $140,000 in back taxes for use of a limousine and driver provided by a business associate. Obama had asked Daschle to spearhead a massive effort to reform health care in the United States and, as such, head the new White House Office of Health Reform.

A former Senate majority leader and currently a fellow at the liberal Center for American Progress (CAP), Daschle was one of the earliest prominent backers of Obama during his run for the White House, and his endorsement gave the green light to other key Democrats to join the Obama bandwagon.

Daschle spent ten years as leader of the Senate's Democratic Party, but only two as majority leader. A liberal with big ideas for health care and international development, he spent most of his Senate career in the minority fighting against the majority Republicans.

One of his biggest accomplishments in the Senate was keeping his party from convicting President Clinton after the House impeached the former president in December 1998. "I always wanted to be an offensive quarterback," he told USA Today when he left the Senate. "But I've been a defensive lineman most of my career."(1)

After leaving the Senate, he worked with the law firm Alston & Bird as a policy adviser, carving out a niche on health-care issues. After the Obama Health Secretary controversy, Dsachle returned to work there. He remained an important but unofficial voice on health reform, as an adviser and through his many allies and aides in influential administraiton positions.

EXHIBIT 79

campaigning against a sitting party leader.(9)

Post-Senate Career and Tax Problems

After leaving the Hill, Daschle stayed involved in politics. He is a distinguished fellow at CAP, a visiting professor at Georgetown University and a policy adviser to the law firm of Alston & Bird.(10) Despite advising clients on a wide range of issues, Daschle was not a registered lobbyist before being nominated as Health and Human Services secretary.

Daschle thought about running for president himself in 2008, but came out as an early Obama supporter.(11) Daschle advised the Obama campaign and led the transition team's health-policy working group. Obama announced he was nominating Daschle as HHS secretary in December 2008.



But trouble soon hit in the form of tax problems. Daschle waited nearly a month after being nominated before revealing that he owed more than $140,000 in back taxes for the use of a car and a driver from a business associate. The former Senate majority leader said had known since June 2008 that he owed back taxes and interest on a car and driver provided by a wealthy New York investor when he was working for a lobbying firm.

Daschle's filings with Obama's ethics team also revealed that after leaving the Senate, the former lawmaker had advised some major health organizations and received income, including $220,000 in speaking fees, from others. Although he was not a registered lobbyist at the time, some said that Daschle should have been.(12)

Although the Democratic Senate would have likely confirmed its former colleague, Daschle's

was the third of Obama's high-profile nominees to disclose tax problems. Treasury Secretary Timothy Geithner was confirmed despite owing $43,000 in back taxes from work at the IMF, and Nancy Killefer, Obama's nominee for chief performance officer, withdrew her nomination because of her failure to pay unemployment compensation for a household employee.

Daschle withdrew his name from consideration as the HHS nominee on Feb. 3, 2009.

Policy Adviser

Daschle resumed his work at Alston & Bird, where he advised interested players on the lay of the land in health reform. He never registered as a lobbyist.

"I'm very proud of the fact that I've drawn a very hard line with regard to advocacy on the Hill," Daschle told the *New York Times* about his role. "I've not made a call nor made a visit since I left the Senate on behalf of a client. And I don't have any expectation that I'll do that in the future." (13)

Daschle left Alston & Bird for the firm DLA Piper, which has a broader global practice, in December 2009.

The Issues

But Daschle's exit from the public arena hasn't stopped him from influencing Obama's health-policy reform effort in an unofficial capacity. And a passel of his former aides remain at the most senior levels of the Obama administration.

Daschle has been trying to reform the health-care system for years. He was a supporter of Hillary Rodham Clinton's 1993 health-care overhaul, which died spectacularly. While in Congress, Daschle worked on providing universal health insurance, and since, he has strongly criticized George W. Bush for refusing to expand funding for the State Children's Health Insurance Program (SCHIP).(14)

His 2008 book, "Critical: What We Can Do about the Health-Care Crisis," co-written with Jeanne Lambrew, lays out his views on how to change the health-care system. In the book, he calls health care the biggest U.S. domestic policy issue and recites stories of Americans who have struggled with poor health care. "Americans with solid, employer-based insurance may believe they are secure, but in our health-care system, everyone is just a pink slip, a divorce or a major illness from financial disaster."(15)

Taking the role of policy adviser at the law firm DLA Piper in late 2009, was "really is an opportunity to immerse myself in international work," Daschle told the *New York Times*. (13)

Federal Health Board

Daschle's key reform would have been the creation of a federal health board, modeled after the Federal Reserve system. As described in his 2008 book, “Critical,” the board would set standards and systems, create guidelines about which treatments and procedures are most cost-effective and have authority over federally funded health-care programs such as Medicare and Medicaid.

The board would write standards for government-run health insurance programs like Medicare, Medicaid and the Veterans Health Administration. Daschle believed the board would effectively encourage private insurers to adhere to its standards. “It would create a public framework for a largely private health-care delivery system,” he wrote in the book.(16)

Daschle envisions a health board composed of independent experts who are above political scuffling. “Congress and the White House would relinquish some of their health-policy decisions to it,” Daschle wrote in his book. “For example, a shift to a more effective drug service would be accomplished without an act of Congress or the White House."(16)

Universal Health Care

In Daschle’s plan, the board was the first step toward achieving universal health care. In 2007 testimony before Congress Daschle said, “There is no excuse in the wealthiest nation in the world for a person to suffer or die needlessly due to financial barriers to care, he said in 2006 testimony before Congress. “We can and must end uninsurance.”(17)

Health-Insurance Consultant Controversy

Daschle had been acting as an informal adviser to the Obama administration on health reform, when, in August 2009, BusinessWeek revealed that Daschle whad also returned to his role advising UnitedHealth, a major insurance company opposed to reform. (18)

"They just want a description of the lay of the land, an assessment of circumstances as they appear to be as health reform unfolds," Daschle told BusinessWeek, saying he left direct discussions with his former colleagues in Congress to others at his law firm. (18)

The Network

Daschle returned to Alston & Byrd after withdrawing his name as an HHS candidate. Former senator and presidential candidate Bob Dole (R-Kan.) is a special counsel at the firm.

But Daschle's former aides and staffers permeate the Obama administration. Obama’s Senate chief of staff, Pete Rouse, is a former chief of staff to Daschle; Obama's congressional liaison Phil Schiliro was Daschle's policy director in 2004. Daschle also worked with Jeanne Lambrew at CAP, and the two wrote a book together. She, along with Mark Childress, were set to be Daschle's deputies at the White House before he stepped down.

Daschle's wife, Linda Daschle, who worked for the Federal Aviation Administration under President Clinton, is a prominent lobbyist for Baker Donelson. Her 2008 clients included Boeing Co., Lockheed Martin and Norfolk Southern.

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16. Tom Daschle, Jeanne M. Lambrew, and Scott S. Greenberger, "Critical: What We Can Do about the Health Care Crisis," New York: Thomas Dunne Books, 2008
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Howard Baker

From Wikipedia, the free encyclopedia

Howard Henry Baker, Jr. (born November 15, 1925) is a former Senate Majority Leader, Republican U.S. Senator from Tennessee, White House Chief of Staff, and a former United States Ambassador to Japan.

Known in Washington, D.C. as the "Great Conciliator," Baker is often regarded as one of the most successful senators in terms of brokering compromises, enacting legislation, and maintaining civility. A story is sometimes told of a reporter telling a senior Democratic senator that privately, a plurality of his Democratic colleagues would vote for Baker for President of the United States. The senator is reported to have replied, "You're wrong. He'd win a majority."

Contents

- 1 Family history
- 2 Political career
  - 2.1 The Senate
  - 2.2 Further activities
  - 2.3 Honors
- 3 Personal life
- 4 See also
- 5 References
- 6 Further reading
- 7 External links

Family history

Baker was born in Huntsville, in Scott County, Tennessee. He attended The McCallie School in Chattanooga, and after graduating he attended Tulane University in New Orleans. During World War II, he trained at a U.S. Navy facility on the campus of the University of the South in Sewanee, Tennessee. He served in the United States Navy from 1943 to 1946 and graduated from the University of Tennessee College of Law in 1949. That same year, he was admitted to the Tennessee bar and commenced his practice. The rotunda at the University of Tennessee College of Law is now

Howard Henry Baker, Jr.



United States Senator from Tennessee
In office
January 3, 1967 – January 3, 1985

Preceded by	Ross Bass
Succeeded by	Al Gore

12th White House Chief of Staff
In office
1987 – 1988

President	Ronald Reagan
Preceded by	Donald Regan
Succeeded by	Ken Duberstein

13th United States Senate Majority Leader
In office
January 3, 1981 – January 3, 1985

Deputy	Ted Stevens (whip)
Preceded by	Robert Byrd (D)
Succeeded by	Bob Dole (R)

15th United States Senate Minority Leader
In office
January 3, 1977 – January 3, 1981

Deputy	Ted Stevens (whip)
Preceded by	Hugh Scott (R)
Succeeded by	Robert Byrd (D)

26th United States Ambassador to Japan
In office
July 5, 2001 – February 17, 2005

EXHIBIT 80

named for him. While delivering a commencement speech during his grandson's graduation at East Tennessee State University (Johnson City), Baker was awarded an honorary doctorate degree on May 5, 2007. Baker is an alumnus of the Alpha Sigma Chapter of the Pi Kappa Phi fraternity.

Baker's father, Howard H. Baker, Sr., served as a Republican member of the United States House of Representatives from 1951 until 1964. He represented a traditionally Republican district in east Tennessee.

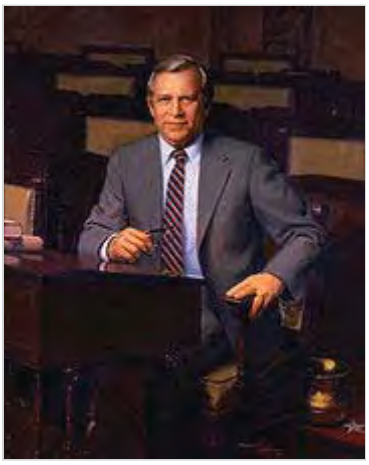
President	George W. Bush
Preceded by	Tom Foley
Succeeded by	Tom Schieffer
Born	November 15, 1925 Huntsville, Tennessee
Nationality	American
Political party	Republican
Spouse(s)	(1) Joy Dirksen (deceased); (2) Nancy Landon Kassebaum
Religion	Presbyterian

Political career

The Senate

The younger Baker began his own political career in 1964, when he lost an election to fill the unexpired term of the late Senator Estes Kefauver to the liberal Democrat Ross Bass. In the 1966 Senate election, Bass lost the Democratic primary to former Governor Frank G. Clement. In the general election, Baker capitalized on Clement's failure to energize the Democratic base, specifically Tennessee labor, and won. He thus became the first elected Republican senator from Tennessee since Reconstruction. (Newell Sanders, a Republican who represented Tennessee in the U.S. Senate from 1912 to 1913, had been *appointed* by Republican Governor Ben W. Hooper when Democrat Robert Love Taylor died in office.) [1]

In 1971, President Richard Nixon asked Baker to fill one of two empty seats on the U.S. Supreme Court. [2] When Baker took too long to decide whether he wanted the appointment or not, Nixon changed his mind and decided to nominate William Rehnquist instead.[3]



Senator Baker

Baker was re-elected in 1972 and again in 1978, and served from January 3, 1967, to January 3, 1985. For the last eight of those years, he led the Senate Republicans, with two terms as Senate Minority Leader (1977–1981) and two terms as Senate Majority Leader (1981–1985). Baker was also the influential ranking minority member of the Senate committee, chaired by Senator Sam Ervin, that investigated the Watergate scandal. He is famous for having asked aloud, "What did the President know and when did he know it?", a question given him to ask by his counsel and former campaign manager, future U.S. Senator Fred Thompson.

Baker was frequently mentioned by insiders as possible nominee for Vice President of the United States on a ticket headed by incumbent President Gerald Ford in 1976 and, according to many sources, a front-runner for this post. Ford, however, in a surprising move, chose Kansas Senator Bob Dole.[4]

Baker ran for President in 1980, dropping out of the race for the GOP nomination after losing the Iowa caucuses to George H.W. Bush and the New Hampshire Primary to Ronald Reagan. Baker's duties as Senate Minority Leader prevented him from campaigning heavily in these important early test races.

Further activities

He did not seek re-election in 1984, and received the Presidential Medal of Freedom the same year. However, as a testament to his skill as a negotiator and honest and amiable broker, Reagan tapped him to serve as Chief of Staff during part of his second term (1987–1988). Many saw this as a move to mend relations with the Senate, which had deteriorated somewhat under the previous Chief of Staff, Donald Regan. (Baker had complained that Regan had become a too-powerful "Prime Minister" inside an increasingly complex Imperial Presidency.) In accepting this appointment, Baker chose to skip another bid for the White House in 1988.[5]

In 2001, the Howard H. Baker, Jr. Center for Public Policy was set up at the University of Tennessee in honor of the former senator. Vice President Dick Cheney gave a speech at the 2005 ground-breaking ceremony for the Center's new building.

Baker is currently Senior Counsel to the law firm of Baker, Donelson, Bearman, Caldwell & Berkowitz.[6] He is also an Advisory Board member for the Partnership for a Secure America, a not-for-profit organization dedicated to recreating the bipartisan center in American national security and foreign policy. Baker also holds a seat on the board of the International Foundation for Electoral Systems', a non-Profit which provides international election support.[7]

Honors

- Presidential Medal of Freedom, 1984.
- Order of the Rising Sun with Paulownia Blossoms, Grand Cordon, 2008 (Japan).[8]

Personal life

Baker has been married to the daughters of two prominent Republicans. Since 1996 he has been married to former U.S. Senator Nancy Landon Kassebaum, the daughter of the late Kansas Governor Alfred M. Landon, who was the Republican nominee for President in 1936. Baker's late first wife, Joy, who died of cancer, was the daughter of former Senate Minority Leader Everett Dirksen. Howard Baker is a Presbyterian.



Howard Baker with Bill Frist, Bob Corker, and Lamar Alexander

See also

- Snail darter controversy

References

1. ^ Hooper himself had been elected governor in 1910, the result of severe division among the Democrats over Prohibition. A large faction of Democrats (calling themselves "independents") endorsed Hooper, joined forces with the Republicans, and put him in. Hooper managed to get reelected in 1912 for a second 2-year term, but by 1914 the Democrats had regrouped and coalesced. During his four years as governor Hooper felt obliged to hire armed bodyguards, including when he was around the Democratic legislature.
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"The Senate commends its former colleague - for a lifetime of distinguished service to the country and confers upon him the thanks of a grateful Nation."

-Senate Resolution, Feb. 17, 2005

Capping a distinguished public-service career as senator, presidential advisor and ambassador, Howard H. Baker, Jr. returned in February 2005 to Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, the law firm his grandfather founded and where he formerly practiced with his father, the late U.S. Rep. Howard H. Baker. As Senior Counsel to the Firm, Senator Baker focuses his practice on public policy and international matters.

Senator Baker's return followed his service as 26th U.S. Ambassador to Japan, a position to which President George W. Bush appointed him in 2001. The appointment was yet another milestone in a public-service career that began in 1966, when Senator Baker became the first Republican popularly elected to the U.S. Senate from Tennessee.

Senator Baker gained national recognition in 1973 as Vice Chairman of the Senate Watergate Committee. Three years later, he was keynote speaker at the Republican National Convention and was a 1980 candidate for the Republican presidential nomination. He concluded his Senate career in 1985 after two terms as Majority Leader (1981 to 1985) and two terms as Minority Leader (1977 to 1981). He was President Reagan's Chief of Staff from February 1987 to July 1988.

A delegate to the United Nations in 1976, Senator Baker has extensive foreign policy experience. He served on the President's Foreign Intelligence Board from 1985 to 1987 and from 1988 to 1990 and is a member of the Council on Foreign Relations and the Washington Institute of Foreign Affairs. He serves on the board of the Forum of International Policy and is an International Counselor for the Center for Strategic and International Studies.

Among his many awards are the 1984 Presidential Medal of Freedom, the nation's highest civilian award, and the Jefferson Award for Greatest Public Service Performed by an Elected or Appointed Official, which he received in 1982. An accomplished photographer, Senator Baker received The American Society of Photographers' International Award in 1993 and was elected into the Photo Marketing Association's Hall of Fame in 1994. He has received honorary degrees from such institutions as Yale University, Dartmouth College, Georgetown University, Bradley University, Pepperdine University and Centre College.

Senator Baker is the author of four books: *No Margin for Error* (1980); *Howard Baker's Washington* (1982); *Big South Fork Country* (1993) and *Scott's Gulf* (2000).

Professional Experience

- U.S. Ambassador to Japan, 2001 to 2005
- Chief of Staff, President Ronald Reagan, 1987 to 1988
- U.S. Senate (R-TN), 1967 to 1985
- U.S. Senate Majority Leader, 1981 to 1985
- U.S. Senate Minority Leader, 1977 to 1981
- U.S. Navy, 1943 to 1946

Professional Honors & Activities

- Recipient - Presidential Medal of Freedom, 1984
- Recipient - Jefferson Award for Greatest Public Service Performed by an Elected or Appointed Official, 1982
- Recipient - Grand Cordon of the Order of the Paulownia Flowers, Japan's

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Practices
International
International Transactions and Trade
Japan Relations
Public Policy - Federal

Awards

LexisNexis
Martindale-Hubbell
Peer Review Rated
For Ethical Standards and Legal Ability
2008

Highest Honor for Civilians, 2008

- Recipient - *American Lawyer* Magazine Lifetime Achievement Award, 2008
- Recipient - United States Capitol Historical Society Freedom Award, 2008
- Delegate - United Nations, 1976
- Member - President's Foreign Intelligence Board, 1985 to 1987, 1988 to 1990
- Member - Council on Foreign Relations
- Member - Washington Institute of Foreign Affairs
- Board Member - Forum of International Policy
- International Counselor - Center for Strategic and International Studies
- Board Member - Maureen and Mike Mansfield Foundation
- Board Member - Museum of Appalachia Foundation
- Member - Citigroup International Advisory Board
- Member - Photo Marketing Association Hall of Fame, 1994
- Honorary Co-Chair - "Saving the Last Great Places of Tennessee" Conservation Campaign, Tennessee Chapter of The Nature Conservancy (2006)
- Listed in *The Best Lawyers in America*® in Government Relations Law and International Trade and Finance Law

Education

- University of Tennessee Law College
- Tulane University
- University of the South

**Names with an asterisk indicate a Baker Donelson professional not admitted to the practice of law.*

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☐ Practices
Public Policy - Federal

Sheila P. Burke, Senior Public Policy Advisor in the Washington, DC office, brings a deep knowledge of federal policy and programs drawn from her distinguished career in the private and public sectors to provide clients with the perspective they need for effective strategic and public policy decision making.

In addition to her role at the firm, Ms. Burke continues as a faculty member at the John F. Kennedy School of Government at Harvard University where she teaches a health policy course and co-directs a public policy simulation exercise. She remains a faculty research fellow at Harvard's Malcolm Weiner Center for Social Policy. From 1996 to 2000, she was Executive Dean and lecturer in public policy at the Kennedy School. She also serves as a Research Professor at the Public Policy Institute as well as a Distinguished Visitor at the O'Neill Institute for National and Global Health Law at Georgetown University.

Ms. Burke served for 19 years on Capitol Hill. Early in her career she was a member of the staff of the Senate Finance Committee responsible for legislation relating to Medicare, Medicaid and other health programs. She ultimately became Deputy Staff Director of the Finance Committee. She went on to serve as Deputy Chief of Staff to Senate Majority Leader Bob Dole and then his Chief of Staff. In these roles she was involved with numerous legislative issues including those related to Medicare, Medicaid and the Maternal and Child Health programs, welfare reform, budget reconciliation and the previous legislative efforts to reform health care. In 1995, she was elected as Secretary of the Senate, the chief administrative officer of the United States Senate.

In addition to her government and academic experience, Ms. Burke served as the Deputy Secretary and Chief Operating Officer of the Smithsonian Institution, the world's largest museum and research complex. As the Chief Operating Officer she had responsibility for the overall operations of the 19 individual museums and galleries, the National Zoo, and nine research facilities located in Washington, DC, five states and 150 foreign countries with revenues of approximately $1 billion and an endowment of $1 billion. During her 7 year tenure at the Smithsonian, she oversaw the completion of the National Air and Space Museum's Udvar-Hazy Center, the National Museum of the American Indian and the renovation of the Smithsonian's Reynolds Center for Art and Portraiture. She was also involved in the initial planning for the National Museum of African American History and Culture. She began her Smithsonian tenure in 2000 as the Undersecretary for American Museums and National Programs becoming Deputy Secretary and Chief Operating Officer in 2004.

Professional Activities

- Member – Board of Directors, The Chubb Corporation, Warren, New Jersey (1997- present)
- Member – Board of Directors, WellPoint Inc., Indianapolis, Indiana (1997-present)
- Member – Kaiser Commission on Medicaid and the Uninsured, Washington, D.C. (1997-present)
- Member – Board of Visitors, School of Nursing and Health Studies, Georgetown University (2003-present)
- Research Professor – Public Policy Institute, Georgetown University (2004-present)
- Member – Board of Directors, Bipartisan Policy Center, Washington, DC (2008- present)
- Member – Harvard Interfaculty Program for Health Systems Improvement (2006- present)

- Distinguished Visitor – O'Neill Institute for National and Global Health Law, Georgetown Law Center, Georgetown University (2007-present)
- Member – Board of Directors Partnership for Public Service, Washington, DC (2007- present)
- Member – Commission to Build a Healthier America, Robert Wood Johnson Foundation, Princeton, New Jersey (2008-present)
- Member – Presidential Advisory Council National Academy of Public Administration, Washington, D.C. (2008-present)
- Chair – Committee on Future Directions for the National Healthcare Quality and Disparities Report, Institute of Medicine, National Academy of Sciences (2009- present)
- Member – National Advisory Committee for the Robert Wood Johnson Foundation's Investigator Awards in Health Policy Research (2009-present)
- Vice Chair – Institute of Medicine Robert Wood Johnson Health Policy Fellowship's Program Advisory Board (2002-2009)
- Member – Board of Trustees, The Henry J. Kaiser Family Foundation (1999-2008); Chairman of the Board (2005-2008)
- Member – Medicare Payment Advisory Commission (MEDPAC) (2000-2007)
- Chair – Committee on the Assessment of the U.S. Drug Safety System, Institute of Medicine, National Academy of Sciences (2005-2006)

Honors

- Fellow – American Academy of Nursing
- Fellow – Institute of Medicine, National Academy of Sciences
- Fellow – National Academy of Public Administration
- Honorary Doctorate in Military Medicine, University of the Uniformed Services (1999)
- Honorary Doctorate of Humane Letters, Marymount University (2005)
- David Rall Medal, Institute of Medicine (2008)
- Robert Mills Award, Smithsonian American Art Museum (2007)
- Smithsonian Institution Exceptional Service Award (2005)

Education

- John F. Kennedy School of Government, Harvard University, M.P.A. (1982)
- University of San Francisco, B.S. Nursing (1973)

*Names with an asterisk indicate a Baker Donelson professional not admitted to the practice of law.

Robert Divine is the Chairman of the Immigration Group of Baker, Donelson, Bearman, Caldwell, & Berkowitz, P.C., a law firm of 560 lawyers and public policy advisors with offices in 14 cities from Washington, D.C. to New Orleans. Mr. Divine served from July 2004 until November 2006 as Chief Counsel and for a time Acting Director of U.S. Citizenship & Immigration Services (USCIS). He is the author of Immigration Practice, a 1,600 page practical treatise on all aspects of U.S. immigration law that is revised and reprinted annually to reflect the law's constant changes. He has practiced immigration law since 1986 and is the current Chair of the American Immigration Lawyers Association's Interagency Committee. His practice includes all aspects of U.S. immigration law, representing large and small international and domestic employers, family sponsors, investment regional centers, and individual foreign nationals. He has also litigated significant business matters, including class action employment discrimination, contract, commercial, product liability, antitrust, ERISA benefits, business torts (including RICO, misrepresentation, Consumer Protection Act), and immigration-related criminal matters.

Appendices

Letter from the Sponsoring Organizations

The initiative for a bipartisan, independent, forward-looking "fresh-eyes" assessment of Iraq emerged from conversations U.S. House Appropriations Committee Member Frank Wolf had with us. In late 2005, Congressman Wolf asked the United States Institute of Peace, a bipartisan federal entity, to facilitate the assessment, in collaboration with the James A. Baker III Institute for Public Policy at Rice University, the Center for the Study of the Presidency, and the Center for Strategic and International Studies.

Interested members of Congress, in consultation with the sponsoring organizations and the administration, agreed that former Republican U.S. Secretary of State James A. Baker, III and former Democratic Congressman Lee H. Hamilton had the breadth of knowledge of foreign affairs required to co-chair this bipartisan effort. The co-chairs subsequently selected the other members of the bipartisan Iraq Study Group, all senior individuals with distinguished records of public service. Democrats included former Secretary of Defense William J. Perry, former Governor and U.S. Senator Charles S. Robb, former Congressman and White House chief of staff Leon E. Panetta, and Vernon E. Jordan, Jr., advisor to President Bill Clinton. Republicans included former Associate Justice to the U.S. Supreme Court Sandra Day O'Connor, former U.S. Senator Alan K. Simpson, former Attorney General Edwin Meese III, and former Secretary of State Lawrence S. Eagleburger. Former CIA Director Robert Gates was an active member for a period of months until his nomination as Secretary of Defense.

The Iraq Study Group was launched on March 15, 2006, in a Capitol Hill meeting hosted by U.S. Senator John Warner and attended by congressional leaders from both sides of the aisle.

To support the Study Group, the sponsoring organizations created four expert working groups consisting of 44 leading foreign policy analysts and specialists on Iraq. The working groups, led by staff of the United States Institute of Peace, focused on the Strategic Environment, Military and Security Issues, Political Development, and the Economy and Reconstruction. Every effort was made to ensure the participation of experts across a wide span of the political spectrum. Additionally, a panel of retired military officers was consulted.

We are grateful to all those who have assisted the Study Group, especially the supporting experts and staff. Our thanks go to Daniel P. Serwer of the Institute of Peace, who served as executive director; Christopher Kojm, advisor to the Study Group; John Williams, Policy Assistant to Mr. Baker; and Ben Rhodes, Special Assistant to Mr. Hamilton.

Richard H. Solomon, President
United States Institute of Peace

Edward P. Djerejian, Founding Director
James A. Baker III Institute for Public Policy,
Rice University

David M. Abshire, President
Center for the Study of the Presidency

John J. Hamre, President
Center for Strategic and International Studies

Lawrence S. Eagleburger—Member

Lawrence S. Eagleburger was sworn in as the 62nd U.S. Secretary of State by President George H. W. Bush on December 8, 1992, and as Deputy Secretary of State on March 20, 1989.

After his entry into the Foreign Service in 1957, Mr. Eagleburger served in the U.S. Embassy in Tegucigalpa, Honduras, in the State Department Bureau of Intelligence and Research, in the U.S. Embassy in Belgrade, and the U.S. Mission to NATO in Belgium. In 1963, after a severe earthquake in Macedonia, he led the U.S. government effort to provide medical and other assistance. He was then assigned to Washington, D.C., where he served on the Secretariat staff and as special assistant to Dean Acheson, advisor to the President on Franco-NATO issues. In August 1966, he became acting director of the Secretariat staff.

In October 1966, Mr. Eagleburger joined the National Security Council staff. In October 1967, he was assigned as special assistant to Under Secretary of State Nicholas Katzenbach. In November 1968, he was appointed Dr. Henry Kissinger's assistant, and in January 1969, he became executive assistant to Dr. Kissinger at the White House. In September 1969, he was assigned as political advisor and chief of the political section of the U.S. Mission to NATO in Brussels.

Mr. Eagleburger became Deputy Assistant Secretary of Defense in August 1971. Two years later, he became Acting Assistant Secretary of Defense for International Security Affairs. The same year he returned to the White House as Deputy Assistant to the President for National Security Operations. He subsequently followed Dr. Kissinger to the State Department, becoming Executive Assistant to the Secretary of State. In 1975, he was made Deputy Under Secretary of State for Management.

In June 1977, Mr. Eagleburger was appointed Ambassador to Yugoslavia, and in 1981 he was nominated as Assistant Secretary of State for European Affairs. In February 1982, he was appointed Under Secretary of State for Political Affairs.

Mr. Eagleburger has received numerous awards, including an honorary knighthood from Her Majesty, Queen Elizabeth II (1994); the Distinguished Service Award (1992), the Wilbur J. Carr Award (1984), and the Distinguished Honor Award (1984) from the Department of State; the Distinguished Civilian Service Medal from the Department of Defense (1978); and the President's Award for Distinguished Federal Civilian Service (1976).

After retiring from the Department of State in May 1984, Mr. Eagleburger was named president of Kissinger Associates, Inc. Following his resignation as Secretary of State on January 19, 1993, he joined the law firm of Baker, Donelson, Bearman and Caldwell as Senior Foreign Policy Advisor. He joined the boards of Halliburton Company, Phillips Petroleum Company, and Universal Corporation. Mr. Eagleburger currently serves as Chairman of the International Commission on Holocaust Era Insurance Claims.

He received his B.S. degree in 1952 and his M.S. degree in 1957, both from the University of Wisconsin, and served as first lieutenant in the U.S. Army from 1952 to 1954. Mr. Eagleburger is married to the former Marlene Ann Heinemann. He is the father of three sons, Lawrence Scott, Lawrence Andrew, and Lawrence Jason.

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The Wireless Future of Health IT

Speaker Biographies

Craig Barrett

Chairman, Intel Corporation
Chairman, U.N. Global Alliance for Information and Communication

Craig Barrett is chairman of the board of Intel Corporation and a leading advocate for improving education in the U.S. and around the world. He is also a vocal spokesman for the value technology can provide in raising social and economic standards globally.

Dr. Barrett joined Intel Corporation in 1974 as a technology development manager. He was named a vice president of the corporation in 1984, promoted to senior vice president in 1987, and executive vice president in 1990. Dr. Barrett was elected to Intel Corporation's Board of Directors in 1992 and was named the company's chief operating officer in 1993. He became Intel's fourth president in May 1997, chief executive officer in 1998 and chairman of the Board on May 18, 2005.

Dr. Barrett also serves as Chairman of the United Nations Global Alliance for Information and Communication Technologies and Development, and is an appointee to the President's Advisory Committee for Trade Policy and Negotiations and to the American Health Information Community. He co-chairs the Business Coalition for Student Achievement and the National Innovation Initiative Leadership Council and is a member of the Board of Trustees for the U.S. Council for International Business and the Clinton Global Initiative Education Advisory Board. Dr. Barrett is a member of the National Governors' Association Task Force on *Innovation America*, the National Infrastructure Advisory Council, the Committee on Scientific Communication and National Security, the U.S.-Brazil CEO Forum and is immediate past chair of the National Academy of Engineering. Dr. Barrett co-chairs Achieve, Inc. and also serves on the Board of Directors of the U.S. Semiconductor Industry Association, the National Action Council for Minorities in Engineering, Dossia, the National Forest Foundation, TechNet and Science Foundation Arizona.

Dr. Barrett attended Stanford University in Palo Alto, California from 1957 to 1964, and received his Bachelor of Science, Master of Science and Ph.D. degrees in Materials Science. After graduation, he joined the faculty of Stanford University in the Department of Materials Science and Engineering, and remained through 1974, rising to the rank of Associate Professor. Dr. Barrett was a Fulbright Fellow at Danish Technical University in Denmark in 1972 and a NATO Postdoctoral Fellow at the National Physical Laboratory in England from 1964 to 1965. Dr. Barrett is the author of over 40 technical papers dealing with the influence of microstructure on the properties of materials, and a textbook on materials science, Principles of Engineering Materials.

The Honorable Nancy L. Johnson

Senior Public Policy Advisor, Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.

After serving 24 years in the U.S. Congress, Nancy Johnson joined Baker Donelson. She served 18 years on the House Ways and Means Committee and played an integral role in the passage of every major tax, trade and health care initiative during years of rapid technological and political change and the globalization of the economy. Ms. Johnson is widely recognized for her acumen and sound analyses of healthcare, tax and trade policies.

As a member and then Chairwoman of the Ways and Means Health Subcommittee, she introduced the national Children's Health Insurance Program and was a principal author of the Medicare Modernization Act. She introduced the health information technology legislation that led to the establishment of the Office of the National Coordinator for Health Information Technology (HIT) and continues to fight for broad adoption of HIT to reduce medical errors and improve care quality. As the Chairwoman of the House Ways and Means Oversight Subcommittee, Ms. Johnson also authored a series of taxpayer rights bills that provided protections for individuals and small businesses and passed legislation to implement the recommendations of the commission to reorganize the IRS to modernize consumer services and enhance agency accountability. In addition, throughout her service on the Ways and Means Committee, she led many reforms of our pension laws, created the Simple Plan for small businesses, helped pass numerous tax incentives to encourage personal savings and co-led passage of the landmark Portman-Cardin reform. Ms. Johnson is a graduate of Radcliff College, Harvard University; attended the University of London, Courtauld Institute; and has received several honorary doctorates.

Thomas Kalil

Deputy Policy Director, White House Office of Science and Technology Policy and National Economic Council

Thomas Kalil is the Deputy Policy Director for the White House Office of Science and Technology Policy and the National Economic Council. Prior to that he was Special Assistant to the Chancellor for Science and Technology at UC Berkeley, where he was charged with developing major new multi-disciplinary research and education initiatives at the intersection of information technology, nanotechnology, microsystems, and biology. Previously, Thomas Kalil served as the Deputy Assistant to President Clinton for Technology and Economic Policy, and the Deputy Director of the White House National Economic Council. He was the NEC's "point person" on a wide range of technology and telecommunications issues, such as the liberalization of Cold War export controls, the allocation of spectrum for new wireless services, and investments in upgrading America's high-tech workforce. He was also appointed by President Clinton to serve on the G-8 Digital Opportunity Task Force (dot force). Prior to joining the White House, Tom was a trade specialist at the Washington offices of Dewey Ballantine, where he represented the Semiconductor Industry Association on U.S.-Japan trade issues and technology policy. Tom received a B.A. in political science and international economics from the University of Wisconsin at Madison, and completed graduate work at the Fletcher School of Law and Diplomacy.

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â€œWhat disqualifies lobbyists from exercising their First Amendment rights?â€ asked J. Keith Kennedy, a top lobbyist for the Washington firm Baker Donelson.

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Published on: 9/5/2006 Last Visited: 3/11/2007

Veteran Public Policy Advisors Keith Kennedy and Lance Leggitt Join Baker Donelson
...
Veteran Public Policy Advisors Keith Kennedy and Lance Leggitt Join Baker Donelson
...
(Memphis, TN/September 5, 2006) Baker, Donelson, Bearman, Caldwell & Berkowitz, PC announces the addition of J. Keith Kennedy and Lance B. Leggitt to its Washington, D.C. office.
...
Mr. Kennedy, who was previously a member of the Firm, rejoins Baker Donelson as managing director of the Washington office and senior public policy advisor after serving as the majority staff director of the U.S. Senate Committee on Appropriations.
...
"We are delighted that Keith is returning, and we look forward to his leadership and unique insights into the legislative branch of U.S. government.
...
Mr. Kennedy, who has 28 years of service in the U.S. Senate, was previously with the Firm from January 1997 until April 2003, holding the positions of senior public policy advisor and co-chair of the public policy group.He most recently served as the majority staff director of the Committee on Appropriations from January 2005 to September 2006, under the chairmanship of Senator Thad Cochran.Mr. Kennedy held the position on two previous occasions, from 1981 to 1987 and 1995 to 1997, under the chairmanship of Senator Mark Hatfield, and is the only person in the history of the Committee to have held the position three times.
...
Prior to his service on the Appropriations Committee, Mr. Kennedy served as the Deputy Sergeant at Arms of the Senate from April 2003 to January 2005.

www.gambrell.com/Bio.aspx?NodeID=32&PersonID=1817 - [Cached Version]
Published on: 2/14/2008 Last Visited: 2/14/2008

J. Keith Kennedy*
...
J. Keith Kennedy is a senior public policy advisor in the Firm's public policy group and the Managing Director of the Washington, D.C. office.He joined the firm in September 2006 after some 28 years of service in the United States Senate.

Mr. Kennedy most recently served as the majority staff director of the Committee on Appropriations from January 2005 to September 2006, under the chairmanship of Senator Thad Cochran.
...
Mr. Kennedy held the position on two previous occasions, from 1981 to 1987 and 1995 to 1997, under the chairmanship of Senator Mark Hatfield, and is the only person in the history of the Committee to have held the position three times.
...
In sum, Mr. Kennedy was the majority or minority staff director of the Senate Committee on Appropriations for 18 of the

Private Corrections Institute, Inc.

April 14, 2008 **SENT VIA FAX**

The Honorable Patrick Leahy, Chairman
Senate Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

RE: Letters in support of Mr. Puryear's nomination from David Randolph Smith, Thurgood Marshall Jr., Wallace W. Dietz, Michael L. Dagley, Jonathon Cole, Gary C. Shockley, Robert J. Walker, Hannah K.V. Cassidy, James F. Sanders and Lisa Ramsey Cole

Dear Chairman Leahy:

According to a recent news report, there has been a "renewed public relations push highlighting the support" of both Democrats and Republicans who have endorsed the pending nomination of Mr. Gustavus A. Puryear IV.

These supporters include attorneys with the firms of Bass Berry & Sims, Baker Donelson et al., Neal & Harwell, Walker Tipps and Malone, and Lewis King Krieg & Waldrop, as well as CCA Board member Thurgood Marshall, Jr. and plaintiff's attorney David Randolph Smith.

Frankly it is good to see bipartisan support for any nominee. I am of the personal opinion that partisan politics should play no part in the selection of judicial candidates, whose nominations should be based primarily on qualifications, experience and fitness for a lifetime appointment to the federal bench. Those who support Mr. Puryear, however, tend to share financial, political and/or professional relationships with his employer, Corrections Corp. of America (CCA).

Wallace W. Dietz and Michael L. Dagley, of Bass Berry & Sims, have endorsed Mr. Puryear's nomination. Bass Berry & Sims lists CCA among the firm's clients, and has represented CCA in connection with public securities offerings. The firm hired former CCA senior director Leslie Hafter to head its lobbying efforts. Also, Bass Berry & Sims partner Lee Barfield II is a brother-in-law of former Senator Bill Frist, who employed Mr. Puryear as his legislative director.

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Gary C. Shockley and Jonathon Cole of Baker Donelson, et al. have submitted letters in support of Mr. Puryear's nomination. Baker Donelson represents CCA as a client. Representatives from both CCA and Baker Donelson sit on the boards of Bethlehem Centers and You Have the Power, two Nashville non-profit agencies. The law firm, which includes former Senator Howard Baker, Jr. as senior counsel, also has strong connections with Senator Lamar Alexander – in fact, Baker Donelson is listed as Sen. Alexander's 4th largest campaign contributor from 2003-2008. CCA was the Senator's second largest contributor over the same period of time. Senator Alexander in turn has very strong connections with CCA that go back over 20 years, including a longstanding relationship with CCA co-founder Tom Beasley, who once served as his campaign manager.

Robert J. Walker, a partner with Walker Tipps and Malone, has endorsed Mr. Puryear. Walker Tipps and Malone has represented CCA as a client, including in the Estelle Richardson lawsuit as well as securities litigation. It was another partner at the firm, J. Mark Tipps, formerly with Bass Berry & Sims, who recruited Mr. Puryear to work for then-Senator Fred Thompson. Mr. Tipps later recommended Mr. Puryear to then-Senator Bill Frist and subsequently introduced Mr. Puryear to CCA CEO John Ferguson, who hired him as CCA's general counsel. Both Mr. Puryear and a Walker Tipps and Malone attorney serve on the board of the Exchange Club.

Hannah K.V. Cassidy, of Reno & Cavanaugh, is supportive of Mr. Puryear. According to the D.C. office of Reno & Cavanaugh, the firm represents CCA as a client. Until several months ago Ms. Cassidy was a partner at Stites & Harbison, and knew Mr. Puryear from his employment at that firm in the 1990's. CCA is listed as a client of Stites & Harbison. Another former partner at the firm, Steve Groom, currently serves as CCA's deputy general counsel. Stites & Harbison and CCA both have representatives who serve on the board of CASA, a Nashville non-profit.

Attorney James F. Sanders of Neal & Harwell provided the Committee with a supportive letter on February 26. As noted in his correspondence, Mr. Sanders represented CCA in the Estelle Richardson lawsuit. Additionally, Neal & Harwell and CCA both have representatives on the advisory board of the Nashville chapter of the Salvation Army.

Lisa Ramsey Cole of Lewis King Krieg & Waldrop has sent a letter to the Committee in support of Mr. Puryear. CCA is a client of Lewis King; further, the firm has a representative on the board of Love Helps Inc., a Nashville-based non-profit that receives financial support from CCA.

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In regard to Thurgood Marshall, Jr., who also has endorsed Mr. Puryear's judicial nomination, Mr. Marshall joined CCA's board of directors in 2002. According to SEC filings, as of August 2007 he owned 7,000 shares of CCA stock either directly or through options to purchase. He thus has a substantial financial stake in CCA's continued success and, of course, has a duty as a board member to be supportive of the company and its officers, including Mr. Puryear.

I am sure that the persons discussed above, who have expressed support for Mr. Puryear, have a genuine liking for him both personally and professionally as indicated in their correspondence. However, to the extent that they *all* also have interconnected professional, financial or business ties with CCA, including paid client relationships, their support of Mr. Puryear, which serves to strengthen those ties, should be taken into consideration by the Committee members.

Further, much has been made of a letter sent to the Committee by David Randolph Smith, the plaintiff's attorney in a lawsuit filed against CCA by Estelle Richardson's family. Mr. Smith, a Democrat, strongly endorsed Mr. Puryear's nomination; further, Mr. Puryear cited Mr. Smith's comments in his written answers submitted to the Committee.

I spoke with Mr. Smith last February and we had a candid conversation as to why he wrote his letter. As that was a private discussion, until recently I have not disclosed Mr. Smith's underlying motivation as it was relayed by him to me. In fact, when PCI provided the Judiciary Committee with its Response to Mr. Puryear's written answers in a March 7 letter, I stated as follows:

> "Mr. Puryear cited a letter from David Randolph Smith, one of the attorneys who represented Ms. Richardson's family in the lawsuit against CCA. I spoke with Mr. Smith and he related to me the underlying reasons why he sent his letter to the Committee. I am not at liberty to disclose those reasons as communicated to me during our private conversation; it is up to Mr. Smith to inform the Committee as to the true motivation behind his letter."

On April 10, the *Nashville City Paper*, a free local daily, published an article which cited Mr. Smith's letter and, based on an interview, quoted his stated reasons for endorsing Mr. Puryear's nomination. As Mr. Smith went on the record, I am now free to do so myself.

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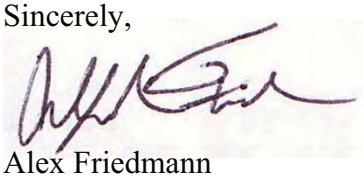
In my conversation with Mr. Smith, he stated to me – twice – that he supported Mr. Puryear's nomination because he did not want a "right-wing religious nutjob" confirmed in his stead. He felt that Mr. Puryear was more of a moderate and feared who might be endorsed by Tennessee's Republican Senators if Mr. Puryear was not confirmed. Mr. Smith made it clear to me that he preferred not to have a Republican judicial nominee period, but that Mr. Puryear was the least objectionable candidate.

Mr. Smith has acknowledged that he used the phrase mentioned above – which was, in part, a motivating factor for the letter he sent to the Committee – in an on-the-record conversation with the managing editor of the *Nashville Scene*, an independent local weekly publication. Mr. Smith further stated that he liked Mr. Puryear both personally and professionally.

Certainly, the Committee members should look at the totality of the statements and evidence they have received relative to Mr. Puryear's nomination, and weigh it accordingly. In order to do so with accuracy, I believe the information presented in this letter will be helpful.

Sincerely,



Alex Friedmann
Vice President, PCI

cc: Senator Arlen Specter, Ranking Member

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Labor & Employment

President Obama nominates David Michaels to lead OSHA

Alert

by Mary LeAnn Mynatt
July 31, 2009

On July 28, the White House announced that President Obama had selected epidemiologist David Michaels, Ph.D, MPH, to head OSHA as Assistant Secretary of Labor. Mr. Michaels must be confirmed by the Senate. He has prior government experience, serving as the Department of Energy Assistant Secretary for Environment, Safety and Health during the Clinton Administration. One of his achievements at DOE was to aid the passage of the Energy Employees Occupational Illness Compensation Program Act of 2000, designed to compensate nuclear weapons workers who developed illnesses as a result of exposure to radiation and chemicals in the workplace.

Dr. Michaels is currently a research professor and interim chair of the Department of Environmental and Occupational Health at the George Washington University School of Public Health and Health Services. There, his work includes studying the health effects of occupational exposure to toxic chemicals, including asbestos, metals, and solvents. In testimony before a Senate committee in 2007, Michaels expressed concern about several issues, including the underreporting of workplace injuries and illnesses, lack of new standards promulgated by OSHA, insufficient use of OSHA's General Duty Clause as an enforcement tool, and the outdated health standards still in place. Mr. Michaels' nomination has been hailed by Democrats. U.S. Representative George Miller (D-Cal.) stated that Mr. Michaels will help OSHA "restore vital health and safety protections for America's workers."

Dr. Michael's nomination comes at a particularly pivotal time for OSHA. Perhaps more so than at any time since its creation in April 1971, labor and Democratic leaders are clamoring to enhance enforcement and increase the promulgation of new regulations concerning workplace standards. The proposed Protecting America's Workers Act (HR 2067) would, among other things, expand OSHA's coverage to include more workers. It would also allow felony prosecutions against employers under certain conditions, raise civil penalties, and set mandatory minimum penalties for violations resulting in death. Following eight years of relative quiet - fewer OSHA regulations were promulgated under the Bush Administration than any other president - such changes would reinvigorate the agency. As a result, there's a backlog of initiatives to track, including combustible dust, diacetyl, new health standards, and a possible resurrection of the ergonomics standard. Representative Lynn Woolsey (D-Cal.) stated that OSHA will be able to "issue long overdue safety standards and bring back more vigorous enforcement of workplace safety and health standards."

Given the renewed emphasis on workplace conditions, employers should pay strict attention to matters that could be deemed administrative in nature, such as properly maintaining OSHA 300 Logs for Injuries and Illnesses. In addition, during this economic downtown, disgruntled ex-employees may be even more prone to claiming retaliatory discharge following allegations of health and safety violations in the workplace. Employers should also expect more OSHA attention and resources devoted to inspections and enforcement. OSHA routinely tracks not only the number of inspections but those that result in of citations, with a goal of issuing a citation with every inspection. Finally, employers should carefully evaluate their workplaces for hazards, regardless of whether a specific regulation addresses a particular hazard, given Dr. Michaels's stated desire to increase the use of the General Duty Clause as an enforcement tool.

Our attorneys have conducted onsite OSHA presentations to members of clients' management, safety teams, safety departments and line employees, and have advised clients, including an

asbestos-certified contractor, on OSHA, EPA and TDEC asbestos regulatory requirements. We work closely with clients to enhance their safety and health programs to include OSHA compliance as well as an Industrial Risk Management program. We stand ready to assist you with these and other labor and employment-related challenges. For assistance, please contact your Baker Donelson attorney or any of our nearly 70 Labor & Employment attorneys in the Firm's Labor & Employment Department, located in *Birmingham, Alabama*; *Atlanta, Georgia*; *Baton Rouge*, *Mandeville* and *New Orleans, Louisiana*; *Jackson, Mississippi*; and *Chattanooga*, *Johnson City*, *Knoxville*, *Memphis* and *Nashville, Tennessee*.

Baker Donelson gives you what boutique labor and employment firms can't: a set of attorneys who are not only dedicated to the practice of labor and employment issues, but who can reach into an integrated and experienced team of professionals to assist you in every other aspect of your legal business needs. We set ourselves apart by valuing your entire company. And when it comes to your company's most valuable asset - your employees - we're committed to counseling with and advocating for you every step of the way.

Baker Donelson hosts breakfast briefings, roundtables and seminars that may be of interest to you. For more information, please click here.

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Empiric Announces Proposed Major Dividend Spin-Off to Its Shareholders.

Publication: Business Wire

Date: Tuesday, January 11 2000

300 private and public entities in over 100 countries. Currently the firm has two contracts with a private-sector organization in Lima, Peru that are subject to the buyer obtaining financing and other conditions. There is no certainty that these contracts will be consummated. One is for composite structures, the other to be fabricated from metal. The first contract is for a minimum of 36,000 basic structural units over three years, utilizing composite material, and a minimum sales value of $67.5 million. The second contract is to purchase 22 million square feet of the metal system over a year for a total of $121 million. The Export-Import Bank of the US expressed interest in financing the two contracts. Daedalus staff visited Peru and planning continues a pace toward commencement of production and for support from government users, banks, and local officials. In addition to the foregoing, Daedalus has a letter of intent from an Argentinean company for the purchase of 20 units upon the successful demonstration of initial housing units.

Daedalus is currently negotiating contracts to construct basic shelter and low-cost housing in various countries including Philippines, Turkey, Honduras, South Africa, Vietnam and Pakistan.

The outstanding, unusual and potentially worldwide high profile business enterprise and the acceptance of its products on a worldwide basis has attracted a team of prominent individuals to Daedalus' Management and Board of Directors.

Admiral James A. "Ace" Lyons, Jr., U. S. Navy Retired, will serve as the Chairman of the Board. Mr. Lyons is President and CEO of LION Associates, an international consulting firm.. Mr. Lyons served for 36 years as an officer in the U. S. Navy, including serving as Commander-in-Chief of the U. S. Pacific Fleet, the largest single military command in the world. In addition, he served as the Senior U. S. Military Representative to the United Nations, as well as serving in various military and civilian leadership capacities in China, Japan, Philippines, Russia and other Pacific rim countries.

Mr. George C. Montgomery, a graduate of Vanderbilt University, with a Juris Doctor degree, former member of the law firm of Vinson & Elkins, and is currently the managing partner in the Washington law firm of Baker, Donelson, Bearman & Caldwell. Mr. Montgomery served as Ambassador of the United

States to the Sultanate of Oman under President Reagan in 1985, and currently is a member of the Council on Foreign Relations, on the Board of Visitors of the Georgetown University School of Business, and a Captain in the United States Naval Reserve. Mr. Montgomery served as Chief Legislative Assistant Counsel to Senator Howard H. Baker, Jr., the Majority Leader of the United States Senate in 1981. . . .

Ducks Unlimited Mourns the Loss of a Conservation Leader

The Ducks Unlimited family mourns the untimely passing of a paragon of conservation, and our friend, Jim Range.

Jim Range was a strong and accomplished proponent of countless conservation initiatives especially, but not exclusively focusing on public policy work. His commitment to wetlands and waterfowl habitat was legendary. He served as Secretary on the Ducks Unlimited Board of Directors, was a major donor, a charter member of the Ducks Unlimited Feather Society, and was the co-founder of the Ducks Unlimited Federal City Chapter – the first and only Ducks Unlimited chapter in Washington, D.C.

Jim was also an active supporter of Ducks Unlimited's Wetlands America Trust, where he served on the Board of Directors from 1993-1998 and again from 2000-2006. He served as Secretary of that Board from 1995-1998.



Jim was involved in the leadership of many other conservation organizations, most notably as founder and Chairman of the Board of the Theodore Roosevelt Conservation Partnership.

In his professional life, Jim was a Senior Legislative Policy advisor for Baker, Donelson, Bearman, Caldwell and Berkowitz law firm, where he specialized in conservation advocacy and environmental, regulatory, and legislative policy. Earlier in his career on Capitol Hill, Jim was instrumental in the creation or reauthorization of many of the nation's most important and notable conservation laws.

Fittingly, a memorial service for Jim will be held in Washington, D.C. at an area he liked to frequent on the Potomac River, one of his favorite pastimes while in Washington.

Please join us in remembrance and appreciation for a staunch advocate for, and friend of waterfowl, waterfowlers and wildlife.

We pass appreciation for the life and work of Jim, along with our sympathies to his family.

D.A. (Don) Young
Executive Vice President
Ducks Unlimited

James D. Range Obituary

James D. Range, 63, died peacefully, surrounded by family and loved ones, on Tuesday, January 20 at the Mayo Clinic in Rochester, Minnesota after an extraordinarily courageous battle with kidney cancer.

Range was one of the nation's most prominent champions of natural resource conservation. He was known in Washington and throughout the United States as a skilled policy strategist with an extraordinary bipartisan network of friends and contacts. Along with his political adeptness, he possessed an oratorical gift and was known as someone who always spoke from his heart with passionate conviction. A life-long outdoorsman, Range was instrumental in the conservation and continued protection of many different corners of the American landscape and was a passionate advocate for the country's fish and wildlife and their habitat. Perhaps best known as a long-time advisor to former Senate Majority Leader Howard Baker, he also was known personally to countless people as a beloved confidant, friend and mentor.

At the time of his death, Range worked as senior policy advisor in the law firm of Baker, Donelson, Bearman, Caldwell & Berkowitz and served as Chairman of the Board of the Theodore Roosevelt Conservation Partnership, an organization he co-founded in 2002. He was instrumental in the founding of the Bipartisan Policy Center and worked as an advisor to that organization.

Mr. Range was chief counsel to Senator Baker during the period between 1980 and 1984 when the senator served as Majority Leader. From 1973 to 1980, Range served as minority counsel to the U.S. Senate's Committee on the Environment and Public Works. He was counsel to the National Commission on Water Quality in 1972.

From 1984 through 1992, Range worked as Vice President of Government Affairs for Waste Management, Inc., and from 1992 to 1994, Range served in the identical capacity for Rust International, Inc., a subsidiary of WMX Technologies, Inc.

"Jim Range was a dedicated, loyal and trusted member of my staff who helped to fashion some of this country's most vital environmental legislation," Sen. Baker said. "Of all his efforts to promote comprehensive oversight concerning clean air and clean water, Jim was especially helpful with a project that was of particular importance to me. He was an essential part of the team that was able to come up with a unique approach that allowed the creation of the Big South Fork National River and Recreation Area located in Tennessee and Kentucky. Were it not for Jim Range and a few others, this idea would have never been possible. Jim and I continued working together, outside of our formal positions in government, to try to influence responsible care for our country's all important natural resources in a bipartisan spirit. I will miss Jim's counsel, but more importantly, I will miss him."

In his 1986 book "Running in Place: Inside the Senate," James A. Miller described Range as "… a legislative cowboy – a southern, tough-talking, Jack Daniels-drinking, boyishly handsome, charismatic lawyer who long ago made the right connections on his way up north. … At 36, the blustery Range has become one of a handful of key aides recognized by senators and staff alike as an authoritative source of crucial information about the Senate's agenda."

Many of Jim's beneficial contributions to natural resource law are well-known. He played an instrumental role in the crafting and final passage of a string of landmark laws, including the Clean Water Act, but his true cumulative influence on behalf of America's fish and wildlife resources is inestimable. Jim attributed much of the success he and his colleagues had in the policymaking arena to their ability to work in a bipartisan fashion, putting America's outdoor resources above party politics. He often paraphrased President Ronald Reagan, saying, "It's amazing what you can get done in this town when you don't worry about who gets the credit."

Aside from service as Chairman of the Theodore Roosevelt Conservation Partnership's Board of Directors, Range served on the Boards of Directors for Trout Unlimited, Ducks Unlimited, the Wetlands America Trust, the Recreational Boating and Fishing Foundation, the American Sportfishing Association, the American Bird Conservancy, the Pacific Forest Trust, the Yellowstone Park Foundation, and the Bonefish and Tarpon Trust.

An original board member and Chair of the National Fish and Wildlife Foundation, Range also was a White House appointee to the Interstate Commission on the Potomac River Basin, the Sportfishing and Boating Partnership Council and the Valles Caldera Trust.

In 2003, Range received the U.S. Department of the Interior's Great Blue Heron Award, the highest honor given to an individual at the national level by the Department. He was also awarded the 2003 Outdoor Life Magazine Conservationist of the Year Award and the Norville Prosser Lifetime Achievement Award presented by the American Sportfishing Association.

Range was profiled by Time magazine in 2005 for his efforts to expand the availability of conservation easements, and a Wall Street Journal story that same year highlighted Range's successful efforts to engineer the rollback of an excise tax that was unintentionally placing American fly rod manufacturers at a huge competitive disadvantage. Of Range and Rod DeArment, a former chief of staff to Bob Dole when he was Senate majority leader, the Journal reported, "The men worked together to push through pillars of the Reagan agenda -- tax cuts in 1981 and the last big reform of the Social Security system in 1983 -- but also were allies in a little-noticed 1984 law that placed excise taxes on fishing gear and some motor fuels into a trust fund that sponsored state programs to clean up rivers and improve fishing ecosystems."

When still serving as chairman of the Senate Energy and Natural Resources Committee, Senator Pete Domenici of New Mexico said of Range, "Jim Range has been one of those rare individuals who

has dedicated his life to bringing opposing parties together to unite for a common good. He did it as a senior staff in the United States Senate working on clean air, clean water, and wildlife issues. He is still doing it in the conservation field now with the Theodore Roosevelt Conservation Partnership. I truly believe that if extremists on both sides of the environmental spectrum could learn from Jim's wisdom and work, the whole country would be better off."

Range enjoyed a wide variety of outdoor activities, but loved hunting and fishing the most. He pursued both passions all over the world but ended up falling in love with Montana and its trout and game birds. He spent as much time as he could at his property on the Missouri River in Craig, Montana, the Flyway Ranch. Range graciously hosted many important events over the years for leaders from political, business, non-governmental organization and media circles. It was his personal bastion of respite as he found relief from his many commitments and busy schedule on the waters of the Missouri River with a fly rod in his hands.

In addition to hunting and fishing Jim enjoyed pastimes close to home. Jim was an avid backyard birder and loved tending to his perennial garden. He had a special place in his heart for orchids, which he raised in a greenhouse dedicated to that purpose. He had a multitude of bird feeders that he faithfully replenished throughout the year. Jim's back garden in the springtime was a magical oasis of colorful blossoms and birds, scent and song, where he loved to work in the early morning and relax in the evenings. Jim was also a renowned gourmet cook. Friends far and wide were drawn to his table, where they knew they would enjoy an exceptional meal—usually featuring fresh game or fish—numerous libations and lively political debate that would last late into the early morning hours.

Growing up in Johnson City, Jim learned his love of the outdoors in the mountains of Tennessee. He was an Eagle Scout, acting as an aquatics instructor at Camp Tom Howard, attending National Camping School and working at Philmont Scout Ranch. He attended Science Hill High School. Range attained a B.S. degree at Tulane University, a M.S. in fisheries biology from Tennessee Tech, and graduated from the University of Miami School of Law.

Jim is survived by twin daughters Kimberly Range Truesdale and Allison Range, both of Arlington, Va.; his father Dr. James J. (Bud) Range of Johnson City, Tenn. and Marco Island, Fla.; brothers Harry of Marietta, Ga., John Neel of Braselton, Ga. and Peter of Richmond Hills, Ga.; and friend Anni Ince-McKillop and her two children, Greg and Jess McKillop of Washington, DC. Range was preceded in death by his mother, Estelle Range.

THE WHITE HOUSE
PRESIDENT
GEORGE W. BUSH

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For Immediate Release
Office of the Press Secretary
August 1, 2001

President Bush to Nominate Six Individuals to Serve as US Attorneys and Two Individuals to Serve as Members of the Federal Judiciary

President George W. Bush today announced his intention to nominate six individuals to serve as United States Attorneys and his intention to nominate two individuals to serve as members of the federal judiciary.

The President intends to nominate Timothy M. Burgess to be United States Attorney for the District of Alaska. He has served as an Assistant United States Attorney in the District of Alaska since 1989, and was an Associate with Gilmore and Franklin in Anchorage, from 1987 to 1989. Burgess received his undergraduate degree and M. B. A. from the University of Alaska and his J. D. from Northeastern University.

The President intends to nominate Harry S. Mattice, Jr. to be United States Attorney for the Eastern District of Tennessee. He is presently Of Counsel to Baker, Donelson, Bearman and Caldwell in Chattanooga. In 1997, he served as Senior Counsel to the United States Senate Committee on Government Affairs. From 1981 to 1997, and then again from 1998 to 2000, Mattice was with Miller and Martin in Chattanooga, first as an Associate and then as a Partner. He received both his undergraduate and law degrees from the University of Tennessee.

The President intends to nominate Robert G. McCampbell to be United States Attorney for the Western District of Oklahoma. He is currently a Partner with Crowe and Dunlevy in Oklahoma City, and from 1987 to 1994, he was an Assistant U.S. Attorney for the Western District of Oklahoma. Before joining the U.S. Attorneys office, he was an Associate with Crowe and Dunlevey. He is a graduate of Vanderbilt University and Yale Law School.

The President intends to nominate Paul J. McNulty to be United States Attorney for the Eastern District of Virginia. He presently serves as Principal Associate Deputy Attorney General at the U.S. Department of Justice and from 1999 to 2001, he was Chief Counsel and Director of Legislative Operations in the Office of Majority Leader of the House of Representatives. From 1995 to 1999, he served with the House of Representatives Judiciary Committee, first as Chief Counsel to the Subcommittee on Crime and then as Director of Communications and Chief Counsel to the Committee. McNulty was Counsel to Shaw, Pittman, Potts and Trowbridge from 1993 to 1995, and he served with the Department of Justice from 1990 to 1993 as Deputy Director of the Office of Policy Development and then as Director and Chief Spokesman for the Office of Policy and Communications. He was Minority Counsel to the House Judiciary Subcommittee on Crime from 1987 to 1990, and from 1985 to 1987 he was Director of Legal Services at the Legal Services Corporation. From 1983 to 1985, he served as Counsel to the U.S. House Committee on Standards of Official Conduct. He is a graduate of Grove City College and Capital University School of Law.

The President intends to nominate Michael W. Mosman to be United States Attorney for the District of Oregon. He has served as Assistant U.S. Attorney for the District of Oregon since 1988. From 1986 to 1988, Mosman was an Associate with Miller, Nash in Portland. He is a graduate of Utah State University and Brigham Young University Law School.

The President intends to nominate Strom Thurmond, Jr. to be United States Attorney for the District of South Carolina. He has served as Assistant Solicitor for the Second Judicial Circuit for South Carolina since 1999. From 1998 to 1999, he was a Partner with Strom, Young and Thurmond. He received both his undergraduate and Law degrees from the University of South Carolina.

The President intends to nominate Marian B. Horn to be a Judge of the United States Court of Federal Claims.

The President intends to nominate Charles F. Lettow to be a Judge of the United States Court of Federal Claims.

John Tuck is a Senior Policy Advisor at Baker, Donelson, Bearman & Caldwell. From February 1989 to 1992, Tuck served as the former Under Secretary of Energy. Prior to working at the Energy Department, he served in several positions at the White House including Assistant to the President. From 1981 to 1986, Tuck worked in the U.S. Senate as Assistant Secretary for the Majority, and also held a number of other positions on Capitol Hill including Chief of the Minority Floor Information Services from 1977 to 1980. Mr. Tuck was commissioned in the U.S. Navy from 1967 to 1973 and served as a Captain in the Naval Reserve until he retired in 1994. He holds a bachelor's degree from Georgetown University.

Eric Washburn



Eric Washburn, Partner, has extensive expertise in energy and environmental policy in both the public and private sectors.

Prior to joining BlueWater Strategies, Mr. Washburn ran his own consulting firm and was a senior public policy advisor at Baker, Donelson, Bearman, Caldwell, and Berkowitz where he provided business and governmental affairs advice to industry, non-profit and philanthropic foundation clients on a broad range of natural resources and energy issues.

For over ten years prior to that, Mr. Washburn worked in various policy-making and management capacities in the United States Senate. From June 2001 until 2003, he worked for then-U.S. Senate Majority Leader Thomas A. Daschle as a senior policy advisor, overseeing development and U.S. Senate passage of the Energy Policy Act of 2002. Previously Mr. Washburn worked for Senator Harry Reid as the Democratic staff director of the Senate Environment and Public Works (EPW) Committee. Before joining the EPW Committee, he was Senate Democratic Leader Daschle's legislative director for four years, during which time he wrote the legislation establishing the national renewable fuel standard.

Mr. Washburn's initial service in Congress was as a legislative assistant to Senator Daschle for energy and environmental issues, where he led the development of Senate Democratic Caucus strategy on a range of issues, including energy-related tax policy, renewable energy, oil and gas extraction, global climate change, and the Clean Air Act.

Prior to working in the U.S. Senate, Mr. Washburn consulted with the Natural Resources Defense Council (NRDC), the Natural Resources Council of Maine (NRCM), and the Congressional Office of Technology Assessment. Mr. Washburn is also currently counsel to the Bipartisan Policy Center/National Commission on Energy Policy and to the American Coalition for Ethanol.

Mr. Washburn holds a master's degree in forest science from the Yale University School of Forestry and Environmental Studies and a bachelor's degree in psychobiology from Bowdoin College. He and his wife, Robin, have two children.

About David Baria



David Baria was born and raised on the Mississippi Gulf Coast in Jackson County. After growing up in Escatawpa and graduating from Moss Point High School, he attended the University of Southern Mississippi where he earned a degree in Criminal Justice. David later obtained a law degree from the University of Mississippi in 1990.

After law school David took a job practicing law in Jackson. In 1991 he married his wife, the former Marcie Fyke, of Jackson. They had three children, Darden (now deceased), Merritt and Bess.



David established a successful law practice in Jackson and was the founding member of Baria, Fyke, Hawkins & Stracener. Over the years David had a varied practice that focused on representing people who had been denied insurance benefits. His practice also brought him into frequent contact with the lawmakers in Jackson and he was asked on several occasions to provide written opinions on various insurance issues as well as testimony before the legislature.

In early 2004, David fulfilled a life-long dream of returning to the Mississippi Gulf Coast and settled with his family in Bay Saint Louis. On August 29, 2005, like so many others here, David and his family lost their home and everything in it.

After these catastrophic events, David knew that taking care of his family was more important than anything else. After securing them, what mattered to him most was returning to Coast as soon as possible to begin rebuilding the place he so loved. At the same time, he left the law practice and established a construction/demolition company to help with the recovery efforts on the Coast. David is now the CEO of Rhino Construction and has been engaged in the construction/demolition business since Katrina.

It is David's life-long love of the Coast and his wish to see the people here back on their feet that has lead him to seek office as your State Senator.



David believes that with proper leadership there are many issues that can be aggressively addressed in Jackson with results that will benefit the people of Hancock and Harrison Counties. He stands ready, willing and able to take on the tough insurance issues

Recent Updates

Legislative Priorities
January 7, 2009
Legislative Agenda
Sun Herald Article
January 6, 2009

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in his power to bring affordable housing back to the area so that local folks can re-settle and our businesses will have both employees and customers. David firmly believes that our law enforcement personnel need assistance and will bring the resources they need home so that they have the tools to do their job. With proper leadership on these and other issues, the Coast can once again lead Mississippi forward into prosperity for all. The people of this District deserve, and David Baria will settle for no less.

Account Login
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Louisiana Lawsuit Penalizes Insurer

By ANITA LEE
Biloxi-Gulfport-South Mississippi Sun Herald
January 10, 2009

The 5th U.S. Circuit Court of Appeals handed a victory to Louisiana policyholders this week in a Katrina insurance case, but the ruling won't benefit Mississippians because the state lacks a law requiring timely payment of claims.

In the Louisiana case of Grilletta v. Lexington Insurance Co., a trial judge levied a penalty equal to 25 percent of the undisputed amount paid for wind damage because the company failed to act on the claim within 30 days of receiving proof of the loss. In fact, the appellate ruling said, "Lexington arbitrarily sat on the claim for over two months" after an adjuster concluded wind had destroyed the house. Lexington then hired an engineering firm that blamed the loss on storm surge, excluded from coverage. The April 2006 report also noted wind damage.

In June 2006, Lexington sent the policyholder a $311,055.38 check for the wind damage.

A trial judge levied a 25 percent penalty on that amount for the arbitrary late payment. The judge rejected penalties for the additional amount awarded at trial, $248,325.42, reasoning there was a legitimate coverage dispute.

The appellate court ordered the judge to assess the 25 percent penalty on coverage awarded at trial, saying failure to make timely payment on a covered claim exposes the insurer to penalties on the entire claim.

Mississippians, hundreds of whom waited more than two years for Katrina payments, lack similar protection and are unlikely to get it from the current Legislature, say policyholder attorneys and state Sen. David Baria. Baria is sponsoring a bill that mandates timely payment of claims.

"I believe that would get the insurance companies' attention as far as treating policyholders more fairly," said attorney Ben Galloway of Owen Galloway & Myers in Gulfport. "Right now, the deck is stacked against the policyholder. We've seen it over and over in Katrina litigation.

"There's really not much incentive for insurance companies to be fair with insureds on a claim."

Baria's bill sets time frames for processing and paying claims, with extensions for insurance companies in catastrophes. Failure to make timely payment subjects companies to 18 percent annual interest and attorney's fees. The policyholder bill of rights includes other consumer protections.

"It encourages the insurance companies to do the right thing in a timely manner," said Baria, D-Bay St. Louis. "The insurance company obviously benefits from not paying in a timely manner, whereas the insured's condition worsens over time. Then the policyholder settles the case for far less than they are entitled to because they're under duress. That's what this type provision is designed to prevent."

Baria holds little hope for passage of the time provision. A much-weaker bill of rights passed the House last year, but Senate Insurance Committee Chair Eugene S. "Buck" Clark never even

brought it up for discussion.

"The insurance industry is very powerful," Baria said. "They exert their influence over various pieces of legislation, in Mississippi and nationally."

Clark said he is willing to look at Baria's bill. They plan to meet next week.

However, Clark said, "I'm not going to promise now which bills I might bring up." Clark also acknowledged insurance lobbyists aplenty roam the state Capitol.

"There's a lobbyist for every insurance company, and then they have contract lobbyists," he said. "Oh yeah, they're up there. I talk to all of them." He said the lobbyists had nothing to do with his failure to allow committee discussion of the 2008 policyholder bill.

"We're all policyholders," Clark said. "I wouldn't say it was the lobbyists at all. It's just me talking to some of my colleagues."

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Contributor Summary

HILL JR, W WRIGHT

Total Given to Date: **$1,000 (1 records)**

Contributor Type: **Individual**

Address: **JACKSON, MS**

Employer: **PAGE KRUGER & HOLLAND**

Occupations Listed: **ATTORNEY**



Lawyers & Lobbyists
Lawyers & Lobbyists
Attorneys & law firms

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Contributions Breakdown

TABLE 1: Contributions by Political Affiliation

Party	Records	Total	% of Overall
Democrat	1	$1,000	100.00%
Republican	0	$0	0.00%
Nonpartisan	0	$0	0.00%
Third Party	0	$0	0.00%
Ballot Measures	0	$0	0.00%

FIGURE A: Contributions by Political Affiliation



FIGURE B: Contributions to Candidates by Incumbency

Ballot Measures
Party Committees
Lobbyists
Lobbyist Clients
General Election Results
Data Sources

Time Machine

Take a trip through our data! Select a different year and see how giving compares across cycles. Or, select another state altogether.

Mississippi Submit

Network of Affiliates

The Institute identified the following contributors with connections to PAGE KRUGER & HOLLAND, who gave within Mississippi during the 2007 cycle.

COPELAND III, CLYDE X (TREY)
MADISON, MS
$250

HOLLAND, JAMES
JACKSON, MS
$1,000

PAGE KRUGER & HOLLAND P A
JACKSON, MS
$1,000

PAGE KRUGER & HOLLAND contributions in Mississippi 2007 (including identified employees): **$3,250**

HILL JR, W WRIGHT

Total Given to Date: **$1,000 (1 records)**

Contributor Type: **Individual**

Address: **JACKSON, MS**

Employer: **PAGE KRUGER & HOLLAND**

Occupations Listed: **ATTORNEY**



Lawyers & Lobbyists
Lawyers & Lobbyists
Attorneys & law firms

return to top

TABLE 1: Contributions by Political Affiliation

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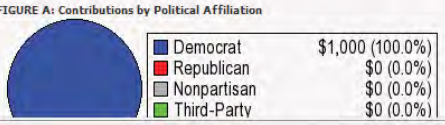
Nonpartisan	0	$0	0.00%
Third Party	0	$0	0.00%
Ballot Measures	0	$0	0.00%

FIGURE A: Contributions by Political Affiliation



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Industry Influence

See how this giving from this industry compares to previous election cycles. Click here.

Other Resources

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State Disclosure Offices
Link to Our Site

Did You Know?

In 2006, Democratic and Republican candidates raised nearly the same amount in unitemized contributions: 3.7 percent of contributions compared with 3.6 percent, respectively.

Read more: No Small Change

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FIGURE B: Contributions to Candidates by Incumbency

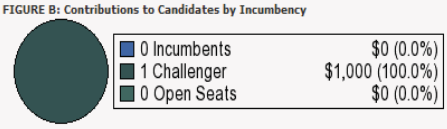

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FIGURE C: Contributions to Candidates by Election Status

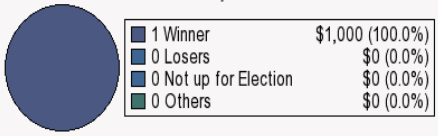

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TABLE 2: Contributions to Candidates

Candidate	Office	Status	Party	Records	Total	
BARIA, DAVID	SENATE	Won	DEMOCRAT	1	$1,000	See Records

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GOVERNMENTAL RELATIONS

Brunini Government Relations offers advice, advocacy and access to companies and organizations wanting to do business with the state or the federal government. Various legislative and administrative governmental entities make decisions every day that impact your business. Mississippi's current political climate has created new rules, new programs, and includes huge budgets and budget problems. These activities create challenges as well as opportunities. Clearly, the right government relations firm can make the difference between success and failure for you and for your business. More than any other lobbying firm, Brunini understands your lobbying needs and has the combined experience and expertise to deliver it. You want results—not process. Our firm provides the advice, advocacy and access to help you achieve those results as a "one-stop shop."

First, we offer unparalleled access to top decision makers in Mississippi, as well as to Mississippi's delegation in Washington, D.C. The abundance and strength of these relationships make our team uniquely able to reach key public officials—both elected and appointed—from Mississippi. Our government relations advisors bring with them relationships cultivated over years of public service and political activity. As a result, Brunini can open doors and get your message heard by the right people. Second, our advocacy is grounded in a firm culture that emphasizes vigorous and passionate persuasion. Getting the meeting is important, but our real job starts when the meeting begins. Our government relations advisors have the natural temperament and professional training to be an aggressive and effective advocate for you and your position. To maximize our impact, we make the connection between the merits of your argument and policy direction of the decision maker. With a little imagination and a lot of effort, we guide the process to achieve a favorable result. Finally, our firm thinks strategically. We know that the game is frequently won or lost before the first word is uttered in a high-level meeting. Brunini can help you formulate a plan that meets your short-term needs, while positioning your organization to achieve its long-term goals.

NEWS & EVENTS

- Brunini Government Relations Assists the Passage of SB 2288

ATTORNEYS

Primary Contacts

- Edmund L. Brunini, Jr.
- John E. Milner

Practice Attorneys

- James L. Halford
- W. Lee Watt
- Walter S. Weems

Government Relations Advisors

- Steve Janzen
- Chip Reno
- Quentin Whitwell

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SURETY AND FIDELITY

The firm's surety and fidelity section has attorneys experienced in surety bond litigation/claims resolution and fidelity bond claims and coverage issues. Members of this section are frequent speakers and authors on surety and fidelity bond topics, including contract and commercial surety bonds and fidelity bond issues. Attorneys in this section are active members of the American Bar Association Fidelity and Surety Law Committee and have presented papers at ABA-sponsored meetings, at the Fidelity Law Association and at Surety Claims Institute. This section of the firm has been represented for several years on the Vice Chairs' Committee of the American Bar Association's Fidelity and Surety Law Committee.

Representative surety and fidelity clients of the firm are:

- Employers Mutual Casualty Company
- Hanover Insurance Company
- HCC Surety Group
- Insurance Company of the West
- International Fidelity Insurance Company
- Liberty Mutual
- North American Specialty Group
- Old Republic Surety Company
- RLI Insurance Company
- Safeco Insurance Company
- Washington International Insurance Company
- Western Surety Company

ATTORNEYS

Primary Contacts

- Samuel C. Kelly
- Ron A. Yarbrough

PUBLICATIONS

- "Bid Bonds," Handling Fidelity, Surety and Financial Risk Claims, 2nd Ed., John Wiley and Sons, 1990 (author)
- "The Most Important Questions Asked About Performance Bonds," American Bar Association, 1997 (co-author)
- "Discovery of Information From An Insurer," 3 Fidelity Law Association Journal 71, 1997 (co-author)
- "A Tale of Two Circuits: Expanded Liability for the Completing Surety," Fidelity & Surety Committee Newsletter, American Bar Association, 2002 (author)
- Mississippi Chapter, "Performance Bond Manual of the 50 States, District of Columbia, Puerto Rico and Federal Jurisdictions," American Bar Association, 2006 (author)
- Mississippi Chapter, "The Law of Motor Vehicle Dealer Bonds," American Bar Association, 2006 (author)
- Mississippi Chapter, Payment Bond Manual, Third Edition, American Bar Association, 2006 (author)

TRANSCRIPT: EXCERPTS FROM ALLEN'S AND GORDON'S EXAMINATION DURING UNEMPLOYMENT COMPENSATION HEARING: *McArn v. Allied Bruce-Terminix Co.*, Inc., 626 So.2d 603 (Miss.,1993) - Whether or not there is written contract, there should be public policy exceptions to employment-at-will doctrine for employee who refuses to participate in illegal act or employee who reports illegal act of his employer; these exceptions will apply even where there is "privately made law" governing employment relationship, or where illegal activity either declined by employee or reported by him affects third parties among general public, though they are not parties to lawsuit. (n. 3) Employer's alleged statement to Employment Security Commission that employee was terminated for a "bad attitude" was privileged and could not be basis for libel suit, absent proof that such statements were false or maliciously made.[1]

THE TESTIMONY/INFORMATION IS A MATTER OF PUBLIC RECORD AND CAN BE FOUND IN HINDS COUNTY CIRCUIT COURT RECORDS.

Newsome	56	2-4	Okay, so my December 1, 2004 e-mail in regards to harassment incident, was not out of the ordinary. I have submitted complaints in the past in regards to Mr. Gordon's behavior, is that correct?
Allen	56	5	You have.
Newsome	56	6-8	At any time during my employment, did I mention to you that I felt that Mr. Gordon's treatment, or his behavior, and conduct in regards to me was hostile?
Allen	56	9	You did.
Newsome	56	10	Okay, was this before your June 7th Memorandum or after?
Allen	56	11	I don't recall.
Newsome	56	16-18	And the complaint that I submitted to OSHA, OSHA contacted the firm, you were to respond, if I'm not mistaken, by June 8, 2004. Is that correct?

[1] [3] McArn argues that the Mississippi Employment Security Commission was falsely told that he was terminated for a bad attitude and not told the true reason for his firing. McArn argues that Miss.Code Ann. § 71-5-131 (1972) permits a claim for defamation whenever the employer makes statements to the Commission which are "false in fact and maliciously ... made for the purpose of causing a denial of benefits."

There is no question but that Miss.Code Ann. § 71-5-131 provides that communications between an employer and the Commission are privileged and "when qualified privilege is established, statements or written communications are not actionable as slanderous or libelous absent bad faith or malice if the communications are limited to those persons who have a legitimate and direct interest in the subject matter." *Benson v. Hall*, 339 So.2d 570, 573 (Miss.1976).

In his complaint, McArn charged that Terminix maliciously defamed him before the Mississippi Employment Security Commission by stating he was fired for a "bad attitude." At trial, McArn testified that Terminix's contention that he was insubordinate was false. That is the extent of McArn's evidence of defamation.

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Allen	56	19-20	I don't know the exact date. We did respond within the time limits they asked us to.
Newsome	57	1-4	Okay, the date of that Memorandum . . .was June 7, 2004, the response, if I'm not mistaken, because like I said, I wasn't aware this was coming up, was due on June 8, 2004. That e-mail or that Memorandum came out the day prior. Did that have anything to do?
Allen	57	5-6	Absolutely not, that's why I stated in here, you could do all you wanted about, with, with agencies.
Newsome	57	7-10	But also in regards to the complaints that I had submitted to the firm, have I ever submitted any complaints of harassment, discrimination, or anything to the attention of Mitchell, McNutt & Sams in regards to Bob Gordon?
Allen	57	11	Discrimination, harassment, yes, you've used that word several times.
Newsome	57	12-14	Okay, and did I ever mention to you that I felt that I was discriminated or either in the handling of my complaints being discriminative in any nature?
Allen	57	15-16	You asked me to follow through with going to the Board, is that what you're referring to?
Newsome	57	17-20	No, I'm asking did you ever receive any e-mail correspondence from me in regards to complaints I submitted to the firm, that I felt I was being subjected to certain treatment?
Allen	57	20	Discriminatory.
Newsome	58	1	Discriminative treatment?
Allen	58	2	You're, I believe you sent me one like that, yes.
Newsome	58	3-5	Okay, so you were, so Mitchell, McNutt & Sams was made aware prior to November 30th on several occasions that I had filed complaints in regards to Mr. Gordon's behavior?
Allen	58	6	Yes.
Newsome	58	7-9	Did Mitchell, McNutt & Sams at any time prior to November 30, 2004 submit in writing to me, written responses to my complaints in regards to Mr. Gordon's behavior?

Allen	58	10-12	Let's see, we, we talked about it at the Board, and talked to Mr. Gordon about it, and I'm trying to think if, what happened from that point forward. I don't recall if we sent anything to you, if I did.
Newsome	58	13-15	Okay, so I can, it, it is your testimony that I submitted several complaints, but the firm never responded to me in writing in regards to my complaints on Mr. Gordon's behavior.
Allen	58	16	I responded back to you.
Newsome	58	17	In regards to Mr. Gordon's behavior?
Allen	58		Uh hum.
Newsome	58	17-18	Do you have any documentation?
Allen	58	19-20	Oh, I tried, I may have some e-mails that we had through correspondence commenting back on.
Newsome	59	1-3	Okay, did Mr. Gordon ever receive an elaborate e-mail or Memorandum such as. . . that you forwarded to me in regards to the complaints I submitted in regards to him?
Allen	59	4	Did he receive one?
Newsome	59	5-9	Did Mr. Gordon, I submitted a complaint in regards to harassment or discrimination like I said, I don't' have them all, but I submitted my complaints to the firm in regards to Mitchell, McNutt & Sams conduct and behavior as well as Mr. Gordon, did you ever follow up with an e-mail or memorandum as you June 7, 2004?
Allen	59	10	To Mr. Gordon?
Newsome	59	11	To Mr. Gordon?
Allen	59	12	No.
Newsome	59	13-14	So Mitchell, McNutt & Sams did nothing to deter or discourage Mr. Gordon's behavior?
Allen	59	15-16	I don't know if there was, there was some discussions with, that, that we had.

Another example:

Newsome	144	19-20	Yes, just a moment. It was the incident that I went out to lunch with Attorney Mike Farrell and Ladye Margaret?
Gordon	146	7-13	She was gone for, what to me was an inordinate of the time to get something to pick up, to pick something up to bring it back. My recollection is that she was gone approximately forty-five minutes or so, and then she returned and at that time I criticized her for having gone and eaten out when I had told her that she needed to work through the lunch hour, and if she was going to get something to eat, go get it, and bring it back.
Newsome	146	14-15	So you said it was about forty-five minutes. For the record, can you explain your conduct when I did return, your behavior?
Newsome	147	1-2	So would you say your behavior, for instance stomping around and slamming the door is acceptable?
Gordon	147	3-4	I don't know that I stomped around and slammed the door, but I, yes, I was very upset.
Newsome	147	5	Okay, would you say you were hostile?
Gordon	147	6	Yes.
Newsome	147	8-9	Were you aware that your behavior was noticed by other employees at Mitchell, McNutt & Sams?
Gordon	147	10	Yes.
Newsome	147	11	Are you aware that I reported that behavior to Mr. Allen?
Gordon	147	12	Sitting here right now, I don't, I do not recall being aware of that.
Newsome	148	1-2	You, were you aware that when I went to lunch, that I was not driving, that I did go with Mr. Farrell and Ladye Margaret?
Gordon	148	3-4	You told me that when you returned, you did not tell me that before you were going.

Newsome	148	5-6	Prior to leaving. Were you aware that the lunch break was only about probably thirty-five minutes?
Gordon	148	7	It occurred, it appeared to me it was around forty-five minutes.
Newsome	148	16-17	Did that thirty-five minutes, or if you say forty-five minutes, did that preclude or prevent you from getting that Pleading filed in time?
Gordon	148	18-20	We got the Pleading filed on that day, but while you were out, a revision or revisions to that Pleading were sitting at your desk and not being done.
Newsome	149	14-16	And are you aware that your conduct affected the work of another attorney, who was wondering whether or not you had calmed down that day after that particular incident?
Gordon	149	17	No.
Newsome	150	2	So Mr. Gordon, you would say your conduct was hostile?
Gordon	150	3	That's what I, yes, I said that.
Newsome	150	4-5	Did Mitchell, McNutt & Sams ever notify you of your conduct of being you know, you being a hostile employee?
Gordon	150	6	No.
Newsome	150	13-14	Are you aware that I have, that I submitted complaints in regards to your conduct to Mitchell, McNutt & Sams?
Gordon	150	15	You have submitted complaints or e-mails alleging harassment.

A Yes.

Q Okay, so my December 1, 2004 e-mail in regards to harassment incident, was not out of the ordinary. I have submitted complaints in the past in regards to Mr. Gordon's behavior, is that correct?

A You have.

Q At any time during my employment, did I mention to you that I felt that Mr. Gordon's treatment, or his behavior, and conduct in regards to me was hostile?

A You did.

Q Okay, was this before your June 7th Memorandum or after?

A I don't recall.

Q "Employer Exhibit #9," the one I objected to, the June 7, 2004 Memorandum, you state that in that Memorandum, just paraphrasing because I don't have a copy of it before me, in regards to filing complaints with agencies, you mentioned also in your testimony something about OSHA. And the complaint that I submitted to OSHA, OSHA contacted the firm, you were to respond, if I'm not mistaken, by June 8, 2004. Is that correct?

A I don't know the exact date. We did respond within the time limits that they asked us to.

Q Okay, the date of that Memorandum in "Employer Exhibit #9" was June 7, 2004, the response, if I'm not mistaken, because like I said, I wasn't aware this was coming up, was due on June 8, 2004. That e-mail or that Memorandum came out the day prior. Did that have anything to do?

A Absolutely not, that's why I stated in here, you could do all you wanted about, with, with agencies.

Q But also in regards to the complaints that I had submitted to the firm, have I ever submitted any complaints of harassment, discrimination, or anything to the attention of Mitchell, McNutt & Sams in regards to Bob Gordon?

A Discrimination, harassment, yes, you've used that word several times.

Q Okay, and did I ever mention to you that I felt that I was discriminated or either in the handling of my complaints being discriminative in any nature?

A You asked me to follow through with going to the Board, is that what you're referring to?

Q No, I'm asking, did you ever receive any e-mail correspondence from me in regards to complaints I submitted to the firm, that I felt I was being subjected to certain treatment?

A Discriminatory.

Q Discriminative treatment?

A You're, I believe you sent me one like that, yes.

Q Okay, so you were, so Mitchell, McNutt & Sams was made aware prior to November 30th on several occasions that I had filed complaints in regards to Mr. Gordon's behavior?

A Yes.

Q Did Mitchell, McNutt & Sams at any time prior to November 30, 2004 submit in writing to me, written responses to my complaints in regards to Mr. Gordon's behavior?

A Let's see, we, we talked about it at the Board, and talked to Mr. Gordon about it, and I'm trying to think if, what happened from that point forward. I don't recall if we sent anything to you, if I did.

Q Okay, so I can, it, it is your testimony that I submitted several complaints, but the firm never responded to me in writing in regards to my complaints on Mr. Gordon's behavior.

A I responded back to you. Allen Linhum

Q In regards to Mr. Gordon's behavior? Do you have any documentation?

A Oh, I tried, I may have some e-mails that we had through correspondence commenting back on.

Q Okay, did Mr. Gordon ever receive an elaborate e-mail or Memorandum such as "Employer Exhibit #9" that you forwarded to me in regards to the complaints I submitted in regards to him?

A Did he receive one?

Q Did Mr. Gordon, I submitted a complaint in regards to harassment or discrimination like I said, I don't have them all, but when I submitted my complaints to the firm in regards to Mitchell, McNutt & Sams conduct and behavior as well as Mr. Gordon, did you all ever follow up with an e-mail or memorandum as your June 7, 2004?

A To Mr. Gordon?

Q To Mr. Gordon?

A No.

Q So Mitchell, McNutt & Sams did nothing to deter or discourage Mr. Gordon's behavior?

A I don't know if there was, there was some discussions with, that, that we had.

Q May I hold "Employer Exhibit #5?" I would like to look at, looking at 104 Business Ethics and Conduct. According to the information provided to the Unemployment Commission in regard to the false you know, my accusation of accusing Bob of false information, if indeed that information is

Referee: For the record I'm going to call this "Claimant Exhibit #5." It is objected to on relevancy and authenticity. Now this is signed by a Jane Hedglin?

Q Yes.

Referee: She works for Staffers?

Q That's correct. It's one of the agencies I'm registered with.

Referee: I'll make a copy of that, and give that back to you as well.

Q Okay.

Referee: Any other questions for?

Q Yes, I do, because the, like I said, at, at question here is that I submitted in the e-mail to deflect from my own Performance Evaluation. And it's basically to establish the accuracy, and the reason why I would not sign. During my employment, although it didn't come up, Mr. Gordon, I mean there was an incident in regards to your asking me to come, to interrupt my lunch and return to work on a pleading that you needed to get that day. Is that correct?

A Which incident, what, can you be more specific as to when you're referring to?

Q Yes, just a moment. It was the incident that I went out to lunch with Attorney Mike Farrell and Ladye Margaret?

anything to eat, but if you're going to get something to eat, go get it, and bring it back, and eat it at your desk when you have time. So that we can continue working on that Pleading. She objected. I told her it's just going to be necessary to do, because we've got to be sure we get our Pleading out that day. And she then told me that she's leaving going with Mike Farrell and Ladye Margaret Townsend to get something to eat, and would be bringing it back, and I said that's fine. She was gone for, what to me was an inordinate of the time to get something to pick up, to pick something up to bring it back. My recollection is that she was gone approximately forty-five minutes or so, and then she returned and at that time I criticized her for having gone and eaten out when I had told her that she needed to work through the lunch hour, and if she was going to get something to eat, go get it, and bring it back.

Q So you said it was about forty-five minutes. For the record, can you explain your conduct when I did return, your behavior?

A Because you had acted in a defiant and insubordinate manner, and going out, in my, in my judgment, in going out to get lunch, and eating out when I told you you needed you needed to work through the lunch hour, and or just needed to go out and get the lunch and bring it back and eat at your desk so we could complete work.

Q So would you say your behavior, for instance stomping around and slamming the door is acceptable?

A I don't know that I stomped around and slammed the door, but I, yes, I was very upset.

Q Okay, would you say you were hostile?

A Yes.

Q Okay, for the record, let me find which exhibit it is, just a minute, I would like to enter, because, let me ask this question. Were you aware that your behavior was noticed by other employees at Mitchell, McNutt & Sams?

A Yes.

Q Are you aware that I reported that behavior to Mr. Allen?

A Sitting here right now, I don't, I do not recall being aware of that.

Q Okay.

A I, I may.

Q So Mr. Allen, did I make you aware of that submitted your conduct, that incident rather, that incident to his attention?

A He may have, I just don't recall it right now. And if you did it by way of an e-mail, he may have forwarded a copy of the e-mail to me. I just, just don't recall.

Q You, were you aware that when I went to lunch, that I was not driving, that I did go with Mr. Farrell and Ladye Margaret?

A You told me that when you returned, you did not tell me that before you were going.

Q Prior to leaving. Were you aware that the lunch break was only about, probably thirty-five minutes?

A It occurred, it appeared to me it was around forty-five minutes.

Q Okay, even if it were forty-five minutes, was I in violation of any of the policies in regards to meals, breaks, lunch, of Mitchell, McNutt & Sams?

A In my judgment, yes, because even though you do have an hour lunch break, that hours lunch, had taken that hour lunch is always subject to the needs of the work that, that, this is in the office, and the need to get the work out in a timely and proper manner , and so that on occasions when that does arise, yes, that lunch hour is subject to, to being taken early, or deferred, late shortened, or even missed all together.

Q Did that thirty-five minutes, or if you say forty-five minutes, did that preclude or prevent you from getting that Pleading filed in time?

A We got the Pleading filed on that day, but while you were out, a revision or revisions to that Pleading were sitting at your desk and not being done.

Q But I am entitled to a break, right?

A Subject to the demands of the workplace, yes.

Q At this time, I would like to, I do need a copy of this back to show that it was only thirty-five minute lunch, and we will look at your evaluation saying it was forty-five minutes.

Allen: That's my assistant.

Ardelean: Okay.

Referee: Any objection, Ms. Ardelean?

Ardelean: Relevancy.

Referee: This will be "Claimant Exhibit #6." for the claimant It is an e-mail from Ms. Newsome to Rosonna Murray, and a copy to Jim Allen, TIMECLOCK, it is objected to in regards to relevance, and that is "Claimant Exhibit #6." Any other questions, Ms. Newsome?

Q Yes, I do. And are you aware that your conduct affected the work of another attorney, who was wondering whether or not you had calmed down that day after that particular incident?

A No.

Q At this time, I would like to enter this in regards to the e-mail that was sent in regards to Mr. Gordon's behavior that day.

Referee: Any objection to that, Ms. Ardelean?

Ardelean: I have an objection on relevancy.

Q So Mr. Gordon, you would say your conduct was hostile?

A That's what I, yes, I said that.

Q Did Mitchell, McNutt & Sams ever notify you of your conduct of being you know, you being hostile towards an employee?

A No.

Q Were you aware that there were complaints submitted in regards to your conduct to Mitchell, McNutt & Sams?

Ardelean: Could you get to the point because I'm not sure what complaints you're referring to?

Q I, I'm asking, are you aware?

A By whom or, and of what?

Q Are you aware that I have, that I submitted complaints in regards to your conduct to Mitchell, McNutt & Sams?

A You have submitted complaints or e-mails alleging harassment.

Referee: Let me enter this document. This will be "Claimant Exhibit #7." It is objected to on relevance. It is a series of e-mails from Ms. Townsend to Ms. Vogel and back. Okay, that is "Claimant Exhibit #7" that's objected to regarding relevancy.

Q Okay, in regards, and this was about February 2004, for the record?

VOGEL D. NEWSOME

Post Office Box 31265
Jackson, Mississippi 39286
Phone: 601/885-9536 or 601/362-4910

December 11, 2004

L. F. Sams, Jr.
Mitchell, McNutt & Sams, P.A.
Post Office Box 7120
Tupelo, Mississippi 38802-7120

RE: ***Retaliation - Unlawful/Wrongful Termination of Vogel Newsome***

Dear Mr. Sams:

I am in receipt of your letter dated December 10, 2004. This letter is basically being submitted in response to your letter to clear up some *distorted* facts you present in said letter in regards to my being represented by counsel.

Let me say that I *did not* advise you at the time of my termination that I was *represented* by counsel. Neither did I advise you that my counsel would be in contact with you. Like my annual Performance Review by MMS, it is apparent how MMS attempts to take information and distort it for unlawful means and purposes to suit them.

For clarification of the false information you provide in your December 10, 2004 letter, on Friday, December 3, 2004, at the time of my termination, you demanded that I give you the copy of the Mitchell McNutt & Sams, P.A. Employee Handbook that was mine. Although I objected to your request, I then provided you with the copy of the Employee Handbook and advised that any additional documentation that you and/or MMS seek from me would have to be sought through my attorney. You advised me after that comment to have my attorney contact you. You, having full knowledge, that I at no given time did I advise you that I am presently and/or currently represented by counsel.

Enough on the frivolous assertions made in the letter you have provided. You can address this matter with the appropriate agency(s). Because my *initial* Complaints with the Wage and Hour Division and OSHA are still pending, I believe you and/or MMS can address each of the issues raised in the Retaliation Complaint(s) that has been filed and/or will be filed with the appropriate agency(s). This particular incident you address in your December 10, 2004, has been addressed at ¶ 29 in a Retaliation Complaint I have filed with the United States Department of Labor – Wage and Hour Division. Said Department/Division should be contacting MMS shortly for its response. Therefore, if you have any recorded statements or evidence to support the assertion you make in your letter, you may present it at the time of the investigation.

I have advised the appropriate agency(s) that I intend and am requesting to be reinstated immediately. I have also shared with the Wage and Hour Division that I seek reinstatement immediately and I will proceed to bring legal action against MMS for its unlawful and/or wrongful termination of my employment for my reporting of violations which are *protected activities* through the appropriate avenues. But, first things first – getting my job back. A copy of excerpts from the *Handy Reference Guide to the Fair Labor Standards Act*, pp. 13 – 14 is attached hereto for your

EXHIBIT 84

reference. I expect the WHD to enforce the FLSA and upon doing so, I intend to bring legal actions against MMS.

I will share with you at this time, that I have found your actions and the repeat unlawful violations rendered by MMS' employees against me - for the filing of my Complaints with the firm, WHD and OSHA - willful, malicious and wanton. Moreover, the most recent ones of December 3, 2004, being done to cause me embarrassment, humiliation, distress, hardship, injury/harm, etc. Therefore, I intend to seek recovery (the maximum allowed under law) for all damages/injuries I have sustained as a direct and proximate result of said violations permitted under law including punitive damages – which if allowed, for up to one-half the financial worth of MMS. I provide you with *some* information for your review, research and reference in support thereof:

CASE LAW:

Scribner v. Waffle House, Inc., 14 F.Supp. 2d 873 - **An employer is liable** under Title VII for the discriminatory acts of an employee if it **knew or should have known** *of the employee's offensive conduct and failed to take steps to repudiate that conduct and eliminate the hostile environment*. *Id.* at 883 citing *Nash v. Electrospace Sys., Inc.*, 9 F.3d 401, 404 (5th Cir. 1993)(citing *Jones v. Flagship*, 793 F.2d at 720)(As this Court noted in *Waltman v. International Paper Co.*, the type and extent of notice necessary to impose liability on an employer under Title VII are the subject of some uncertainty. 875 F.2d 468, 478 (5th Cir. 1989)(concluding that three separate complaints to higher management constituted sufficient notice.)).

Although it felt this was "undoubtedly a close question" in *Farpella-Crosby*, the Fifth Circuit held that plaintiff had met her burden of proving that Horizon Health Care "*knew or should have known*" that she was being subjected to a hostile work environment – primarily with evidence of Farpella-Crosby's *complaints to two of the company's "human resource directors."*

Specifically, Farpella-Crosby *testified that she frequently talked to Belinda Callejo about "her problems" with Jose Blanco,* ***telling the human resource director.***

The credibility of the witnesses issues is addressed in *Scribner* at 884-885.

To prove severe emotional distress, a plaintiff must show that she suffered "more than mere worry, anxiety, vexation, embarrassment, or anger. In making this determination, courts should consider ***"[t]he intensity and duration of the distress."*** *Scribner* at 932, 933 [*Behringer v. Behringer*, 884 S.W.2d 839, 844]

Also, "**the extreme and outrageous character of the defendant's conduct is in itself important evidence that the distress existed.**" A plaintiff **need not prove**, however, that her emotional distress had physical manifestations. *Villasenor v. Vallasenor*, 911 S.W. 2d 411, 417.

Her *torment* continued almost unbroken *during her entire* Waffle House *employment. . .* **The harassment** of Scribner for this period ***was abusive*** and ***unrelenting***. Having observed her demeanor in testifying about the extreme humiliation, disgust, and despair she endured, the court is convinced that she suffered severe emotional distress. *Scribner* at 933.

Considering all of these circumstances, the court finds that Therese Scribner is entitled to recover $358,000 as mental anguish damages.

A party seeking punitive damages must establish either "actual malice" or that the defendant's acts were accompanied by fraud or other aggravating circumstances. Actual mailice, as distinguished from "legal malice" requires a showing of "ill-will, spite, evil motive or purposing the injury of another. *Scribner* at 933.

. . . As in other instances which require proof of the wrongdoer's state of mind, the requisite state of mind can properly be inferred from the acts and conduct of the wrongdoer. *Chandler State Bank v. Dorsey*, 797 F.2d at 237.

A plaintiff injured by defamation is entitled to recover (i) actual damages, including lost income and mental anguish, and (ii) punitive damages. *Scribner* at 935 referencing *Brown v. Petrolite Corp.*, 965 F.2d 38 (5th Cir. 1992)

PUNITIVE DAMAGES:

In *BMW of North America v. Gore*, 517 U.S. 559, 116 S.Ct. 1589, 134 L.Ed.2d 809 (1996), the Supreme Court derived these principles from its earlier decision in *Halsip*[1] and *TXO*:[2]

Punitive damages may properly be imposed to further a States legitimate interests in punishing unlawful conduct and deterring its repetition . . . *Helsip*, 499 U.S., at 22, 111 S.Ct., at 1045-1046.

. . . Certainly, evidence that a defendant has repeatedly engaged in prohibited conduct while knowing or suspecting that it was unlawful would provide relevant support for an argument *that strong medicine is required to cure the* ***defendant's disrespect for the law. *. . Haslip*, 499 U.S., at 5, 111 S.Ct., at 1036, TXO, 509 U.S., at 453, 113 S.Ct. at 2717-2718 (116 S.Ct. at 1601).

DEFAMATION:[3]

Damages for defamation may be based on elements other than injury to one's reputation such as personal humiliation, embarrassment, and mental anguish and suffering.

MALICE: The intent, without justification or excuse, to commit a wrongful act. (2) Reckless disregard of the law or of a person's legal rights. (3) Ill will; wickedness of heart.

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[1] *Pacific Mutual Life Ins. Co. v. Haslip*, 499 U.S. 1, 111 S.Ct. 1032, 113 L.Ed.2d 1, 113 L.Ed.2d 1 (1991).

[2] *TXO Production Corp. v. Alliance Resources Corp.*, 509 U.S. 443, 113 S.Ct. 2711, 125 L.Ed.2d 366 (1993).

[3] An example of such defamation can be found in MMS 11/15/04 Performance Review prepared by Robert T. Gordon, Jr.

ACTUAL MALICE: The deliberate intent to commit an injury, as evidenced by external circumstances – Also termed *express malice*, *malice in fact*. Cf. *implied malice*.

Damages Awarded in *Scribner*:

- $119,500 – mental anguish as actual damage for defamation
- $24,188 – Tortious interference
- 6.3M – Severe, pervasive harassment[4]
- $1,149,504 – Punitive damages for defamation and tortuous interference

Again, I will first be seeking reinstatement of employment with MMS as the law requires – **MMS still has an opportunity to correct the wrongful termination and have me reinstated immediately itself**. However, if MMS elects to do so without the assistance of the outside government agencies, MMS must keep in mind that I have every intention to move forward in seeking recovery for damages for the unlawful/wrongful termination. Believe the documents in MMS' possession will support just how severe, pervasive, unrelenting, etc. its harassment of me was. Moreover, that the actions by MMS was willful, malicious and wanton. MMS repeated discriminatory/retaliatory practices and its repeatedly subjecting me to a hostile work environment created by it in efforts to force me out of the workplace is unlawful – *MMS was timely, properly and duly notified of its unlawful/unethical practices, however elected not to do anything to correct them.* As a direct and proximate result of my reporting the unlawful/unethical practices, my employment with MMS has been terminated and I have been injured/harmed. It is clear from record evidence, that MMS ***clearly disrespects the law*** and/or ***thinks that it is above the law.***

Thank you for your time and consideration in this matter. Should you have further questions, comments and/or want to discuss this letter, please feel free to contact me.

Respectfully,

Vogel Newsome

Vogel Newsome
Post Office Box 31265
Jackson, Mississippi 39286
(601) 362-4910 or 885-9536

Enclosure

[4] Please see MMS Employee Handbook also. Supporting MMS was aware that conduct by its employees towards me was indeed harassment. Yet MMS did nothing to deter nor discourage the unlawful practices once reported. Instead, MMS continued to seek ways to force me out of the workplace. When all such efforts to force me out of the workplace, MMS wrongfully terminated my employment for reporting violations which are protected activities.

VOGEL DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

May 21, 2009

REQUEST FOR HIGH PRIORITY & URGENT ATTENTION!!!!

VIA PRIORITY MAIL: **SIGNATURE CONFIRMATION TRACKING NO. 23061570000105855259**
The United States White House
ATTN: U.S. President Barack Obama
1600 Pennsylvania Ave NW
Washington, DC 20500

VIA PRIORITY MAIL: **SIGNATURE CONFIRMATION TRACKING NO. 23061570000105855280**
U.S. Department of Justice
ATTN: Attorney General Eric H. Holder, Jr.
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

VIA PRIORITY MAIL: **SIGNATURE CONFIRMATION TRACKING NO. 23061570000105855303**
U.S. Department of Labor
ATTN: Secretary Hilda L. Solis
Frances Perkins Building
200 Constitution Ave., NW
Washington, DC 20210

RE: REPORTING OF RACIAL AND DISCRIMINATION PRACTICES COMPLAINT: REQUESTS FOR STATUS; REQUEST FOR CREATION OF COMMITTEES/COURT, INVESTIGATIONS AND FINDINGS – CONSTITUTIONAL, CIVIL RIGHTS VIOLATIONS AND DISCRIMINATION; AND DEMAND/RELIEF REQUESTED[1]

Dear President Obama, Attorney General Holder and Secretary Solis:

I begin with the following questions: "**IS THIS AN ADMINISTRATION OF COWARDS? IS THIS AN ADMINISTRATION THAT PROMISED CHANGE THROUGH FALSE REPRESENTATIONS TO THE PUBLIC AND/OR A U.S. PRESIDENTIAL CAMPAIGN PROMISING CHANGE WHICH WAS A SHAM JUST TO WIN – MAKING PROMISES THROUGH DECEPTIVE MEANS TO DUPE CITIZENS INTO GETTING THEIR VOTES?"** *If not, then when will the American people see such promise of CHANGE for **all** races and not favoring one specific group (i.e. whites)*? Surely I have not seen anything regarding such as it directly impact the lives of African-Americans and/or people of color **within the first 100 days** of

[1] Boldface, italics and/or underline added for emphasis.

EXHIBIT 85

16. Any and all applicable relief allowed under the Constitution, Civil Rights Act, and statutes and laws governing the civil and criminal wrongs addressed herein.

Respectfully submitted this **21st** day of **May, 2008.**

VOGEL DENISE NEWSOME
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (601) 885-9536 or (513) 680-2922

cc: (w/ supporting Exhibits)

The New York Times
ATTN: Steven Greenhouse
620 8th Avenue Floor 1,
New York, NY 10018
Published: March 24, 2009

National Counsel of La Raza (NCLR) Headquarters Office
ATTN: Janet Murguía, President
Raul Yzaguirre Building
1126 16th Street, NW
Washington, DC 20036
Tel. (202) 785-1670

cc: (w/o Exhibits) – If interested Exhibits can be provided at a cost of approximately $100 (to cover time expended, costs, mailing)

ABC
World News with Charles Gibson
47 West 66th Street
New York, NY 10023

ABC
This Week with George Stephanopoulos
77 West 66th Street
New York, NY 10023

ABC
What Would You Do with John Quinones
77 West 66th Street
New York, NY 10023

CBS
Evening News Anchor – Katie Couric
513 West 57th Street
New York, NY 10019

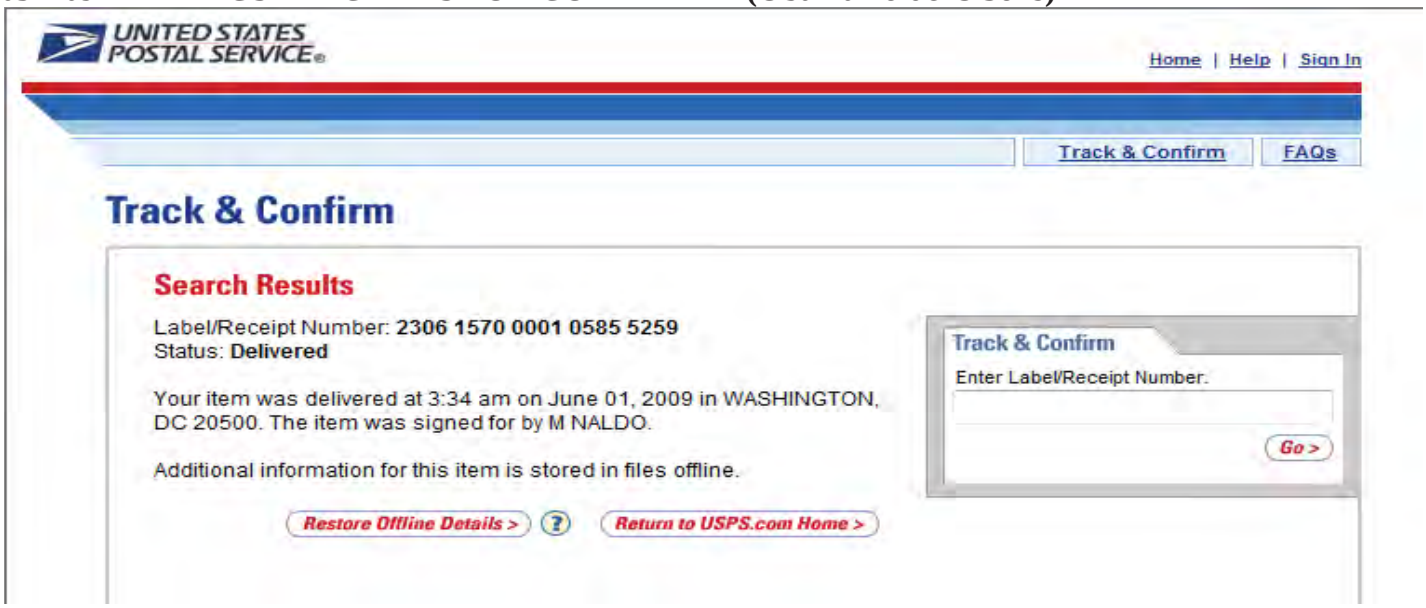
CBS
Legal Correspondent – Trent Copeland
513 West 57th Street
New York, NY 10019

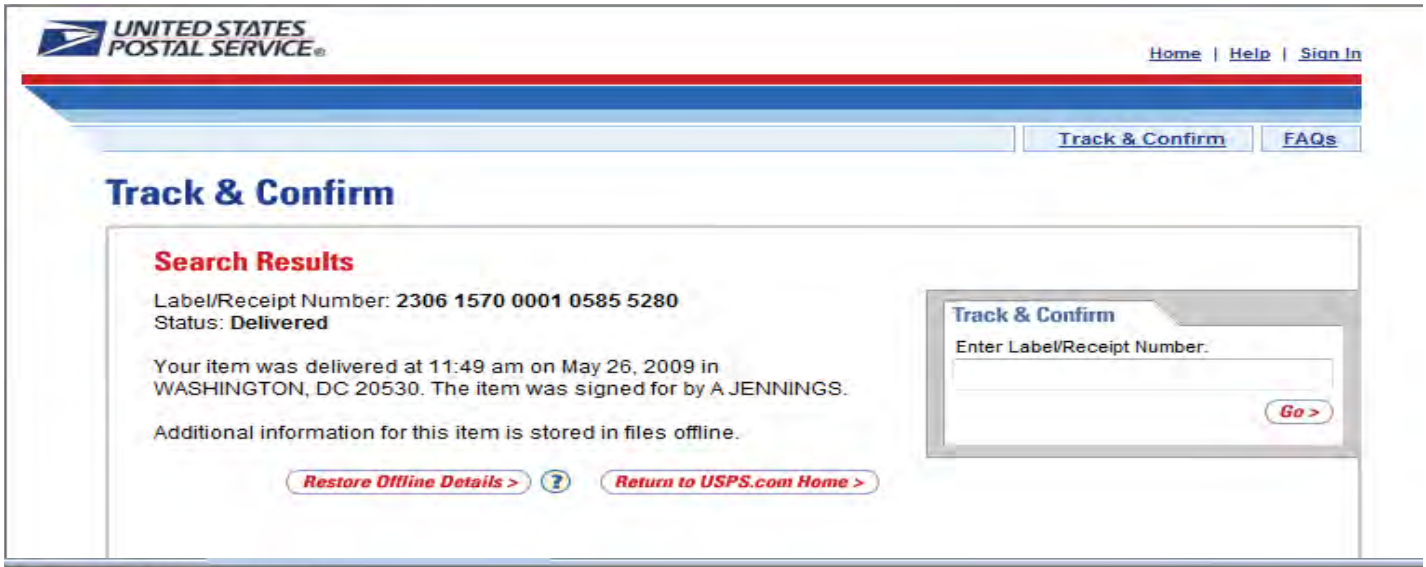
CBS
Anchor – Debbye Turner
513 West 57th Street
New York, NY 10019

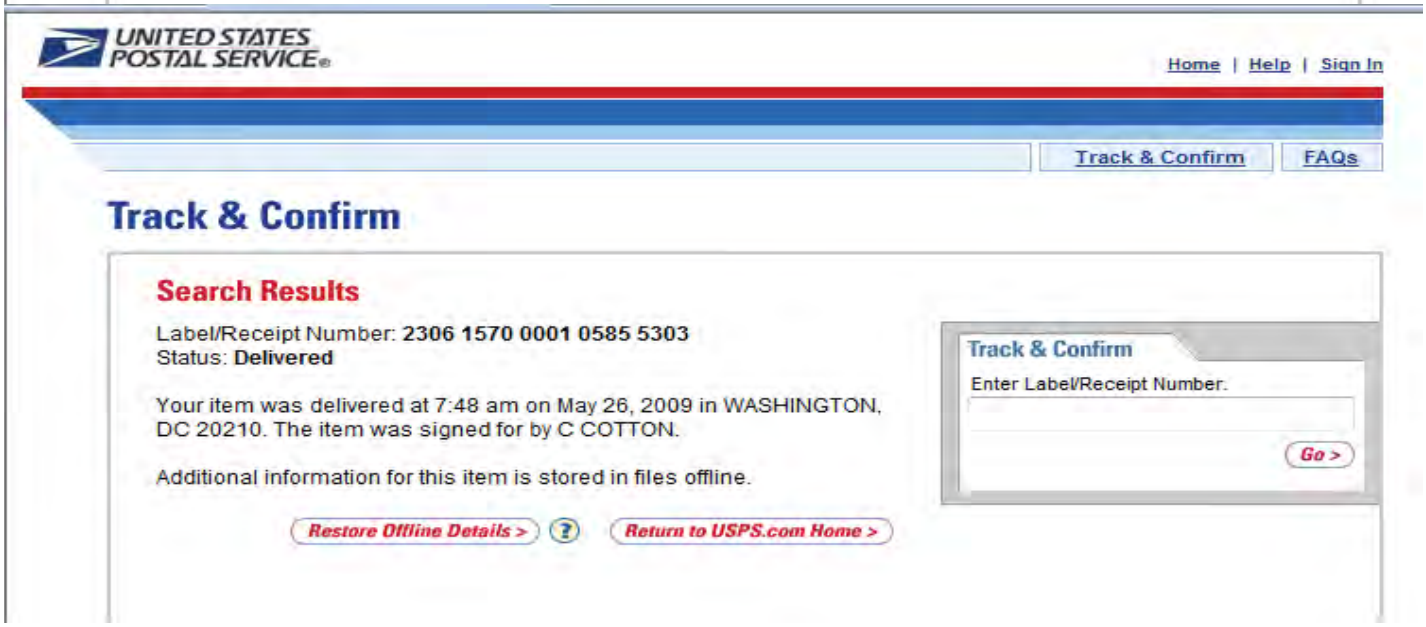
NBC
Evening News Anchor – Brian Williams
30 Rockefeller Plaza
New York, NY 10112

NBC
News Anchor – Ann Curry
30 Rockefeller Plaza
New York, NY 10112

052109 MAILINGS - RECEIPTS FOR COMPLAINT (ObamaHolder&Solis)







DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

February 2, 2009

VIA FACSIMILE & E-MAIL
Paul R. Berninger (prberninger@woodlamping.com & 513-419-6488)

RE: MEDICAL COVERAGE - CONCERNS DISCRIMINATION UNDER FMLA AND COBRA VIOLATIONS

Dear Paul:

This will confirm receipt of your voicemail message on yesterday which was cut off and our telephone conversation on today in regards to the above referenced matter.

From my understanding of the conversation, Wood & Lamping (Andrea) acknowledges that I advised of my request regarding medical procedure I discussed with her. At this time, Wood & Lamping is willing to extend me medical coverage under COBRA where they will make the payments. However, in exchange for such agreement, I would be required to sign a Release relinquishing all rights that I may have to bring charges and/or lawsuit against Wood & Lamping for any injury/harm I sustained from violations – i.e. wrongful discharge, retaliation, racial discrimination, etc. As I shared with you, **my main focus right now is getting the medical procedure done that I was advised of** any other relief I seek will be done in the applicable time permitted by statute/laws.

HOWEVER, PLEASE LET ME REITERATE, it is Wood & Lamping's duty and responsibility to **mitigate** damages – that includes continuing medical coverage and/or benefits – in the showing of good faith (not in continuance of bad faith or malicious behavior, etc. to cause me additional injury/harm).

You mentioned that an employee, Angie, brought charges against Wood & Lamping which was unsuccessful. While I am not aware of any charges by Angie, I would think that any comparison of my treatment and handling would be left up to the appropriate agency to handle; moreover, up to a jury to decide. I believe that the liability in my situation is clear and that Wood & Lamping retaliated against me in interfering with my rights under the Family and Medical Leave Act; moreover, may be in retaliation of its knowledge of my engagement in protected activities.

Being brief:

> **EQUAL OPPORTUNITY**
> The firm is an equal opportunity employer, and as such, is firmly committed to treating **all** employees and applicants **equally** without regard to race, color, sex, religion, national origin, age, disability, marital status, veteran status, or other protected classes. We will

EXHIBIT 86

> endeavor to make reasonable accommodations for known physical or mental limitations of otherwise qualified employees and applicants with disabilities unless the accommodation would impose an undue hardship on the operation of or business. Our employment decisions, including, but not limited to, hiring, compensation, benefits, training, and promotions are based on the principles of **equal** employment opportunity. *Discrimination by any member of the firm **will not** be tolerated.* Suspected violations of this policy must be reported promptly to a member of management or to a partner. Violators will receive discipline appropriate to the offense, up to an including termination. *This policy also **prohibits retaliation** against anyone who has filed a complaint of **discrimination** or **harassment**.*
> (Wood & Lamping LLP Policies and Procedures Manual @ p. 11)

Pattern-of-Discrimination/Retaliation:

1. About November 2006, I requested assistance from Wood & Lamping regarding a Landlord matter I was dealing with. Elizabeth Horwitz was assigned to assist me. However, Elizabeth became upset with me with I refused to give up rights I believe I was entitled to under the Fair Housing Act. From my take, Elizabeth (white) and opposing counsel (white) were must have agreed to try and convince me to waive rights secured under the Fair Housing Act. Such efforts failed and I proceeded to file the lawsuit to protect my rights. Again, Elizabeth being upset with me, requested a change in Secretaries/Legal Assistants and Wood & Lamping obliged. Her acts were unacceptable, and clearly obvious of no understanding or feeling of what it is like to have to stand by rights that many sacrificed their lives for so that I can enjoy and live where I want not where another decides. Some of our conversations I am confident are memorialized in Wood & Lamping's e-mails.

2. Then I was assigned Brian Gillan. While I was commended on my work ethics and strived to carry myself in a professional manner, my experience with Brian Gillan was a continuance by Wood & Lamping to subject me to retaliation and discriminatory treatment. First appearing to be pleased with my work (as evidenced in e-mail), Brian's sudden change and craftily drafted e-mail to slander my character, work ethics, etc. was launched. Wood & Lamping was aware of this and for quite some time did nothing to deter Brian's acts although I reported violations to its attention. It was not until I advised that I was to going to report this to Bill Ellis that Brian was pulled. My concerns were made known as to the motives behind Brian's conduct; however, nothing was done. My concerns regarding how other white employees were not required to endure the hostile, discriminatory and brutal treatment that Wood & Lamping was going to make me endure although it was fully aware of the emotional, physical and mental impact it was having on me. Some of our conversations I am confident are memorialized in Wood & Lamping's e-mail (for example attached).

> **POLICY AGAINST UNLAWFUL HARASSMENT**
> **General:**
> Wood & Lamping is committed to maintaining a professional and collegial work environment in which all individuals are treated with respect and dignity. The firm prohibits discrimination because of

race, color, religion, sex, national origin, age, veteran's status, disability, or any other protected status in accordance with applicable laws. *Harassment is a form of discrimination and* ***will not*** *be tolerated.*

Wood & Lamping encourages individuals who believe they are subject to harassing behavior to clearly and promptly notify the offender that his or her behavior is unwelcomed, but one is not required to do so. However, any individual who believes he or she has been subject to harassment of any kind must notify a partner of the firm or a member of management in order for the matter to be resolved. (Wood & Lamping LLP Policies and Procedures Manual @ p. 20)

Policy Against Sexual Harassment:

A. Sexual Harassment Defined
. . .While mutually consenting relationships between members of the firm are not sexual harassment, these relationships *are considered* ***unwise*** because of the potential denial of mutual consent.

B. Procedures for Reporting Sexual Harassment
Wood & Lamping encourages individuals who believe they are subject to sexual harassment to clearly and promptly notify the offender that his or her behavior is unwelcomed. However, one is not required to do so. Any individual who believes he or she has been subject to harassment **of any kind** must notify a partner of the firm or a member of management. The partner or manager will initiate an investigation of the matter....

C. Investigations
Investigations will be prompt, thorough, accurate, consistent, and conducted as discreetly as possible. Confidentiality will be maintained to the extent practical, but a few members of the firm will have to know about the situation due to the employer's **obligation** to investigate. Effective enforcement of this policy requires that the offender be made aware of the alleged conduct at some point, and fairness demands that an accused be afforded an opportunity to make a defense. The reporting individual will be notified before the offender is questioned about or told of the charge.

Once the investigation is complete, findings and decisions will be made and communicated to the reporting individual and the offender. If there is no evidence to support the allegations, the matter will be dropped and the investigation closed. If the investigation confirms that harassment occurred, the harasser will be subject to resolution procedures and/or appropriate disciplinary penalties, which may include one or more of the following: referral to counseling, withholding of a promotion, reassignment, mediation, temporary

suspension without pay, a written warning, and *discharge* from the firm.

Non-Retaliation Policy:
No *one* will be subject to ***any*** *form* of discipline or *retaliation* for reporting incidents of unlawful harassment, ***pursuing*** *any such claim,* or ***cooperating*** *in the investigation of such reports.* Any form of retaliation will result in appropriate disciplinary procedures, up to and including discharge from the firm. However, individuals who falsely and maliciously accuse another will be subject to the disciplinary procedures described above.
(Wood & Lamping LLP Policies and Procedures Manual @ pp. 20-22)

WORKPLACE VIOLENCE
Threats, intimidation, flashing of weapons, **stalking** or any ***acts of aggression*** or **violence** made toward or by anyone ***will not*** be tolerated. Any potentially dangerous situations, including threats, should be reported immediately to a manager or partner. All reports will be promptly investigated. To protect the firm and its staff, the firm reserves the right to search employees and their personal property when there is reason to believe that this policy has been violated. Searches of firm facilities and property may be conducted at any time and do not have to be prompted by a belief that a policy is being violated. No employee will be subject to retaliation, intimidation or discipline as a result of reporting a situation. If an investigation confirms that a threat of a violent act or violence itself has occurred, corrective action will be taken against the offender.
(Wood & Lamping LLP Policies and Procedures Manual @ p. 29)

3. While it was not clear to me why Wood & Lamping would not represent me in matters brought to its attention, I could not dwell on that. I was able to obtain an Injunction and Restraining Order in my Landlord & Tenant matter which Elizabeth thought would be hard to obtain. Then in October 2008, I was unlawfully evicted from my residence. Wood & Lamping was timely and promptly notified of this matter. I even advised of my reporting this matter to the FBI. Either way, I was engaging in protected activities in which Wood & Lamping was fully aware. See my correspondence with Andrea regarding this. What I did not like about this was how Andrea attempted to make it appear there was a problem with my being out. I do not ever recall exceeding any days allowed for leave (vacation and/or sick); however, aware of my circumstances, attempted to add salt to the womb – clearly UNACCEPABLE.

4. I had a doctor's appointment in October and advised Andrea of what was taking place. Then in December 2008, I went to Andrea to advise of medical procedure and determine how leave would be covered. Andrea advised of the Family and Medical Leave Act and how the firm would handle such matters. I followed up with the required Request Form for leave on

January 8, 2009. On January 9, 2009, I was terminated being advised my position was being eliminated.

5. Since leaving Wood & Lamping, I have found out that Thomas J. Breed's former law firm Schwartz Manes & Ruby – now Schwartz Manes Ruby & Slovin – is representing a client that has business a business dispute with me. Whether or not Wood & Lamping would have represented me in that matter, I do not know. What I do know, is that I recall getting a fax from the company while at Wood & Lamping when I picked it up from the counter in the copy room. While I was not aware at the time that Tom's former law firm was representing that company, I found it interesting to find out that my termination came on January 9, 2009 – the very same weekend this company was holding what they called an "Amnesty Weekend." Not only that, no fax as sent prior by them on this date (so I concluded that they knew of what was about to take place at Wood & Lamping), but I was mailed a notice on the very same date of my termination. Tom is a member of the Executive Board at Wood & Lamping if I am not mistaken. Raising concerns for a reasonable mind (jury) as to the motive behind my termination – was it done to aid his former law firm (you scratch my back and I'll scratch yours – at my expense). What is Tom's interest in the matter and whether or not he has any interest still with Schwartz Manes? Again, that is not up to me to decide, but for a jury I would think. A ***causal*** link/connection can be established.

6. In regards to the FMLA, I will only present the following and let you take it from there because all I am required to do is present a prima facie case and evidence which I believe can be done:

> If the condition for which leave is granted is **foreseeable**, employees **must** provide the employer with **30** ***days notice*** **to be entitled to the protection of the FMLA**. . .
>
> Upon return from leave granted under the FMLA, employees are entitled to reinstatement to the position of employment previously held, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment . . . Employer's **may not** interfere with any employee's attempt to exercise his/her rights under the FMLA. It is also **illegal** *for employers to* ***discriminate*** *against or discharge an employee because he/she has attempted to exercise his/her rights. . .granted by the FMLA.*

See p. 32 of Wood & Lamping's Employer's Guide

You know *McDonnell Douglas* is a landmark case.

Hodgens v. General Dynamics Corp., 144 F.3d 151 (C.A. 1, 1998)

(n. 16) Employee's atrial fibrillation was "serious health condition" within meaning of FMLA section entitling employee to 12 weeks of leave for serious health condition making employee unable to perform his or her job; employee had over three

consecutive days' absences from work, had two or more treatments by health care provider, and was placed on treatment regimen of medication, and his illness might have proved fatal if left untreated. Family and Medical Leave Act of 1993, §§ 101(11), 102(a)(1)(D), 29 U.S.C.A. §§ 2611(11), 2612(a)(1)(D); 29 C.F.R. § 825.114(a)(2, 3), (b)(1, 2) (1993).

(n. 18) FMLA protects employee who visits a doctor with symptoms that are eventually diagnosed as constituting a serious health condition, even if, at the time of the initial medical appointments, the illness has not yet been diagnosed nor its degree of seriousness determined. Family and Medical Leave Act of 1993, § 102(a)(1)(D), 29 U.S.C.A. § 2612(a)(1)(D); 29 C.F.R. § 825.114(b).

(n. 23) Employer may not use reduction-in-force (RIF), reorganization, or improved-efficiency rationale as pretext to mask actual discrimination or retaliation for employee's exercise of FMLA rights; the mere incantation of the mantra of "efficiency" is not a talisman insulating an employer from liability for invidious discrimination. Family and Medical Leave Act of 1993, § 105(a), 29 U.S.C.A. § 2615(a); 29 C.F.R. § 825.220.

(n. 25) Even if employer's articulated reason for its adverse employment action is facially neutral, as in the case of a reduction in force (RIF), if in reality the employer acted for reason prohibited by the FMLA's retaliation provision, then its asserted legitimate reason and its ostensibly nondiscriminatory selection criteria as to who is subject to RIF cannot insulate it from liability. Family and Medical Leave Act of 1993, § 105(a), 29 U.S.C.A. § 2615(a).

(n. 35) Statements by supervisors carrying the inference that the supervisor harbored animus against protected classes of people or conduct are clearly probative of pretext in FMLA retaliation action. Family and Medical Leave Act of 1993, § 105(a), 29 U.S.C.A. § 2615(a).

> (@ n. 23) an employer may not use its RIF/reorganization/improved-efficiency rationale as a pretext to mask actual discrimination or retaliation; the mere incantation of the mantra of "efficiency" is not a talisman insulating an employer from liability for invidious discrimination. See **McDonnell Douglas,** 411 U.S. at 804, 93 S.Ct. 1817 (employer may not use an ostensibly legitimate reason for an adverse action as a pretext for discrimination that is prohibited by statute); 29 U.S.C. § 2615(a); 29 C.F.R. § 825.220; cf. *INS v. Chadha,* 462 U.S. 919, 944, 103 S.Ct. 2764, 77 L.Ed.2d 317 (1983): "Convenience and efficiency are not the primary objectives-or the hallmarks-of democratic government." Nor are they the objectives of public policy underlying statutes like the FMLA or the ADA.

> (@ n. 25) Because of the availability of seemingly neutral rationales under which an employer can hide its discriminatory intent, and because of the difficulty of accurately determining whether an employer's motive is legitimate or is a pretext for discrimination, there is reason to be concerned about the possibility that an employer could manipulate its decisions to purge employees it wanted to eliminate. See *Weldon v. Kraft, Inc.,* 896 F.2d 793, 798 (3d Cir.1990) (Subjective evaluations of performance "are more susceptible of abuse and more likely to mask pretext" than objective job qualifications.) (internal quotation marks omitted). The law does not permit this. Even if an employer's actions and articulated reasons are facially neutral (e.g., a RIF), if in reality the employer acted for a prohibited reason (e.g., retaliation for exercising a protected right), then its asserted legitimate reason for the RIF and its ostensibly nondiscriminatory selection criteria as to who gets RIFed cannot insulate it from liability. As Judge Posner wrote in the context of ADA disability discrimination, "[a] RIF is not an open sesame to discrimination against a disabled person. Even if the employer has a compelling reason wholly unrelated to the disabilities of any of its employees to reduce the size of its work force, this does not entitle it to use the occasion as a convenient opportunity to get rid of its disabled workers." *Matthews v. Commonwealth Edison Co.,* 128 F.3d 1194, 1195 (7th Cir.1997) (citation omitted). Nor can it be an opportunity to get rid of workers who exercise their FMLA right to take medical leave for serious medical conditions. See 29 U.S.C. § 2615(a).

OHIO LAW IS CLEAR ON THIS SUBJECT (so I'm sure it will be in areas in which other violations have occurred)

> *Skrjanc v. Great Lakes Power Service Co.,* 272 F.3d 309 (C.A.6.Ohio,2001) - Employee presented prima facie case of retaliatory discharge under FMLA by showing that he availed himself of protected right by notifying employer of his intent to take leave, that he was adversely affected by employment decision when he was discharged, and that there was proximity in time between employee's request for leave and his discharge. Family and Medical Leave Act of 1993, § 102(a)(1)(D), 29 U.S.C.A. § 2612(a)(1)(D).

> *Hollingsworth v. Time Warner Cable,* 812 N.E.2d 976 (Ohio.App.1.Dist.Hamilton.Co., 2004) - To establish a prima facie case of discrimination under the Family and Medical Leave Act (FMLA), an employee must demonstrate that (1) *she was a member of a protected class,* (2) *she suffered an adverse employment action,* (3) *she was qualified for the position that she lost,* and (4) she was replaced by a person outside the

> protected class, or a *comparable nonprotected person was treated better.* Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C.A. § 2601 et seq.
>
> *Zechar v. Ohio Dept. of Edn.,* 782 N.E.2d 163 (Ohio.Ct.Cl.,2002) - An employee can prove Family and Medical Leave Act (FMLA) retaliation circumstantially, using the method of proof established in McDonnell Douglas, and thus, to establish a prima facie case of retaliation circumstantially, employee must show that she exercised rights afforded by the FMLA, that she suffered an adverse employment action, and that there was a causal connection between her exercise of rights and the adverse employment action. Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C.A. § 2601 et seq.

So to deprive me medical coverage which I am certain will be proven was provided to white employees similarly situated for hopes of dragging out the process, is clearly UNACCEPTABLE – Negligence, Malice, etc. (COMPENSATORY, PUNITIVE DAMAGES, is looking good now – especially when the violations rendered me is within the firms area of speciality). Remember Wood & Lamping has a duty to mitigate damages.

7. **PRETEXT** on the part of Wood & Lamping can also be shown. I believe a reasonable mind and/or jury may conclude that its taking of my *Policies and Procedures Manual* was deliberate, willful and malicious. Moreover, done to cover up unlawful/illegal practices. Clearly prior to my termination Wood & Lamping had ***premeditated, calculated*** and ***well-hatched plan*** to cover-up their retaliatory and discriminatory practices. Such acts which are clearly unacceptable. Thank goodness I decided to make a copy of the Policies and Procedures Manual as well as keep my copy of the binder provided at the Seminar Julie Pugh and Heath Walsh conducted. Even the laws are aware how shady employers are in attempting to cover-up such unlawful/illegal acts. No I believe I have a valid claim.

8. It is going to be interesting to find out why others (white) felt comfortable acknowledging bringing Complaints and wanting feedback; however, when I presented mine, how Wood & Lamping retaliated; moreover, subjected to discriminatory treatment - which ultimately resulted in my termination.

9. Elimination of my job – taking away of my job duties were merely acts orchestrated by Wood & Lamping to mask their unlawful/illegal practices (discrimination and retaliation and knowledge of my engagement in protected activities). The Policies and Procedures Manual clearly states no employee engaging in protected activities would be discriminated and/or retaliated against; however, that was not the case. Again, who am I - just let a jury decide.

10. While you mentioned economic times contributing to Wood & Lamping's decision, that is also up to a jury to decide. Let them release their financial information and of course a great deal of other information as it relates to the information they relied upon to reach their decision. Let the jury decide whether or not my termination was for non-discriminatory reasons. I really do not think so. However, that is not up to me to decide.

PLEASE TAKE NOTICE, that I had a call from the doctor's office (after my phone conversation with you) advising that because of my condition, the aggressive treatment discussed is required. Not only that, it looks as though the recovery period will require a great deal of time. The proper paperwork (if needed) to comply with the FMLA and privacy guidelines can be provided if need be.

As you have been advised, I have begun the process in the filing of the applicable charges; however, this does not relieve Wood & Lamping from mitigating damages.

Sincerely,

Denise Newsome

cc: Andrea M. Griffith (amgriffith@woodlamping.com)
C. J. Schmidt (cjschmidt@woodlamping.com)
Personal File

TRANSMISSION VERIFICATION REPORT

TIME : 02/02/2009 17:38
NAME : FEDEX KINKO'S #2138
FAX : 5139610138
TEL : 5139610104
SER.# : 000J7N199268

DATE,TIME	02/02 17:33
FAX NO./NAME	5134196488
DURATION	00:04:43
PAGE(S)	09
RESULT	OK
MODE	STANDARD

DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

February 2, 2009

VIA FACSIMILE & E-MAIL
Paul R. Berninger (prberninger@woodlamping.com & 513-419-6488)

RE: MEDICAL COVERAGE - CONCERNS DISCRIMINATION UNDER FMLA AND COBRA VIOLATIONS

Dear Paul:

This will confirm receipt of your voicemail message on yesterday which was cut off and our telephone conversation on today in regards to the above referenced matter.

From my understanding of the conversation, Wood & Lamping (Andrea) acknowledges that I advised of my request regarding medical procedure I discussed with her. At this time, Wood & Lamping is willing to extend me medical coverage under COBRA where they will make the payments. However, in exchange for such agreement, I would be required to sign a Release relinquishing all rights that I may have to bring charges and/or lawsuit against Wood & Lamping for any injury/harm I sustained from violations – i.e. wrongful discharge, retaliation, racial discrimination, etc. As I shared with you, **my main focus right now is getting the medical procedure done that I was advised of** any other relief I seek will be done in the applicable time permitted by statute/laws.

HOWEVER, PLEASE LET ME REITERATE, it is Wood & Lamping's duty and responsibility to **mitigate** damages – that includes continuing medical coverage and/or benefits – in the showing of good faith (not in continuance of bad faith or malicious behavior, etc. to cause me additional injury/harm).

In the Matter of:

VOGEL D. NEWSOME,

COMPLAINANT,

v.

MITCHELL, MCNUTT & SAMS, P.A.,

RESPONDENT.

ARB CASE NO. 04-082

DATE: September 14, 2004

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearance:

For the Complainant:
Vogel D. Newsome, pro se, *Jackson, Mississippi*

FINAL DECISION AND ORDER

BACKGROUND

This case arises from a complaint filed by the Complainant, Vogel Newsome, against the Respondent, Mitchell, McNutt & Sams, P.A., for unpaid wages pursuant to the Fair Labor Standards Act (FLSA), 29 U.S.C.A. § 201 (West 1998). On March 19, 2004, the District Director of the Jackson, Mississippi office of the Department of Labor Wage and Hour Division issued a letter to the Complainant, notifying her that he found no violation of the FLSA and that the Wage and Hour Division would take no further action. On April 16, 2004, the Administrative Review Board (ARB) received a petition for review from the Complainant requesting the ARB to review the Wage and Hour Division's determination.

Because it did not appear from the face of the petition for review that the ARB had jurisdiction of the matter, the ARB ordered the Complainant to show cause why her petition for review should not be dismissed for lack of jurisdiction. The ARB explained,

EXHIBIT
87

"To show cause, the Complainant must demonstrate how her petition for review falls under this Board's jurisdiction to review decisions made by the Administrator of the Wage and Hour Division (or an authorized agent of the Administrator) under Section 4 of the Secretary's delegation of authority to the ARB."[1]

The Complainant filed a response to the Show Cause Order on July 7, 2004. For the following reasons we conclude that the ARB does not have jurisdiction to consider Newsome's petition for review.

DISCUSSION

The Secretary of Labor established the ARB to issue final decisions for the Secretary in cases arising under a limited number of specified statutory provisions. Secretary's Order 1-2002, 67 Fed. Reg. 64272 (Oct. 17, 2002). Accordingly, the ARB's jurisdiction to issue such decisions is limited to the statutory provisions specifically enumerated. In this case, Newsome appeals a decision issued by the Department of Labor's Wage and Hour Division. The Secretary of Labor has delegated authority to the ARB to review final decisions of the Administrator of the Wage and Hour Division or an approved agent of the Administrator[2] under:

> (1) The Davis-Bacon Act, as amended (40 U.S.C. 276a et seq.); any laws now existing or which may be subsequently enacted, providing for prevailing wages determined by the Secretary of Labor in accordance with or pursuant to the Davis-Bacon Act; the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) (except matters pertaining to safety); the Copeland Act (40 U.S.C. 276c); Reorganization Plan No. 14 of 1950; and 29 CFR parts 1, 3, 5, 6, subpart C and D.
>
> b. Final decisions of the Administrator of the Wage and Hour Division or an authorized representative of the Administrator, and from decisions of ALJ, arising under the McNamara-O'Hara Service Contract Act, as amended (41 U.S.C. 351); the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) (except matters

---

[1] See Secretary's Order 1-2002, Delegation of Authority and Assignment of Responsibility to the Administrative Review Board, 67 Fed. Reg. 64272 (Oct. 17, 2002).

[2] The Administrator of the Wage and Hour Division did not sign the letter of which Newsome seeks review, nor does the letter purport to be a final decision of the Administrator. Given our conclusion that the ARB does not have jurisdiction of this case in any event, it is not necessary for us to determine whether the letter was a final decision by an authorized agent of the Administrator.

> pertaining to safety) where the contract is also subject to the McNamara-O'Hara Service Contract Act; and 29 CFR parts 4, 5, 6, subparts B, D, E.

Secretary's Order 1-2002, 67 Fed. Reg. 64272 (Oct. 17, 2002). Thus, the Secretary has delegated to the Board the jurisdiction to review final decisions of the Administrator of the Wage and Hour Division only in cases arising under the statutes specified and these specified statutes do not include the FLSA.

In support of her argument that the ARB has jurisdiction of her appeal, Newsome contends that the ARB's statement in the Order to Show Cause that its jurisdiction is limited to those statutes enumerated in the Secretary's Delegation of Authority is belied by information posted on the ARB's website that states, "the Secretary delegated directly to the Administrative Review Board the authority of the Secretary of Labor and other deciding officials to issue final agency decisions under a broad range of Federal labor laws." Response to Show Cause (Resp.) at 4. The two statements are not contradictory. The variety of the subject matters of the statutes under which the ARB issues decisions for the Secretary is indeed quite broad, including, for example, environmental, airline, nuclear energy, trucking and airline whistleblower protections, federal contracts for construction and services, child labor protection, migrant and seasonal worker protection and H-1B non-immigrant employee protections. However, the Board's jurisdiction is in fact "limited," in that the Board may only issue decisions for the Secretary as specified in the Secretary's delegation of authority to the Board.[3]

Newsome also argues that Section 4(c)(10)-(13) of the Secretary's Order delegates to the Board authority to review decisions in cases arising under specified sections of the FLSA and its regulations. However, even if Newsome's claim fell within these enumerated sections and regulations, Section 4(c)'s delegation to the Board is limited to review of "[d]ecisions and recommended decisions by ALJs" in such cases. Newsome has petitioned for review of the letter of a Wage and Hour District Director, not from the decision of an ALJ. Therefore Section 4(c)(10)-(13) does not delegate authority to the Board to review the District Director's letter as requested by Newsome.

---

[3] Newsome notes that the Board neglected to include a copy of the Secretary's Order of delegation with the Show Cause Order. The Board apologizes for any inconvenience caused by this omission and the necessity for Newsome to obtain a copy from the Department of Labor's website.

CONCLUSION

In response to the Board's Show Cause Order, Newsome has failed to demonstrate, nor is the Board cognizant of, any basis for asserting jurisdiction in this case. Consequently, we **DISMISS** the petition for review.[4]

SO ORDERED.

WAYNE C. BEYER
Administrative Appeals Judge

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

[4] In the event that the ARB determined that it did not have jurisdiction in this case, Newsome has requested us to forward her petition to the Secretary of Labor for her consideration. A copy of the petition will be so forwarded.

Rec[illegible]s Authentication [illegible]rtificate U.S. Departm[illegible] of Labor

Sect[illegible] Legal Custodian

I H[illegible]BY ATTEST, That the attached copy or copies of each document listed below is a true copy of a docu[illegible]t in the official custody of the Department of Labor.

The attached letter dated February 25, 2005, transmitting information concerning Mitchell, McNutt & Sams, PC and the Four hundred seventeen (417) pages herewith are true and correct documents contained in an official file of the United States Department of Labor, Wage and Hour Division of which I am the custodian of records.

Sig[illegible]	nd Official Title	Agency and Office	Date
Ca[illegible] Re[illegible]	H. Riddle Operations Manager	U.S. Department of Labor Wage and Hour Division	February 25, 2005

Sec[illegible] Authentication Officer

I HEREBY CERTIFY, That Carolyn H. Riddle who signed the foregoing attestation, is now and was at the time of signing (title) Regional Operations Manager and has legal custody of the official records of the United States Department of Labor therein attested and that full faith and credit should be given to his/her act as such.

IN WITNESS WHEREOF, I Cindy L. Brown duly designated by the Secretary of Labor as Authentication Officer of the Department of Labor, have here-unto subscribed my name and caused the seal of the Department of Labor to be affixed this 1st day of March 2005.

Authentication Officer
Department of Labor

EXHIBIT 88


U.S. OFFICIAL MAIL
PENALTY FOR PRIVATE USE
$8.00
U.S. POSTAGE

[redacted] Barnett & Sams, PA
[redacted] 1387893

FLSA NARRATIVE REPORT

Ms Newsome was interviewed (Exhibit B-3) during the course of this investigation. This supplemented her 26 page "Amended Retaliation Complaint"

Evidence: Interviews of Supervisor Robert Gordon, Attorney Mike Farrell, and Secretary, Ladye Margaret Townsend revealed that Ms Newsome had been rebellious and insubordinate in job duties assigned to her from the start of her employment.

[redacted] interview (Exhibit [redacted]) stated that every since Ms Newsome was hired she been looking for a way to get fired to pursue a law suit. She further confirmed the event in which the baseball cap was worn and supervisor Gordon requested Ms Newsome to remove it and she was insubordinate. (Exhibit D-11…D-11-a) After this incident Ms Newsome began working on whether she was paid properly. According to [redacted], Newsome spent hours on research on this matter. She further confirmed that the firm did all they could to alleviate any concerns Ms Newsome had about by being paid properly under FLSA. (Exhibit D-8…D-8-h)

[redacted] Newsome disagreed with Attorney Farrell and told Cochanuer and Townsend she was going to contact Wage Hour. [redacted] didn't know if Newsome did on not because nothing came of it. [redacted] further confirmed other events of insubordination.
(Exhibit [redacted])

[redacted]

FLSA NARRATIVE REPORT

[redacted]

Further action:

[redacted]

(Note) During the course of this investigation, District Director ("DD") Billy Jones retired from the department. Regional Administrator McKeon assigned Assistant District Director ("ADD") Oliver Peebles as Acting DD for the Gulf Coast District. DD Peebles has been advised through all actions of this case, and all of his instructions have been followed.

I recommend that a similar letter be sent to:

Attorney Sandy Sams, Partner
Mitchell, McNutt & Sams, P.A.
105 South Front Street
P.O. Box 7120
Tupelo, MS 38802-7120

with copies to:

Attorney Jim Allen, Executive Director
Mitchell, McNutt & Sams, P.A.
105 South Front Street
P.O. Box 7120
Tupelo, MS 38802-7120

Google "vogel newsome" Search Advanced Search

Web Show options... Results **1** - **10** of about **190** for **"vogel newsome"**. (**0.18** seconds)

Newsome v. Crews et al - 3:2007cv00560 - Justia Federal District ...
Sep 21, 2007 ... Plaintiff: **Vogel Newsome**. Defendant: Melody Crews, Spring Lake Apartments LLC, ... Plaintiff: **Vogel Newsome**. Search Dockets, [Dockets] ...
dockets.justia.com/docket/court-mssdce/.../case_id-61530/ - Cached - Similar

Docket Search: "john vogel" - Justia Federal District Court ...
Plaintiff: **Vogel Newsome**; Defendant: Melody Crews, Spring Lake Apartments LLC, Dial Equities, Inc., Jon C. Lewis, William L. Skinner, II and others. ...
dockets.justia.com/search?q=John+Vogel - Cached - Similar

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Vogel Newsome - WhitePages
Vogel Newsome's phone number and address are on WhitePages.
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Vogel Nolvia
... is 67317367th most common Vogel Nathan; is 67317368th most common **Vogel Newsome**; is 67317369th most common Vogel Nolvia; is 67317370th most common Vogel ...
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Department of Labor: 04 082
Jan 27, 2008 ... FINAL DECISION AND ORDER BACKGROUND This case arises from a complaint filed by the Complainant, **Vogel Newsome**, against the Respondent, ...
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Audrea Newsome - WikiName
Harvellia Newsome, **Vogel Newsome**, Vanessa Cole, Carol D. Williams. 3:55.81 ... Cleburne News - Church news Abigail Crawford, Vicky Blanton and Audrea ...
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Last Names Ranging From Newsome, Tanedrell To Newson, Adam ...
... Newsome Vivie Newsome **Vogel Newsome** Vol Newsome Vonda Newsome Vondell Newsome Vonetta Newsome Vonna Newsome Vonnell Newsome Vonnie Newsome Vosha Newsome ...
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... Newsome Virnel Newsome Vivian Newsome Vivie Newsome Vivkie Newsome **Vogel Newsome** Vol Newsome Vonda Newsome Vondell Newsome Vonetta Newsome Vonna Newsome ...
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EXHIBIT 89

11/3/2009

[PDF] WOMEN'S INDOOR TRACK AND FIELD
File Format: PDF/Adobe Acrobat - Quick View
Mississippi Valley State (Harvellia Newsome, **Vogel Newsome**, Vanessa Cole, Carol D. Williams), 3:55.81*. 1982. Prairie View A&M (Texas) (Sheila Labome, **...**
www.naiahonors.com/records/WomensIndoor_weekly-release.pdf - Similar

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F.3d Volume 301 - Justia US Court of Appeals Cases and Opinions
301 F.3d 227, Apr 22, 2002, Fifth, **Vogel Denise Newsome**, Plaintiff-appellant, v. Equal Employment Opportunity Commission; Patricia T. Bivins; **...**
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Vogel Denise Newsome, Plaintiff-Appellant, v. Equal Employment Opportunity Commission; Patricia T. Bivins; Marvin L. Hicks; Sharon C. Williams, **...**
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Newsome vs. EEOC - US Court of Appeals for the 5th Cir. - December ...
02-30618 Conference Calendar **VOGEL DENISE NEWSOME**, Plaintiff-Appellant, **...** PER CURIAM: * **Vogel Denise Newsome** has appealed the district courtÂ's denial of **...**
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301 F.3d 227 - **Vogel Denise NEWSOME**, Plaintiff-Appellant, v. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION; Patricia T. Bivins; Marvin L. . ...
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naiawomen1600relayindoor.html
1981, Mississippi Valley State, Harvellia Newsome, **Vogel Newsome**, Vanessa Cole, Carol D. Williams, 3:55.81*. *Event conducted at one-mile distance. HT&CC.
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SC State's Jasmine Smith had a personal best leap of 12.52m in the triple jump, erasing a 24-year old facility record set by Florida A&M's **Vogel Newsome** and **...**
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1978-1982. Frederick Richards . 1992-1996. Rachel Kinnard. 1974-1978. Alma Higgins. 1974-1975. Charles Stokes. 1971-1975. **Vogel Newsome**. 1976-1980 . **...**
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Court of Appeals



Judge
DONNA M. BARNES
District 1, Position 2

Court of Appeals Judge Donna M. Barnes of Tupelo was appointed by Governor Haley Barbour on July 26, 2004, to a vacancy on the court. In November 2006, Judge Barnes was elected unopposed to serve the remaining four years of this term.

Born in Natchez, Judge Barnes earned a Bachelor of Arts degree in 1982 from the University of Mississippi, summa cum laude, with majors in classical civilizations and English.

Judge Barnes obtained her Juris Doctorate from the University of Mississippi School of Law, where she graduated magna cum laude in 1985. She was a member of Phi Delta Phi legal fraternity and a research editor of Mississippi Law Journal. Judge Barnes is a member of the University of Mississippi Lamar Order.

For more than 18 years, Judge Barnes practiced law with Mitchell, McNutt and Sams in Tupelo with concentrations in appellate practice, real estate, health care, employment discrimination, section 1983 litigation and professional liability defense.

In 1996, she took sabbatical to study law at the University of Cambridge, where she was one of three American students in the LL.M. program which that year admitted 152 attorneys from 48 countries. Her studies included international commercial litigation, comparative public law, international human rights, and law and practice of civil liberties. A member of Magdalene College, Judge Barnes earned her Master of Law from the University of Cambridge in 1997.

Admitted to the practice of law in Mississippi in 1985, Judge Barnes is qualified to practice before the United States Supreme Court, the United States Court of Appeals for the Fifth Circuit, the United States District Courts for the Northern and Southern Districts of Mississippi, and all Mississippi state courts. She is a member of the Mississippi Bar and the Lee County Bar Association. She has served as president of both the Lee County Bar Association and the Lee County Young Lawyers Association. She is a graduate of Leadership Lee County and a member of the Tupelo Main Street Association "E-Club."

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Judge Barnes is an inaugural member of the Mississippi Access to Justice Commission, where she chairs its Pro Se Litigation Subcommittee. She is a fellow and a trustee of the Mississippi Bar Foundation. She is currently a member of the Criminal Code Revision Consulting Group and is a former member of the Judicial Advisory Study Committee.

Judge Barnes is a communicant of All Saints Episcopal Church in Tupelo.

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Egypt's Opposition Leaders Sound Off on Upcoming Obama Visit

12/05/2009

By Mohammed Abdul-Raouf

Cairo, Asharq Al-Awsat- The Announcement of the anticipated visit to Egypt by US President Barak Obama has stirred controversy among Egypt's political opposition leaders, who have played down the significance of the visit. The Egyptian Embassy in Washington welcomed the visit. The Muslim Brotherhood said that President Obama's visit to Egypt is of no value, while the opposition Wafd party and the Grouping Party said the visit constitutes reconciliation with Cairo and provides an opportunity to turn a new page in relations. The Kifayah movement played down the importance of the visit, saying it did not pin much hope on it.

Ina statement to Asharq Al-Awsat, Muhammad Habib, first deputy to the general guide of the Muslim Brotherhood, said: "The US Administration employs all cards to serve its own interests." He said that the speech that Obama intends to deliver in Egypt is "of no value." He added: "Statements and speeches must be associated with, or preceded by real change in policy on the ground, because policy is judged by deeds, not words."

Habib said that there should be two axes in the Middle East, one that includes Egypt, Iran, and Turkey, and another that includes Egypt, Saudi Arabia, and Syria. He said: "In both axes Egypt should be the base and the spearhead in handling all thorny issues in the Middle East, and it should deny any opportunity for interference by Israel, the United States, or any Western power."

For his part, George Ishaq, assistant to the general coordinator of the Egyptian Movement for Change, "Kifayah," downplayed the importance of President Obama's visit to Egypt as well as his speech to the Muslim world. He said that the US policy will not change after Obama's visit to Egypt and the speech he will deliver to the Muslim world. He told Asharq Al-Awsat that "Washington's policy will continue to support despotic regimes because they prefer stability to democracy, as former US Secretary of State Condoleezza Rice said." He pointed out that relations between Washington and Cairo are based on interest and benefit, and that Obama's speech has no value. He added: "We do not pin much on hope on his visit though we wish the visit would mark reconciliation and accord with the peoples, not against them."

Dr Rifat al-Said, leader of the left-wing opposition Grouping Party, said Obama's visit to Egypt and delivering his speech in Cairo is no more than an attempt to placate the Egyptian side after a period of "mutual admonition" between Cairo and Washington during the era of former US President George Bush.

Robert Gibbs, the White House press spokesman, said the specific site for Obama's speech has not yet been selected, but noted that Egypt is a suitable country for the speech because, from many aspects, it represents the heart of the Arab world." At a new conference the day before yesterday, and in reply to a question on the [poor] human rights record in Egypt, Gibbs said: "The scope of the speech was more important than the leadership of the country in which it was given."

Samih Shukri, Egypt's ambassador to the United States, said that Egypt provides President Obama with an appropriate forum because of its large population, cultural traditions, and "moderate Islamic values." In a statement he released, he added: "The truth of Islam emanates from its moderation, not extremism. Egypt hopes that Obama's speech will be a key element in the United States's relations with the Muslim world." He added: "It is important for America's relations with the Muslim would to rely on mutual respect and understanding. Egypt is ready to work with President Obama and his administration to achieve this goal in keeping with our long-time friendship.

The White House said that President Obama's visit to Egypt was not at the invitation of the Egyptian government. It should be recalled that Egyptian President Hosni Mubarak will visit Washington before the end of this month. Gibbs said that President Obama's message is aimed not just at the Arabs, but Muslims throughout the world. He gave as example Indonesia, where President Obama spent part of his childhood and which has the world's largest Muslim population.

Before his inauguration as president on 20 January, President Obama had expressed a desire to improve the US image in the world, particularly the Muslim world. In his inauguration speech, he proposed "a new approach based on mutual interest and respect." Obama's speech in Egypt will follow his speech in Turkey in which he spoke of the importance of improving relations between the two parties, and stressed that his country "is not at war with Islam."

Obama had earlier stated that he intended to speak to a major Muslim forum in the first 100 days after his inauguration, if he were to be elected. However, the first 100 days passed on 30 April without delivering his speech. US officials said that the US president's busy schedule and his first

The Last Pharaoh: Mohamed Al Fayed



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Why is Hezbollah So

EXHIBIT 91

foreign tour in April were behind the delay in delivering his speech.

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

VOGEL NEWSOME — PLAINTIFF

VERSUS — CIVIL ACTION NO. 3:07cv99-TSL-JCS

MELODY CREWS, ET AL. — DEFENDANT

==========

ORDER OF RECUSAL

This cause is before the Court *sua sponte* for the undersigned to determine whether he should recuse himself in this matter. The undersigned feels compelled to recuse himself in the above styled and numbered cause of action because of a conflict of interest.

This case will now be assigned to United States Magistrate Judge Linda R. Anderson. The district judge will remain the same being United States District Judge Tom S. Lee. The case number will read 3:07cv99-TSL-LRA.

SO ORDERED, this the 5th day of September, 2007.

/s/ James C. Sumner

UNITED STATES MAGISTRATE JUDGE

EXHIBIT
92

LASH MARINE SERVICES, INC.

MEMORANDUM

TO: WHOM IT MAY CONCERN

FROM: Robert K. Lansden
Vice President

DATE: July 11, 1996

RE: ***VOGEL D. NEWSOME***

This letter is to confirm and recommend Ms. Vogel Newsome to a position of Executive Assistant, Administrative or greater. While working with Lash Marine, she performed the duties of Executive Assistant with skill and energy. Her spirit and motivation acted as a beacon of light to others. Her leadership and training of others was a great service. Always willing to share; she possess a unique ability to teach complex skills to the beginner and bring them quickly up to speed. In addition, being a caring and concerned citizen she put aside her time to train and work with Training, Inc. employees to develop their office skills for a better future.

She is an asset and will be sorely missed at Lash Marine.

1700 POYDRAS CENTER - 650 POYDRAS ST. - P.O. BOX 58409 - NEW ORLEANS, LA 70153-8409
MARINE PERSONNEL - TEL: (504) 529-5461 - FAX: (504) 593-6941 DIR FAX: (504) 593-6941 TLX: 587435 (CGULFNO)

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RALPH B. GERMANY, JR.
Direct Dial: (601) 914-1735
rgermany@purdygermany.com

MAILING ADDRESS:
P.O. DRAWER 1079
JACKSON, MS 39215-1079

August 18, 2003

Ms. Jane Sanders
Legal Resources, Inc.
1675 Lakeland Drive, Suite 306
Jackson, Mississippi 39216

RE: *Vogel Newsome*

Dear Ms. Sanders:

This letter follows-up my telephone conversation with your office on August 15, 2003. As you know, Bill Purdy and I just recently formed this firm. I left another firm to start this one. After leaving my previous firm, I needed a temporary secretary. For the last several weeks your office provided us with Ms. Vogel Newsome.

I have been very, very pleased with Vogel, not only in terms of her work product, but also in terms of her attitude and personality. I would rate her as one of the best legal secretaries with whom I have ever worked. I would highly recommend her to any one who is looking for a full-time legal secretary. If my previous secretary were not rejoining me, I would want Vogel to be my new permanent secretary.

If any one would care to discuss Vogel with me, please do not hesitate to give them my name and number. I will be more than happy to talk with them.

I am not certain of the exact day when my previous secretary will rejoin me. It could be immediately, or, it could be a couple of weeks. In light of that, we would like to request that we be allowed to continue to work with Vogel until further notice. However, the last thing I want to do is have Vogel miss another good opportunity that might lead to permanent employment. Therefore, if she must be reassigned, I will understand, but grudgingly so.

If you have any questions, please do not hesitate to give me a call.

Sincerely yours,

PURDY & GERMANY, PLLC

Ralph B. Germany

Ralph B. Germany, Jr.

RBGjr/vdn

FOURTH CIRCUIT DRUG COURT PROGRAM
STATE OF MISSISSIPPI

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MARGARET CAREY-MCCRAY
CIRCUIT JUDGE
WASHINGTON COUNTY

ASHLEY HINES
CIRCUIT JUDGE
SUNFLOWER COUNTY

LISA J. WASHINGTON
COORDINATOR

MARY ANN JONES
ADMINISTRATIVE ASSISTANT

July 7, 2006

Ms. Denise Newsome
Post Office Box 31265
Jackson, MS 39286

RE: Denise Newsome Letter of Recommendation

TO WHOM IT MAY CONCERN:

I was first introduced to Ms. Newsome over five (5) years ago. Since that time, she has been a Woman of integrity and intelligence. Ms. Newsome always has presented herself in a professional manner and has always addressed me and others with the uttermost of respect. Ms. Newsome outgoing personality and personal strengths would make her an excellent additional to anyone's staff. I have had the opportunity to work with Ms. Newsome and she has demonstrated flexibility in working outside of her field of endeavor and doing an excellent job is a strong indicator of how well she will do in her chosen field of endeavor. Ms. Newsome demonstrated a willingness to perform any task assigned to her promptly and correctly with little supervision. Ms. Newsome is a very pleasant person to associate with, works as a team player, and would truly be an ASSET to your organization because she is the best one for the job.

Thank you,

Lisa J. Washington

Lisa J. Washington, MS, LMFT
Coordinator

900 WASHINGTON AVENUE – P.O. BOX 1775 – GREENVILLE, MISSISSIPPI 38702-1775
PHONE: (662) 332-7793
FACSIMILE: (662) 332-7301

Vogel Newsome

From: Tommy Page
Sent: Thursday, June 16, 2005 9:16 AM
To: Vogel Newsome
Subject: RE: This morning

You do it well.

Thomas Y. Page, Esq.
PAGE, KRUGER & HOLLAND, P.A.
10 Canebrake Blvd., Suite 200 [39232-2215]
Post Office Box 1163
Jackson, MS 39215-1163
☎ **Telephone:** 601-420-0333
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From: Vogel Newsome
Sent: Thursday, June 16, 2005 8:54 AM
To: Tommy Page
Subject: RE: This morning

Why thank you. I strive to dress and carry myself in the manner in which PKH requires. ☺

From: Tommy Page
Sent: Thursday, June 16, 2005 8:19 AM
To: Vogel Newsome
Subject: This morning

You looked very smart & professional as you walked toward the building!

Thomas Y. Page, Esq.
PAGE, KRUGER & HOLLAND, P.A.
10 Canebrake Blvd., Suite 200 [39232-2215]
Post Office Box 1163
Jackson, MS 39215-1163
☎ **Telephone:** 601-420-0333
☎ **Facsimile:** 601-420-0033
✉ **Email:** tpage@pkh.net

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EXHIBIT 94

Vogel Newsome

From: Susan O. Carr

Sent: Monday, February 28, 2005 5:22 PM

To: Vogel Newsome

Vogel, First and foremost, you are doing an excellent job. These are just a few things that I thought of that might save us both some time and help things flow smoother.

1. Pleadings. All pleadings shall be double-spaced unless I say otherwise.

2. Discovery. When filing interrogatories, requests for production of documents and requests for admissions, we retain the originals and the copies go to the attorneys. The Notice of Service only is filed with the Court, not the actual pleadings.

3. When I say prepare discovery for filing, that means to include the Notice of Service as well as the letter to the clerk.

4. Spell check. Please run spell check on all drafts. Also, please proof all drafts of dictation before you bring to me. This is the VERY important. I understand that I produce a lot of work and you also work with another associate but, I always prefer quality to quantity. My work product reflects directly on me and PKH so it must be done correctly.

5. JDH. Please copy JDH on all correspondence in his cases.
TYP. Do not copy or blind copy him on anything unless I specifically ask you to.

6. Caselist. Please keep my caselist updated and complete. Remember to remove any case that we settle or close.

7. Page numbers should not go on the first page of pleadings. Remember to suppress the page number on the first page.

8. Filing. Filing should be done for me on a weekly basis. It is harder to catch up once the stack piles up. If you will put the file cart in my office I will be happy to place the filing as it comes in, in the appropriate folder.

9. Timesheets. It is imperative that time is entered timely as to alleviate any fines. You are doing a wonderful job at this.

11. Dictation. If you get behind on dictation, please let me know. I don't or won't know unless you tell me.

12. Phone Calls. On most occasions, phone calls from adjuster, other attorneys, etc. go to my voice mail, but if they go to you it is very important to get complete info. If it is an adjuster, make every attempt to get what they need. Also, do not put an adjuster on hold. Adjusters are how we get cases, we must keep them happy.

Please let me know if you have questions or the work gets overwhelming. If so, we can work together to prioritize and make your life easier. Thanks again for all your hard work. SOC

Staffers
Promoting a Better Workplace
362-1010

Vogel Newsome

Test Results from 11-20-02

Alphanumeric
8944 kph / 2% error rate

Typing
60 wpm / 1% error rate

Word 97
100 overall (100 on basic, intermediate & advanced)

Excel 97
100 overall (100 on basic, intermediate & advanced)

Jana Hedglin
362-1010
Staffing Coordinator

EXHIBIT
95

PAGE, KRUGER & HOLLAND, P.A.

10 Canebrake Boulevard, Suite 200, Jackson MS 39232-2215
Post Office Box 1163, Jackson MS 39215-1163
PHONE: (601) 420-0333; FAX (601) 420-0033; MESSAGES: (601) 420-8188

Main Supply Room..... 228	Main Conf. Room.....254	Intercom..... PAGE ALL*
2nd Supply Room..... 259	2nd Conf. Room.....237	Kitchen..... 234
3rd Supply Room..... 270	3rd Conf. Room.....269	Computer Room..... 187
War Room across/LGB,III 178	War Room across/kitchen.....176	Main Conference Speaker..... 267

ATTORNEYS		SECRETARIES
Baine, Jr., Louis	118 (DO NOT ask who is calling)	Suzanne Saucier 265
Baine III, Louis*	122	Lee Ann Barber 231
Carr, Susan	130	Vogel Newsome 277
Chapman, John	117	Cheryl Ross 246
Copeland III, Clyde (Trey)*	146	Jackie Sullivan 272
Gadow, Jan	153	Cristie White 225
Graham, Kris	120	Susan Chrislip 226
Hall, Pelicia	142	Cristie White 225
Harmon, Stuart*	123	Cheryl Ross 246
Hill, Jr., Wright*	114	Erica Sweeney 233
Holland, James*	140 (DO NOT ask who is calling)	Julie Horn 232
Kruger, Stephen*	112	Susan Chrislip 226
Laird III, Gray*	129	Susan Dancey 260
Lee, Preston	116	Erica Sweeney 233
Page, Tommy*	111 (DO NOT PAGE)	Janet Robertson 235
Ray, Jackie	124	Karen Duke 271
Risher, Faith	155	Vogel Newsome 277
Smith III, A.B. (Trey)	136 (DO NOT ask who is calling)	Nicole Vanderford 248
Street, Martin	145	Tonya Pruitt 224
Tolle, Michelle	128	Karen Duke 271
Travis, Jamie	138 (DO NOT ask who is calling)	Lee Ann Barber 231
Treadway, Marc	133	Tonya Pruitt 224
Vines, W. Matt*	115	Nicole Vanderford 248
Weeks, Jason	119	Susan Dancey 260
Wolf, Michael	163	Suzanne Saucier 265

* = Shareholder

NON-SECRETARIAL STAFF:

Bruce, Julia	Legal Assistant	143
Chase, Brenda	Legal Assistant	121
Edwards, Melissa	File Clerk (Silica)	156
Fedrick, Joanne	Accounts Receivable/Billing	149
Freeman, Crissie	Accounts Receivable/Billing	150
Grant, Roy	Legal Assistant/Investigator	151
Green, Kelli	Legal Assistant	171
Groat, Shawn	File Clerk (Silica/Drug)	282
Hall, Angela	Legal Assistant	162
Hall, Dawn	Legal Assistant (JDH)	139
Harris, Leah	Legal Assistant	152
Herring, Terri	Legal Assistant/ Subrogation	174
Jordan, Jessica	Administrative Assistant	179
Maroney, Christine	Legal Assistant	172
McDaniel, Ginger	Legal Assistant	113
McNeil, Trey	Accounts Receivable/Billing	144
Mikkelson, Tiffany	Law Clerk	281
Newsome, Rebecca	Legal Assistant	158
Noblin, John	Legal Assistant	175
Rollins, Casey	Receptionist	110
Thomas, Linda	Office Manager	147

RUNNERS: Tasha Brown, Joseph Cascio, Paul Pettitt, Wesley Ray, Alex Yarbrough

G:\LISTS\EXTENTION LIST\EXTENSION LIST.DOC

EXHIBIT 96

PAGE, KRUGER & H[illegible]LAND, P.A.

10 Canebrake Boulevard, Suite 200, Jackson MS 39232-2215
Post Office Box 1163, Jackson MS 39215-1163
Phone: 601-420-0333; Fax: 601-420-0033; Messages: 601-420-8188

Main Supply Room	228	Main Conf. Room	254	Intercom	PAGE ALL*
2nd Supply Room	259	2nd Conf. Room	237	Kitchen	234
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War Room across/LGB,III	178	War Room across/kitchen	176	Main Conference Speaker	267

ATTORNEYS			SECRETARIES	
Baine, Jr., Louis	118	(DO NOT ask who is calling)	Kim Henderson	265
Baine III, Louis*	122		Lee Ann Barber	231
Carr, Susan	130		Tonya Pruitt	224
Chapman, John	117		Cheryl Ross	246
Copeland III, Clyde (Trey)*	146		Stacie Crenshaw	257
Fraser, Raymond	127		Vogel Newsome	277
Gadow, Jan	153		Cristie White	225
Graham, Kris	120		Susan Chrislip	226
Hall, Pelicia	142		Stacie Crenshaw	257
Harmon, Stuart*	123		Cheryl Ross	246
Hester, Lawson*	125		Cristie White	225
Hill, Faith	155		Vogel Newsome	277
Hill, Jr., Wright*	114		Lane Yearby	233
Holland, James*	140	(DO NOT ask who is calling)	Julie Horn	232
Kruger, Stephen*	112		Susan Chrislip	226
Laird III, Gray*	129		Susan Dancey	260
Lee, Preston	116		Lane Yearby	233
McDaniel, Allen	175		Nicole Vanderford	248
Page, Tommy*	111	(DO NOT PAGE)	Janet Robertson	235
Patel, Mona	139		Julie Horn	232
Ray, Jackie	124		Karen Goldman	271
Smith III, A.B. (Trey)	136	(DO NOT ask who is calling)	Nicole Vanderford	248
Street, Martin	145		Tonya Pruitt	224
Tolle, Michelle	128		Karen Goldman	271
Travis, Jamie	138	(DO NOT ask who is calling)	Lee Ann Barber	231
Treadway, Marc	133		Janet Robertson	235
Vines, W. Matt*	115		Nicole Vanderford	248
Weeks, Jason	119		Susan Dancey	260
Wolf, Michael*	163		Kim Henderson	265

* = Shareholder

NON-SECRETARIAL STAFF:

Bruce, Julia	Legal Assistant (SPK & SBH)	143	
Fedrick, Joanne	Accounts Receivable/Billing	149	
Freeman, Crissie	Accounts Receivable/Billing	150	
Grant, Roy	Legal Assistant/Investigator	151	
Green, Kelli	Legal Assistant (Silica)	171	
Groat, Shawn	Legal Assistant (Silica/Drug)	~~282~~ 121	
Hall, Angela	Legal Assistant	162	
Harris, Leah	Legal Assistant (Silica)	152	
Herring, Terri	Legal Assistant/ Subrogation (Silica)	174	
Lewis, Nijah	Legal Assistant (L. Hester)	108	
Maroney, Christine	Legal Assistant (Silica)	172	
McLendon, Annabeth	Receptionist	110	
McNeil, Trey	Accounts Receivable/Billing	144	
Newsome, Rebecca	Legal Assistant	158	
[redacted]			
Page, Thomas, Jr.	File Clerk (Silica)	156	
Rollins, Casey	Office Assistant	179	
Thomas, Linda	Office Manager	147	
Sullivan, Ginger	Legal Assistant (TYP & CXC)	113	

Nobl. not had left

RUNNERS: Alex Yarbrough, Andrew Rueff & Ben Ratliff

1/18/06

Name:	**James W Nobles Jr.**
Firm:	**Attorney at Law**
Address:	**431 Tombigbee St**
City, State, Zip:	**Jackson MS 39201**
Address:	**P O Box 1733**
City, State, Zip:	**Jackson, MS 39215-1733**
County:	**Hinds**
Telephone:	**(601) 948-1757**
Fax:	**(601) 354-0903**
E-mail:	**nobsbar@bellsouth.net**
Status:	**Active**
Admit Date:	**10/01/1966**

Name:	**J T Noblin**
Firm:	**US District Court Southern Distof MS**
Address:	**P O Box 945**
City, State, Zip:	**Jackson, MS 39205-0945**
County:	**Hinds**
Telephone:	**(601) 965-4440**
Fax:	**(601) 965-4935**
E-mail:	**j.t._noblin@mssd.uscourts.gov**
Status:	**Active**
Admit Date:	**08/01/1964**

Name:	**William C Noblin Jr.**
Firm:	**McDavid Noblin & West**
Address:	**248 E Capitol St Ste 840**
City, State, Zip:	**Jackson, MS 39201**
County:	**Hinds**
Telephone:	**(601) 948-3305**
Fax:	**(601) 354-4789**
E-mail:	**noblin@mnwlaw.com**
Status:	**Active**
Admit Date:	**04/01/1971**

Name:	**Carol S Noblitt**
Firm:	**Attorney at Law**
Address:	**6235 Bell Creek Ct**
City, State, Zip:	**Grand Bay, AL 36541**
Telephone:	**(228) 769-5114**
Fax:	**(228) 762-0185**
E-mail:	**noblittol@aol.com**
Status:	**Active**
Admit Date:	**09/25/1990**

EXHIBIT 97

7/12/2008

Name:	**Alan Lee Smith**
Firm:	**Baker Donelson Bearman Caldwell & Berkowitz**
Address:	**4268 I-55 N**
City, State, Zip:	**Jackson MS 39211**
Address:	**P O Box 14167**
City, State, Zip:	**Jackson, MS 39236-4167**
County:	**Hinds**
Telephone:	**(601) 351-2400**
Fax:	**(601) 351-2424**
E-mail:	**asmith@bakerdonelson.com**
Status:	**Active**
Admit Date:	**09/24/1996**

Name:	**Albert Benjamin Smith III**
Firm:	**Circuit Court Judge**
Address:	**P O Drawer 478**
City, State, Zip:	**Cleveland, MS 38732-0478**
County:	
Telephone:	**(662) 843-3346**
Status:	**Active**
Admit Date:	**04/01/1984**

Name:	**Allison W Smith**
Firm:	**Whitledge & Assoc**
Address:	**309 Carr St**
City, State, Zip:	**Fulton KY 42041**
Address:	**P O Box 1557**
City, State, Zip:	**Fulton, KY 42041**
Telephone:	**(270) 472-5500**
Fax:	**(270) 472-5501**
E-mail:	**asmith_spl@bellsouth.net**
Status:	**Inactive**
Admit Date:	**05/04/2004**

Name:	**Alvin L Smith Jr.**
Firm:	**Attorney at Law**
Address:	**136 Magnolia St**
City, State, Zip:	**Denver, CO 80220-6010**
E-mail:	**sal10@webtv.net**
Status:	**Active**
Admit Date:	**08/01/1949**

Name:	**Amanda Whaley Smith**
Firm:	**Smith Whaley**
Address:	**120 E College Ave**
City, State, Zip:	**Holly Springs MS 38635**
Address:	**P O Drawer 849**
City, State, Zip:	**Holly Springs, MS 38635-0849**
County:	**Marshall**
Telephone:	**(662) 252-3003**
Fax:	**(662) 252-3006**
E-mail:	**awhaley@smithlaw.tv**
Status:	**Active**
Admit Date:	**09/24/2002**

Name:	**Amelia Y Smith**
Address:	**2207 Sheffield Dr**
City, State, Zip:	**Jackson, MS 39211**
County:	**Hinds**
Status:	**Inactive**
Admit Date:	**05/01/1982**

EXHIBIT 98

7/12/2008

Vogel Newsome

From: Vogel Newsome
Sent: Friday, March 31, 2006 8:36 AM
To: Linda Thomas
Subject: FW: Conflict Check
Importance: High

Linda:

FYI.

From: Vogel Newsome
Sent: Thursday, March 30, 2006 3:38 PM
To: Lawson Hester
Subject: FW: Conflict Check
Importance: High

Lawson:

I recently had a matter occur with a Constable of Hinds County, where I am presently considering. Would this present a conflict?

Thanks.

From: Cristie White
Sent: Thursday, March 30, 2006 3:21 PM
To: PKH All
Subject: Conflict Check

Billing, please assign a PKH number

Thanks

CASE FILE INFORMATION

RE: Notice of Claim – Jason [redacted] v. Hinds County Sheriff's Department

PK&H FILE NO:

INSURED: Hinds County Sheriff Department

CARRIER: **Mr. Blair [redacted]**
[redacted] Specialty Co., Inc.
[redacted] Insurance
Post Office Box [redacted]
Indianapolis, IN 46240-0096
Main #317-[redacted]

EXHIBIT 99

Main Fax #317- [redacted]

CHRIS [redacted]

Claim #E [redacted]

PLAINTIFF'S ATTYS: Pro Se

CLERK:

JUDGES:

BILLING INFO:
Rates: $135.00 and $55.00

ATTORNEY: J. Lawson Hester
ASSOCIATE:

PAGE KRUGER & HOLLAND
ATTORNEYS AND COUNSELORS AT LAW



Jamie D. Travis
jtravis@pagekruger.com

Page, Kruger & Holland, P.A.

Physical Address:
10 Canebrake Boulevard,
Suite 200
Jackson, MS 39232-2212

Mailing Address:
P.O.Box 1163
Jackson, Mississippi 39215-1163

Telephone: (601) 420-0333
Facsimile: (601) 420-0033

Personal Information

- Born Hattiesburg, Mississippi, June 29, 1974

Education

- University of Southern Mississippi (B.S., 1996)
- Mississippi College, School of Law (J.D., 1999)

Professional Affiliations and Achievements

- Magnolia Bar Association
- The Mississippi Bar
- National Bar Association
- Charles Clark Chapter, American Inns of Court
- Mississippi Defense Lawyers Association
- Defense Research Institute

Bar Admissions

- All State and Federal Courts in Mississippi
- United State Court of Appeals for the Fifth Circuit

Practice Areas

- Civil Litigation
- Premises Liability
- Product Liability
- Personal Injury
- Insurance Bad Faith
- Medical Malpractice

7/12/2008

EXHIBIT 100

William L. Skinner



A record of
Judicial Success

Judge
William L. (Bill)
Skinner
County Court

Voting Precincts

William (Bill) Louis Skinner II
205 Huntly Drive
Raymond, Mississippi 39154
(601) 372-5722 hm (601) 720-4861 cell

Resume.pdf

EDUCATION

Jackson State University, Jackson, Mississippi
Ph. D. Public Policy and Administration Program,
Presently Enrolled, Currently writing Dissertation.

Mississippi College School of Law, Jackson, Mississippi
Doctor of Jurisprudence, December, 1998
*Member of MS Bar Association #99397
*Admitted to practice before all State and Federal Courts

Mississippi College, Clinton, Mississippi
Graduate School - **Masters in Social Science**, August, 1995
MAJOR: Administration of Justice
MINORS: History and Sociology

Bachelor of Science Degree in Psychology, August, 1994
MINOR: Criminal Justice

Hinds Community College, Raymond, Mississippi
Associate in Science Degree, 1990

William Louis Skinner Police Academy, Jackson, Mississippi
Certified Law Enforcement Officer, 1980

EXPERIENCE

December 1, 2000-Present

EXHIBIT
101

HINDS COUNTY JUSTICE COURT JUDGE, District Four, Elected November 22, 2000; Reelected November 4, 2003

December 1, 1999-Present
SKINNER & ASSOCIATES, LLC, Raymond, Mississippi Senior Attorney specializing in Family Law and Involuntary Drug and Alcohol Committals

June 7, 1999-December 1, 1999
GARDNER AND GRANT, LLC - ATTORNEYS AT LAW, Jackson, Mississippi Associate Attorney specializing in General Law

September 1980-May 1994 JACKSON POLICE DEPARTMENT (JPD), Jackson, Mississippi Precinct 1 (3 years), Precinct 3 (7 years), JPD Training Academy as an Instructor (4 years), Pistol Team (2 years), Primary Door Entry Person for JPD SWAT Team (13 years with 9 years as Trainer) **Injured in the line of duty on August 31, 1992; Medical Retirement on May 31, 1994.**

PROFESSIONAL ORGANIZATIONS:

*** Mississippi Justice Court Judges Association - President 2005-2006 & 2006-2007**

*** The National Judges Association**

*** Mississippi Center for Police and Sheriffs - President and Chairman of the Board**

*** Mississippi Bar**

*** Hinds County Bar Association**

*** National Rifle Association**

AWARDS
*Two Distinguished Service Stars

*Nominated for Billy Hickman Award

*Nominated four times for Officer of the Month

*Former Board of Directors State SWAT Association

*Former Second Vice President of Jackson Police Officers Association

*NRA Distinguished Expert

*First Degree Black Belt - Tae Kwon Do America, Clinton, MS

POST GRADUATE EDUCATION

***Spring Judicial Training 2006 - University of Mississippi**

***Landlord/Tenant-2006-Lorman Education Services**

***Handling DUI Cases-2006-University of Mississippi Judicial College**

***Summer Judicial Training-2005-University of Mississippi Judicial College**

***National Judicial Conference-2005-National Judges Association**

***Landlord/Tenant-2005-Lorman Education Services**

***Spring Judicial Training-2005-University of Mississippi Judicial College**

***Fall Judicial Training-2004-University of Mississippi Judicial College**

***Summer Judicial Training-2004-University of Mississippi Judicial College**

***Domestic Violence Seminar - 2004 - The National Judicial College**

***Spring Judicial Training-2004-University of Mississippi Judicial College**

*Fall Judicial Training-2003-University of Mississippi Judicial College

*Strategies In Handling DUI Cases In Mississippi-August 2003-Lorman Education Services

*Summer Judicial Training-2003-University of Mississippi Judicial College

*Debt Collection from Start to Finish in Mississippi-June 2003-National Business Institute

*Evictions and Landlord/Tenant Law in Mississippi-May 2003-National Business Institute

*Spring Judicial Training-2003-University of Mississippi Judicial College

*Domestic Violence: Intervention and Investigation-2002- National Sheriff's
Association in collaboration with The National Training Center on

Domestic and
Sexual Violence *Police Liability in Mississippi-2002-Continuing Legal Education

*Fall Judicial Training-2002-University of Mississippi Judicial College

*Summer Judicial Training-2002-University of Mississippi Judicial College

*Mississippi Foreclosure and Repossession-2002-Continuing Legal Education

*Spring Judicial Training-2002-University of Mississippi Judicial College

*Collection Law in Mississippi-2002-Continuing Education

*Landlord-Tenant update seminar-2001-Continuing Education

*Fall Judicial Training-2001-University of Mississippi Judicial College

*Summer Judicial Training-2001-University of Mississippi Judicial College

*Spring Judicial Training-2001-University of Mississippi Judicial College

*Summary of Recent Mississippi Law-2000-Continuing Education, University of Mississippi

*Police Liability-1999-Continuing Education, Mississippi College

*Basic Mediation Skills Training-1999-The Accord Institute

*Child Advocacy Issues in Mississippi-1999-Mississippi College School of Law

*Basic Homicide Investigation-1999-Continuing Education, Mississippi College

SPECIAL SCHOOLS

*Professional Certification - MS Law Enforcement Officer
*SWAT Training FBI
*Stress Management - Mississippi College
*Officer Survival, Tactics for Armed Encounters -JPOA
*Tactical Police Driving - National Academy for Profession Driving
*Driver Training Instructor - BLEOST

*Criminal Profiling - JPTA
*NRA Firearms Instructor
*Georgia POST Instructor Training Certification
*Crisis Management - FBI
*Interrogation School - JPTA
*Instructor Course - Police Impact Weapons - JPTA
*Emergency Vehicle Operation Instructor Certification
*First Responders Radiological Transportation Emergency Certification
*Radiological Emergency Trainer's Certification
*Gang Suppression Training Conference
*FBI Defensive Tactics Instructor Certification
*Semi-Automatic Weapon - FBI/JPTA
*Advanced SWAT Training - John Shaws Military School
*Advanced SWAT Training - JPTA
*Body Bunker School - ATF
*Pistol Transition for Instructors - FBI
*Police Supervision - IPTM
*Officer Survival - Vehicle Stop Tactics - JPTA
*Handcuffing Techniques - JPTA
*Gang Awareness Seminar - JPTA
*United States Army Executive and Witness Protection
*PPCT Impact Weapons System Instructor Certification
*PPCT Side Handle Baton Instructor

TEACHING EXPERIENCE

***Recognizing Domestic Violence for Law Enforcement, Hinds County Sheriff's Department/Domestic Violence Coalition**

***Domestic Violence Training for Judges, University of Mississippi Judicial College**

*Police Rights and Responsibilities Graduate Course at Mississippi College, Clinton, Mississippi

*Criminal Law Course at Mississippi College, Clinton, Mississippi

*Graduate Assistant at Mississippi College, Clinton, Mississippi

*Trained Hinds County Sheriff's Department Special Response Team

*Trained Clinton's STAR Team

*Self Defense and Public Awareness at Mississippi Baptist Medical Center

*Self Defense and Public Awareness for Continuing Education Department, Mississippi College

Schwartz, Manes & Ruby

A LEGAL PROFESSIONAL ASSOCIATION
2900 CAREW TOWER
441 VINE STREET
CINCINNATI, OHIO 45202-3090
TELEPHONE 513/579-1414
TELECOPIER 513/579-1418

RICHARD M. SCHWARTZ, LL.M., TAXATION*
DENNIS L. MANES, LL.M., TAXATION
STANLEY L. RUBY, LL.M., TAXATION**
THOMAS J. BREED
SCOTT M. SLOVIN, LL.M., TAXATION
ARTHUR D. WEBER, JR.
DONALD B. HORDES, LL.M., LABOR***
HARRY S. SUDMAN
DEBBE A. LEVIN, LL.M., TAXATION
WILLIAM S. WYLER
STEPHEN J. PATSFALL
THOMAS S. SAPINSLEY**
KENNETH R. THOMPSON, II
WILLIAM B. SINGER
STEPHEN M. YEAGER**
DONNA M. BERGMANN**

CHARLES J. DAVIS
PETER M. BURRELL
JOSEPH F. PFLUM
EDWARD J. SPAETH, LL.M., TAXATION
MICHAEL G. SCHWARTZ, LL.M., TAXATION
JILL M. RUBY

OF COUNSEL:
HERBERT BASS
JAMES J. McGRAW, JR.**
JOHN B. ARMSTRONG

* ALSO ADMITTED IN NY
** ALSO ADMITTED IN KY
*** ALSO ADMITTED IN D.C.

Doc. # 19970890

August 28, 1997

RECEIVED
AUG 29 1997
BOBBIE STERNE

Ms. Bobbie Sterne
Member of City Council
City Hall
801 Plum Street
Cincinnati, Ohio 45202

Dear Ms. Stern:

As you may be aware, I represent the Queensgate Civic Association, a group of property and business owners who have made substantial financial commitments to the Queensgate area. For your information, I am enclosing herewith a copy of the directory of the Queensgate Civic Association, identifying most of its members.

I have been retained by the Queensgate Civic Association to attempt to present an informed and coherent position with regard to the sexually oriented business overlay zone proposed to be located in Queensgate. I presented my comments orally to the Planning Commission at their August 22, 1997 meeting, but unfortunately, I will be unable to be present at the Urban Development Committee and full Council meetings on September 3 and 4, 1997, since I will be out of town.

Briefly, our position is that the concentration of sexually oriented businesses into one district runs counter to the lawful objectives of zoning in general and the stated objectives of the proposed legislation in particular. As you know, zoning is an exercise of the police power, permitted in order to promote and preserve the health, safety and welfare of the community. On the other hand, according to the premises upon which the zoning regulation of sexually oriented business is based, the concentration of sexually oriented businesses has a demonstrated secondary effect of increasing crime rates and decreasing property values in such an area. The establishment of a sexually oriented business zone in one area as a "combat zone" or "dumping ground" would thus run counter to the public health, safety and welfare and result in increased crime and decreased property values in the area where the zone is located. Indeed, property owners could have a case of inverse condemnation against the City if their property values were sufficiently decreased by the establishment and development of a sexually oriented business zone in their vicinity. In such a case, the City would clearly have decided to sacrifice

EXHIBIT
102

the property values of those in the district for the supposed benefit of the broader population of the City.

We do not disagree, however, that is in the interest of the health, safety and welfare of Cincinnati to enact valid time, place and manner restrictions with respect to sexually oriented business uses. We believe the current interim development control regulations indicate the appropriate direction in which such regulation should proceed. Stated simply, we believe that a valid solution to the problem of how to regulate sexually oriented businesses will be to provide that such businesses, as defined and regulated in Chapter 899 of the Cincinnati Municipal Code, are conditional uses in M2 and M3 zones throughout the City, subject to approval as conditional uses by the Director of Buildings and Inspections in accordance with approval standards specifying required location distances from other sexually oriented businesses and from other types of uses. I have taken the liberty of preparing a proposed Ordinance enacting such provisions, copies of which I provided to the members of the Planning Commission on August 22, 1997, and a further copy of which I herewith enclose.

Please bear in mind that while there may appear to be a dearth of residences in the Queensgate area, many of the people who operate and work at businesses there, and many of those who own property there, are residents and voters of the City of Cincinnati. They, and I, will certainly appreciate your attentive consideration to our position.

Respectfully,

William B. Singer

WBS/kaf

Enclosures

DAVID MERANUS (0055701)
ATTORNEY FOR PLAINTIFF

HAMILTON COUNTY MUNICIPAL COURT
HAMILTON COUNTY, OHIO

STOR-ALL ALFRED, LLC **1109 Alfred Street** **Cincinnati, Ohio 45214** **Plaintiff,** **vs.** **Denise V. Newsome** **P.O. Box 14731** **Cincinnati, Ohio 45250** **Defendant.**	)	**CASE NO.:** 09 CV 01690 **COMPLAINT FOR FORCIBLE ENTRY AND DETAINER** ☑In Accordance With Civil Rule 4.6 (C) or (D) and (E), Plaintiff Requests Ordinary Mail Waiver

FIRST CLAIM FOR RELIEF

1. Plaintiff is the owner of the premises located at 1109 Alfred Street, Cincinnati, Hamilton County, Ohio 45214 and Defendant is a tenant of the Plaintiff occupying Unit #173 at said address.
2. From and after, April 1, 2008, Defendant has been in default of her rental agreement for failure to pay rent.
3. On January 9, 2008, pursuant to RC 1923.04, Plaintiff served Defendant with a written notice to leave the premises, a copy of which is attached hereto and made a part hereof as described Exhibit "A".
4. Defendant has, since January 19, 2009, unlawfully and forcibly detained from the Plaintiff possession of the above-described premises.

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CLERK OF COURTS
HAMILTON COUNTY, OH

EXHIBIT 103

SECOND CLAIM FOR RELIEF

5. Plaintiff incorporates by reference the allegations set forth in Paragraphs 1 through 4 as if fully restated and states further that Defendant is indebted to Plaintiff for rent and late fees in the amount of $552.39.

WHERFORE, Plaintiff demands restitution and recovery of said Premises, judgment against Defendant in the amount of $552.39 plus pre- and post judgment interest, costs, expenses, reasonable attorney fees and such other relief as the Court deems just and appropriate.

Respectfully Submitted,
SCHWARTZ MANES RUBY & SLOVIN, LPA

DAVID MERANUS (0055701)
2900 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202
(513) 579-1414
Attorney for Plaintiff

NOTICE UNDER THE FAIR DEBT COLLECTION PRACTICES ACT

The amount of the debt is stated in the complaint. The Plaintiff named in the complaint is the creditor to whom the debt is owed. The debt described in the Complaint will be assumed to be valid by the attorney, unless within 30 days of your receipt of this notice, you dispute the validity of this debt or some portion thereof. If you notify the attorney within thirty days that you dispute the validity of the debt the attorney will obtain verification of the debt and mail you a copy. Written notices and requests should be sent to David Meranus 2900 Carew Tower, 441 Vine Street, Cincinnati, Ohio 45202. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

EXHIBIT "A"

NOTICE TO LEAVE THE PREMISES

TO: Denise V. Newsome, Tenant;
a/k/a V. Denise Newsome, Tenant;
a/k/a Denice V. Newsome, Tenant;
a/k/a Denise Newsome, Tenant

You are hereby notified that we want you on or before January 19, 2009 to leave the premises you now occupy and have rented from us, situated and described as follows:

Storage Unit #173 - 1109 Alfred Street in Cincinnati, Cincinnati, Hamilton County, Ohio.

GROUNDS: Non-Payment of Rent

YOU ARE BEING ASKED TO LEAVE THE PREMISES. IF YOU DO NOT LEAVE, AN EVICTION ACTION MAY BE INITIATED AGAINST YOU. IF YOU ARE IN DOUBT REGARDING YOUR LEGAL RIGHTS AND OBLIGATIONS AS A TENANT, IT IS RECOMMENDED THAT YOU SEEK LEGAL ASSISTANCE.

January 9, 2009: Landlord: Stor-All Alfred, LLC
c/o Stor-All
253 Wormstead Drive
Grayson, Kentucky 41143

By: Lori A. Whiteside, Agent
(157171_1)

2009 JAN 20 P 3:18
CLERK OF COURTS
HAMILTON COUNTY, OH

HAMILTON COUNTY MUNICIPAL COURT
HAMILTON COUNTY, OHIO

STOR-ALL ALFRED, LLC 1109 Alfred Street Cincinnati, Ohio Plaintiff	:	CASE NO.: 09CV01690
vs.	:	**DEFENDANT'S ANSWER TO COMPLAINT FOR FORCIBLE ENTRY AND DETAINER; NOTIFICATION ACCOMPANYING COUNTER-CLAIM; COUNTER-CLAIM AND DEMAND FOR JURY TRIAL**[1]
Denise V. Newsome Post Office Box 14731 Cincinnati, Ohio 45250 Defendant	:	

COMES NOW Defendant, named as Denise V. Newsome ("Defendant") and presents this, her *Answer to Complaint for Forcible Entry and Detainer; Notification Accompanying Counter-Claim; Counter-Claim and Demand for Jury Trial* in the above referenced matter. In support thereof, Defendant states:

DEFENDANT'S ANSWER TO COMPLAINT FOR FORCIBLE ENTRY AND DETAINER

FIRST CLAIM FOR RELIEF:

1. Defendant denies the allegation contained in Paragraph 1 of Plaintiff's Complaint. Without waiving said denial, Defendant has no knowledge of Plaintiff, Stor-All Alfred, LLC ("Stor-All" or "Plaintiff"), being the owner (**not** "owner and landlord" of the "*premises located at 1109 Alfred Street, Cincinnati, Hamilton County, Ohio 45214.*" This appears to be a *factual* assertion and/or allegation by Stor-All and a discoverable issue; however, Stor-All has presented **no** evidence to support its ownership of said premises. In its craftiness in the use of the pen, Stor-All is attempting to mislead this Court and the Defendant by intentionally and purposefully omitting the fact that it is not Defendant's landlord. Furthermore, Stor-All has failed to present any factual documentation/evidence (i.e. Rental Agreement) to support its assertion that Defendant is a tenant of it. There is **no** contract, lease and/or rental agreement between Stor-All and

[1] Boldface, Italics and Underline added for emphasis. Legal Resource materials utilized: American Jurisprudence Pleading and Practice Forms, Ohio Jurisprudence 3d, West's Ohio Digest, Ohio Rules of Civil Procedure, etc.)

EXHIBIT 104

Defendant. Said allegation by Stor-All is merely words and its *abuse of process* of the judicial process and/or legal process.

2. Defendant denies the allegation set forth in Paragraph 2 of Plaintiff's Complaint. Without waiving said denial, this again appears to be a *factual* assertion accusing Defendant of being "*in default of her rental agreement for failure to pay rent.*" However, Stor-All has **failed** to produce the rental agreement it relies upon because no such rental agreement exist between Stor-All and the Defendant. Said allegation by Stor-All is merely words and its *abuse of process* of the judicial process and/or legal process.

3. Defendant denies the allegation set forth in Paragraph 3 of Plaintiff's Complaint. Without waiving said denial, Defendant is in receipt of a "NOTICE TO LEAVE THE PREMISES" mailed to her on or about January 9, 200**9** and not January 9, 2008. In said document Stor-All identifies itself as "Landlord: Stor-All Alfred, LLC. . .;" however, has failed to produce any *factual* documentation to assert such a claim. Stor-All has failed as alleged "Landlord" to provide any evidence to sustain a Landlord and Tenant relationship because no such relationship exist between Stor-All and the Defendant; moreover, no such document to sustain such an allegation. Stor-All was not authorized by Ohio statutes/laws to execute and/or serve such a notice identifying itself as Defendant's landlord. Such action by Stor-All may be implied as being done with deceit and fraudulent intent. Furthermore, said action of Stor-All in the service of such notice, is an *abuse of process* of the judicial process and/or legal process.

4. Defendant denies the allegation set forth in Paragraph 4 of Plaintiff's Complaint. Without waiving said denial, Stor-All has presented **no** *factual* documentation to support a contract between it and Defendant. In Paragraphs 2 and 4, Stor-All alleges Defendant has been in default "*From and after, April 1, 2008*;" then, asserts in Paragraph 4, "*Defendant has, since Janury 19, 2009, unlawfully and forcibly detained from the Plaintiff possession of the above-described premises;*" however, presents no *factual* documentation to support such allegations. Defendant on July 27, 2007, entered into a Rental Agreement with Crown Storage-Camp Washington for the storage unit located at 1109 Alfred Street, Cincinnati, Ohio 45214; therefore, Defendant is in legal possession of storage "Unit 173." See **EXHIBIT "1"** – Rental Agreement attached hereto and incorporated by reference. Said Agreement being provided to the Defendant by Stor-All upon request. There is **no** contractual and/or rental agreement between Stor-All and Defendant. Said allegation by Stor-All is merely words and its *abuse of process* of the judicial process and/or legal process.

SECOND CLAIM FOR RELIEF:

Defendant incorporates herein by reference her answers set forth in Paragraphs 1 through 4 above as if fully restated and/or set forth herein. Defendant further states in response:

5. Defendant denies the allegation set forth in Paragraph 5 of Plaintiff's Complaint. Without waiving said denial, Defendant denies that she *"is indebted to*

Plaintiff for rent and late fees in the amount of $552.39." Moreover, while Stor-All makes such allegation and/or assertion, it has presented **no** evidence to sustain the debt it alleges it is entitled to. Stor-All alleges Defendant owes the debt; however, has failed; (a) to prove that there is such a debt – has provided no documentation to sustain such a claim and/or that Plaintiff had agreed to such or obtained any such services warranting such charges, (b) how it arrived at said debt; and (c) its entitlement to said debt. Said allegation by Stor-All is merely words and its *abuse of process* of the judicial process and/or legal process.

6. Defendant denies the allegation set forth in the unnumbered Paragraph following Paragraph 5 which begins, *"**WHEREFORE,** Plaintiff demands restitution and recovery of said Premises"* in Stor-All's Complaint. Without waiving said denial, it is important for this Court to know that Stor-All and/or others have *unlawfully* and *illegally* **seized** the Premises it seeks this Court's intervention on. Executing and enforcing its own self-made forcible entry and detainer action over the Defendant's objections. Moreover, as a matter of law, Stor-All, its agents, representatives, etc. are not entitled to the relief sought in said Paragraph. Therefore, this Court is to deny the relief Stor-All is seeking. Said allegation by Stor-All is merely words and its *abuse of process* of the judicial process and/or legal process.

7. Defendant denies the allegation set forth in the unnumbered Paragraph that is *blocked* bearing a title, "NOTICE UNDER THE FAIR DEBT COLLECTION PRACTICES ACT." Without waiving said denial, Stor-All, its agents, representatives, etc. are not entitled to the debt they allege is owed by the Defendant. Moreover, Stor-All, its agents, representatives, etc. is attempting to unlawfully and illegally collect a debt to which it knows is fraudulent and/or false. Stor-All is liable and subject to the injury/harm rendered and/or sustained by the Defendant for any *bad* faith actions – as its *Complaint for Forcible Entry and Detainer* filed in this lawsuit – to collect a debt to which it has full knowledge it is not entitled to. Said allegation by Stor-All is merely words and its *abuse of process* of the judicial process and/or legal process.

NOTIFICATION ACCOMPANYING COUNTER-CLAIM

FOR THE PURPOSES OF AVOIDING *VEXATIOUS* AND OPPRESSIVE LITIGATION, *NEEDLESSLY* INCREASING THE COST OF LITIGATION, ETC.: Plaintiff, Stor-All Alfred, LLC, is hereby **NOTIFIED** that should it elect to answer the Counter-Claim, that its responsive pleading shall comply with the Ohio Rules of Civil Procedure Rule 8[2] and/or the applicable laws governing said matters and those responses to Defendant's Counter-Claim:

[2] For reference purposes in preparation of Counter-Claim see legal source: Rule 8 General Rules of Pleadings – *Wright & Miller Federal Practice and Procedure* Civil 3d.

1. State in short and plain terms Stor-All's defenses to each claim asserted and shall admit or deny averments upon which it relies;

2. If Stor-All is without knowledge or information sufficient to form a belief as to the truth of an averment, it shall so state and this has the effect of a denial. However, said denials shall fairly meet the substance of the averments denied;

3. If Stor-All intend in ***good faith*** to deny only a part or qualification of an averment, then it shall specify so much of it as is true and material and shall deny only the remainder; and

4. Be subject to the provisions of Ohio Rules of Civil Procedure Rule 11. Stor-All's (which includes, its attorneys, representatives, agents, etc.) "*failure to comply with Rule 11 is subject to possible disciplinary action.*" Stor-All's signing of pleading constitutes a certificate of the following:

    a. That the attorney (or party) has conducted a reasonable inquiry;

    b. That he or she is satisfied that the paper is well grounded in fact;

    c. That the pleading has a basis in existing law or that the attorney (or party) has a good faith argument to amend or reverse existing law;

    d. *That the pleading **is not** interposed for any improper purpose, such as harassment, delay, or needless increase of his opponent's costs of litigation.*

. . . *If the pleading or other paper is signed in violation of this Rule,* **appropriate sanctions** *shall be imposed by the court on motion or on its own initiative.* Sanctions may include an order to pay the other party the amount of reasonable expenses caused by the violation, including reasonable attorney fees.[3]

Stor-All is hereby further **NOTIFIED** that:

5. It is to familiarize and/or acquaint itself with the Rules governing responsive pleadings. Answers such as "failure to state a claim," "lack of subject matter jurisdiction," provided for purposes of misrepresentation,

[3] For reference purposes in preparation of Counter-Claim see legal source: *Niles Federal Civil Procedure* 7.530 Signing of Pleadings, Motions and Other Papers.

delay of proceedings, obstruction of justice, etc. will be subject to the provisions of Rule 11.[4]

6. If Stor-All's answer is not sufficiently definite in nature to give reasonable notice of the allegations in the Counter-Claim sought to be placed in issue, the Defendant's, Denise Newsome's ("Defendant"), averments may be treated as admitted (i.e. a corporate defendant's denial of "each and every allegation" did not give "plain notice.").[5]

7. A denial of knowledge or information requires that Stor-All not only lack first-hand knowledge of the necessary facts involved, but also that Stor-All lack information upon which it reasonably could form a personal belief concerning the truth of the Defendant's allegations.[6]

8. Normally, Stor-All may not assert lack of knowledge or information if the necessary facts or data involved are within Stor-All's knowledge or easily brought within its knowledge – (i.e. An answer denying information as to the truth or falsity of a matter necessarily within the knowledge of the party's managing officers is a **sham**, and *will be treated* as an **admission** of allegation of the Counter-Claim.[7])

9. An averment, that Stor-All is without knowledge or information sufficient to form a belief as to matters that are of common knowledge or of with it can inform itself with the slightest effort, ***will be treated as patently false*** *and the effect and purpose will be taken as such* ***to merely delay justice***.[8]

10. If Stor-All's Answer to the Counter-Claim is not incompliance with the rules and/or laws governing responsive pleadings and/or said matters, the applicable *Motion to Strike the Answer* will be filed and request for the proper relief (i.e. sanctions against Stor-All and/or its attorney [if applicable]) will be sought.

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[4] For reference purposes in preparation of Counter-Claim see legal source: *Niles Federal Civil Procedure* 7.100 Pleadings Allowed through 7.262 Effect of Failure to Deny.

[5] For reference purposes in preparation of Counter-Claim see legal source: *Wright & Miller Federal Practice and Procedure* Civil 3d § 1261.

[6] For reference purposes in preparation of Counter-Claim see legal source: *Wright & Miller Federal Practice and Procedure* Civil 3d § 1262.

[7] For reference purposes in preparation of Counter-Claim see legal source: *Wright & Miller Federal Practice and Procedure* Civil 3d § 1262 and also *Harvey Aluminum (Inc.) v. NLRB,* 335 F.2d 749, 758 (9th Cir. 1964)..

[8] For reference purposes in preparation of Counter-Claim see legal source: See *Reed v. Turner,* 2 F.R.D. 12; and *Squire v. Levan,* 32 F.Supp. 437.

PLEASE TAKE NOTICE: That Defendant's Counter-Claim has been filed in good faith and has been drafted to save time and costs and/or expenses. Defendant can only hope that Stor-All will allow *wisdom* to prevail.

Stor-All is also **NOTIFIED** that unless it serves and file a written response to the Counter-Claim within the specified time allowed, the Defendant will seek judgment of and against it by default for the relief demanded in the Counter-Claim.

DEFENDANT'S COUNTER-CLAIM and DEMAND FOR JURY TRIAL

COMES NOW Defendant, Denise V. Newsome – a/k/a Denise Newsome ("Defendant") having answered and providing defense to Plaintiff's, Stor-All Alfred, LLC's ("Stor-All" or "Plaintiff"), *Complaint for Forcible Entry and Detainer*, and without waiving said defenses thereof, files this her *Counter-Claim and Demand for Jury Trial.*

Defendant herein incorporates Paragraphs 1 through 7 of Defendant's Answer to Complaint for Forcible Entry and Detainer as if set forth in full herein and reiterates her *non*-waiver of the denials therein stated.

Statement of Facts:

1. On or about July 27, 2007, Defendant entered into a Rental Agreement with Crown Storage-Camp Washington ("Crown Storage"). See **EXHIBIT "1"** attached hereto and incorporated by reference as if set forth in full herein.

2. Crown Storage at all times mentioned was the owner and/or landlord according to the Rental Agreement (Lease No. 2543) entered into with the Defendant.

3. On July 27, 2007, Defendant was lawfully possessed of a certain storage Unit Numbered 173 located at 1109 Alfred Street, Cincinnati, Ohio, Hamilton County, Ohio and lawfully possessed and owned the personal property placed in and/or contained therein.

4. Defendant rented the storage unit from Crown Storage for $29.82 per month and the rental contract was in full force and in effect at all times mentioned.

5. Nothing in the Rental Agreement between Crown Storage and Defendant states how such matters involving the property being sold during the Defendant's tenancy should be handled. Defendant did not agree to be bound by any terms and conditions of said Rental Agreement upon Crown Storage through a sale of its property to another.

6. Under the Rental Agreement between Crown Storage and Defendant no problem arose regarding unpaid rent. Defendant made payments in compliance with the terms and conditions of the Rental Agreement entered into with Crown Storage.

7. Defendant has duly performed all conditions, covenants, and promises required to be performed by her under the Rental Agreement entered into with Crown Storage under its terms and conditions, except for those acts which have been prevented, delayed or excused by acts or omissions of Stor-All and Crown Storage.

8. For approximately eight (8) months under the Rental Agreement between Crown Storage and Defendant, Crown Storage had no problems in obtaining rent payment from Defendant.

9. In April 2008, Stor-All unlawfully entered and seized the storage unit and property of the Defendant. Said acts are in violation of within meaning of RC § 5321.04 of the Landlord and Tenant Act.

10. Problems arose with the Defendant's rental of her storage unit after Stor-All's assertion of entitlement of Defendant's rent and unlawful seizure of her property and denial of access to said unit and property.

11. As a direct and proximate result of Stor-All's constructive eviction of Defendant from the premises, Defendant suffers from mental anguish and pain, all to Defendants general damage to be determined by a jury.

12. Stor-All's constructive eviction of Defendant from the premises and the unlawful/illegal seizure of her storage unit and property were retaliatory, oppressive and malicious within the meaning of RC §5321.03, in that it has subjected the Defendant to cruel and unjust hardship, harassment, threats, etc. in willful and conscious disregard of Defendant's rights, entitling Defendant to an award of punitive damages within meaning of RC §521.12.

13. As a further proximate result of Stor-All's conduct as alleged in its Complaint and in this Counter-Complaint, Defendant will incur moving expenses and additional increase in storage cost in an amount to be determined.

14. Defendant made it verbally known and in writing she was not interested with leasing with Stor-All. Neither was she interested in entering a Rental Agreement with Stor-All. As evidenced in the file of Stor-All regarding the Defendant, the "STOR-

ALL LEASE AGREEMENT" to date remains ***unexecuted***. See **EXHIBIT "2"** attached hereto and incorporated by reference.

15. In or about April 2008, Stor-All claimed that Defendant went into default. When Defendant submitted payment for her storage unit, it was rejected by Stor-All. Payment was submitted under the terms and agreement of the Rental Agreement between Crown Storage and the Defendant. Defendant advised of her objections. When Defendant advised wanting to retrieve her property, Stor-All denied her request and demanded that she pay monies for rent and late fees and lien charges applied.

16. In or about April 2008, Stor-All forcibly seized the Defendant's storage unit. Defendant did not authorize and/or agree to such forcible seizure.

17. In or about April 2008, Stor-All and Stor-All's agent(s), representative(s), etc. unlawfully invaded the Defendant's storage unit. Defendant did not authorize and/or agree to such invasion.

18. In or about April 2008, Stor-All and Stor-All's agent(s), representative(s), etc. forcibly seized the Defendant's storage unit and prevented, interfered, refused and denied Defendant access to her storage unit unless she gave it money.

19. Since April 2008, Defendant's right to her storage unit was striped away from her without legal and/or statutory authority by Stor-All. Defendant has not been to her storage unit for approximately ten (10) months because of the unlawful/illegal actions of Stor-All.

20. On December 9, 2008, Stor-All's representative, Lori Whiteside ("Whiteside"), contacted Defendant at her place of employment by use of Defendant's employer's fax machine at (513) 852-6087. See **EXHIBIT "3"** attached hereto and incorporated by reference as if set forth in full herein.

21. On **December 9, 2008**, Whiteside contacted Defendant at her place of employment via facsimile at (513) 852-6087. Whiteside doing so without the authorization of the Defendant to correspond with her through her employer's fax number (513) 852-6087. Whiteside using said method of correspondence to place the Defendant's employer and Defendant's co-workers on notice as to the personal and private affairs of the Defendant. Whiteside knew and/or should have known that sending correspondence to Defendant's employer's fax number (513) 852-6087 would have been received by Defendant's employer and or Defendant's co-workers. The action of Whiteside was done with forethought and premeditation. The action of Whiteside was willful, malicious and wanton and was done with reckless regard to the rights and privacy of the Defendant.

22. On December 9, 2008, Defendant advised Whiteside of her objections in sending her correspondence to her employer at the fax number (513) 852-6087. Whiteside was provided with a fax number by the Defendant had she wanted to use this

form of motion for communication; however, Whiteside with her own motives ignored the information provided by the Defendant and sent fax to the Defendant at a number not authorized by her. Through Defendant's correspondence to Whiteside, she placed Whiteside of her knowledge that sending of fax to employer's fax number (513) 852-6087 was ill motivated. Whiteside was advised of the emotional, mental anguish, etc. harm/injury sustained by Defendant. See **EXHIBIT "4"** attached hereto and incorporated by reference as if set forth in full herein.

23. On December 19, 2008, Whiteside advised the Defendant that Stor-All's file in the matter regarding her was being submitted to Stor-All's attorney, Dave Meranus in Cincinnati, Ohio. Whiteside withholding the name of the law firm in which Meranus was employed. Whiteside withholding name of law firm that Meranus was employed at because of knowledge and/or may have been made aware that Defendant was working with an attorney, Thomas J. Breed, who was formerly employed with Stor-All's counsel's law firm prior to coming to Defendant's employer, Wood & Lamping LLP. See **EXHIBIT "5"** attached hereto and incorporated herein by reference as if set forth in full herein.

24. Information as to the attorney(s) Defendant assisted could be heard when calling and listening to her voicemail message at her place of employment, Wood & Lamping LLP. Said information (i.e. name of law firm, attorneys she provided assistance to) was in Defendant's voicemail.

25. Whiteside was able to obtain the information regarding the Defendant's place of employment and the attorney(s) to which she assisted. Whiteside having called the Defendant at her place of employment and in failing to reach her, proceeded to call Defendant at home.

26. Whiteside advised Defendant she has a background in the legal field.

27. In the December 19, 2008 facsimile to Defendant, Whiteside also advised of Stor-All's plans scheduling an "amnesty weekend for January 9, 10, and 11, 2009." Said weekend would entail, "*at which time we are going to have a moving truck and driver available for any of the tenants that wish to vacate the premises at absolutely no cost to the tenant.*" See Exhibit "5."

28. The amnesty weekend by Stor-All was done with willful and malicious intent to deprive the Defendant of any damages to which she may be entitled. The amnesty weekend by Stor-All was to release other tenants from such similar criminal and civil wrongs they had subjected the Defendant to. Stor-All's amnesty weekend was for the benefit of masking/ shielding its liability for the illegal/unlawful acts rendered the Defendant and perhaps others.

29. Stor-All having knowledge that it was in violation of the statutes/laws; however, failed to notify its tenants who elected to participate in the amnesty weekend

scam, that they were waiving any right to seek damages of and against Stor-All if they elected to take Stor-All up on its frivolous and *ill-motive* good will offer.

30. On December 19, 2008, Defendant provided Whiteside with Ohio statutes/laws to advise her of the violations of Stor-All. To no avail. See **EXHIBIT "6"** attached hereto and incorporated by reference as if set forth in full herein.

31. On or about December 23, 2008, Defendant advised Whiteside of concerns that the amnesty weekend appeared to be "**only** in the interest of Stor-All alone." Defendant also advising knowledge that Stor-All was considering bringing a Forcible Entry and Detainer action. Stor-All only deciding to bring such an action upon being advised by Defendant that their threats (which lasted for several months) of Liens and her property being sold/auctioned were prohibited by the statutes/laws of Ohio. *Whiteside having already confirmed that Defendant was right that they were not entitled to the "LIEN-actions" they repeatedly harassed her with*. In Defendant's December 23, 2008, correspondence, Defendant provided Whiteside with a draft of a Complaint she is considering filing. See **EXHIBIT "7"** attached hereto and incorporated by reference as if set forth in full herein.

32. On or about December 23, 2008, Defendant advised Whiteside, *"you are not a lawyer; the courts are here to interpret and enforce the laws. I am certain that the reason why Stor-All has not received rent is not due to any breach on my part. So let Stor-All move forward with their lawsuit and I will counter in that it is clear where the laws lie. The offer made was only what was in Stor-All's best interest, so let the Court(s) decide if it had a legal right to withhold my rent and continue to threaten me with liens – when I proved case law to support it was not entitle to such. The delay was not due to my part and neither was nonpayment for any contribution on my part, but* ***all*** *attributed to the* ***direct acts*** *of Stor-All and its insistence on imposing liens on me in which it was not entitled and neither was there a lease between me and Stor-all."* See Exhibit "7" attached hereto and incorporated by reference as if set forth in full herein.

33. On **January 9, 2009,** Stor-All mailed Defendant "NOTICE TO LEAVE THE PREMISES" by January 19, 2009. Stor-All **did not** *fax* and mail said notice. It provided notice to the Defendant via *regular* mail and *certified* mail. Defendant was at her place of employment all day. Apparently Stor-All having knowledge as to Defendant's employer's intent to terminate her employment. A causal link/connection established. Whiteside taking a far departure from the method of communication she had been using prior to January 9, 2009. Moreover, since introducing herself to Defendant.

34. On **January 9, 2009,** Defendant was terminated from her place of employment with Wood & Lamping LLP. Being advised that her termination was due to her position being eliminated. Said termination was without just cause.

35. Defendant's termination was done with willful and malicious intent to aid Stor-All. Moreover, to aid Stor-All in obtaining an undue advantage over the Defendant. By succeeding in getting the Defendant terminated, this eliminated the potential conflict

of interest that may arise had Defendant still been employed with Wood & Lamping and working with Thomas J. Breed when Stor-All's counsel filed its Complaint in this action.

36. Defendant's termination was done to cause her financial ruin and devastation. Stor-All thinking that with said ruin and devastation, the Defendant would be forced to waive important rights secured to her under the Ohio Constitution, United States Constitution, Ohio Landlord and Tenant Act, and other statutes/laws governing said matters. Stor-All believing that if the Defendant is terminated that she would be forced to succumb to its attempts of ***extorting*** monies from her. Nevertheless, with all its hard work – failing on December 9, 2008, to obtain Defendant's termination – Stor-All was ruthless, unrelenting and determined to see that Defendant was terminated from employment with Wood & Lamping LLP. Said acts by Stor-All was done for ill gain.

37. What Stor-All did not know which proved to be very beneficial to the Defendant:

(a) That prior to December 2008 and in December 2008, Defendant had notified her employer of a medical procedure.

(b) That in December 2008, when Defendant again notified her employer of the need for medical procedure, from the time of notification Defendant was covered and/or protected under the Family and Medical Leave Act ("FMLA").

(c) That on **January 8, 2009,** Defendant provided her written request form to begin this process. That said leave was approved by her attorneys, which included Thomas J. Breed's approval.

(d) That the very NEXT day (**January 9, 2009**) in retaliation and in efforts of aiding Stor-All, Wood & Lamping LLP terminated Defendant's employment with no just cause and in violation of the FMLA; moreover, in efforts of assisting Stor-All in the criminal and civil wrongs undertaken against the Defendant.

(e) That in an effort to cover up their unlawful/illegal acts, Wood & Lamping had a representative remove Defendant's Employee Handbook from her desk. The taking of the Employee Handbook was done with malicious intent to cover-up and/or mask/shield an illegal animus. With laughter, that ***was not*** the Defendant's only copy. Defendant retaining a copy of her Employee Handbook at her residence as well.

(f) That during Defendant's employment with Wood & Lamping, she assisted an attorney by the name of Julie R. Pugh, who specialized in employment law. That Pugh and another attorney, Heather Walsh, conducted an Employment Seminar in which the Defendant attended. At said Seminar attendees were provided with a Notebook containing Wood & Lamping LLP's Employer's Guide. With laughter of which Defendant also received and retained. A

Notebook and the Employer's Guide available to the public. A Guide clearly addressing violations of Wood & Lamping under the FMLA.

(g) While Defendant knew that her termination was unlawful, the ***icing on the cake*** came upon receipt of Stor-All's Complaint for Forcible Entry and Detainer; wherein said document not only provided the name of counsel, David Meranus, but that Stor-All had engaged the services of Schwartz Manes Ruby & Slovin, LPA – former law firm of Thomas J. Breed. Breed being the attorney Defendant assigned to assist at Wood & Lamping LLP. A causal link established between Defendant's wrongful discharge and Stor-All's unlawful/illegal acts against her. Moreover, an established relationship and/or shared interest between Stor-All, their counsel – his law firm, and Wood & Lamping.

(h) Defendant is thankful, thankful, thankful, for the additional information obtained and/or received in that it has opened the door for many, many, many. . . opportunities for justice and the recovery of damages.

38. On January 17, 2009, Defendant advised Stor-All of its receipt of its Notice of Eviction. Defendant advising that any such action by Stor-All would be met with a Counter-Claim. In said correspondence, Defendant extended a good faith offer of $5,500. Said offer was declined by Stor-All as evidenced in the filing of their Complaint. In said correspondence, Defendant advised, "*I believe a **wise** **man** would tell you that $5,500 is a reasonable and/or good faith offer – considering the additional damages and costs I may be entitled to should a lawsuit be have to be filed by me and/or on my behalf (attorney fees, compensatory damages, etc.).*" Nevertheless, Stor-All refused said offer. Taking the path of a fool. Stor-All refusing said offer in that it was aware of its unlawful/illegal acts.

39. On or about January 20, 2009, Stor-All brought a Forcible Entry and Detainer action against the Defendant.

40. For the Defendant, it was a good thing Stor-All refused her January 17, 2009 offer. The doors have been swung open for exceedingly higher damages well above that which Defendant was not aware was entitled to at the time of her January 17, 2009 offer. Yes, it was a good thing and very beneficial to the Defendant when Stor-All declined her offer. Especially, upon learning of what was taking place behind the scene and Stor-All appears to have been in the driver seat of such wrongs being committed against Defendant.

41. Stor-All had actual knowledge that Defendant owed it no rent and that it had unlawfully and illegally seized the Defendant's unit and property without legal authority and/or statute.

42. Stor-All's filing of its Forcible Entry and Detainer Complaint was not only to collect a frivolous debt that it knew it *was not* entitled to from the Defendant, but to use such Complaint for *"abuse of process"* purposes to unlawfully and illegally extort monies from the Defendant to which it is not entitled.

43. Stor-All by filing its Forcible Entry and Detainer Complaint against Defendant, intended to *deceive* and commit *fraudulent* acts upon this Court in an effort to get this Court to engage in the furtherance of the criminal activities they have subjected the Defendant to.

44. None of the Defendant's property has been recovered and she has been denied access to the storage unit and retrieval of her property unless she pays monies Stor-All, its agents and/or representatives are attempting to *extort* from her.

45. Defendant has repeatedly in good faith provided Stor-All with dates that she would like to obtain her property; however, said requests were denied unless Defendant agreed to pay the outrageous fee and/or charges imposed by Stor-All.

46. Not only has Stor-All stooped to such criminal acts in its extortion scheme; but in its demands to the Defendant, request that Defendant pay it the monies without any consequences and/or liability to Stor-All. Stor-All refusing to own up to its liability in this matter.

47. During the time and place referred to above, Stor-All unlawfully and wrongfully seized the Defendant's storage unit and denied her access and retrieval of her property which may be in value of $8,000.00, and refused to allow her to retrieve her property unless she paid the outrageous fees (late and lien) that it illegally and unlawfully attached.

48. During the period of the unlawful seizure of the Defendant's storage unit and property, Stor-All subjected the Defendant to repeated threats of placing a lien on her property and *repeatedly* serving her with documents entitled, "NOTICE OF INTENT TO ENFORCE LIEN ON STORED PROPERTY PURSUANT TO RC §5322.01, ET. SEQ." See **EXHIBIT "8"** attached hereto and incorporated by reference as if set forth in full herein.

49. Upon receipt of Stor-All's "NOTICE OF INTENT TO ENFORCE LIEN ON STORED PROPERTY PURSUANT TO RC §5322.01, ET. SEQ.," Defendant responded in a timely manner as to her objections. Defendant being entitled to rights guaranteed/secured to her under the Ohio Constitution, United States Constitution, Ohio Landlord & Tenant Act, and any/all applicable statutes/laws governing said matters.

50. In early and/or mid 2008, Stor-All was timely, properly and adequately placed on notice as to the statutes/laws it was in violation of in the handling of Defendant's storage unit and property. To no avail. Stor-All made a willful, conscious and knowing decision to continue to conduct business in such an illegal/unlawful manner.

51. Stor-All elected to unlawfully seize and take the Defendant's storage unit and property hostage. Stor-All making it clear Defendant would not be receiving her property unless she paid the monies it demanded from her.

52. While Defendant repeatedly requested and demanded that Stor-All provide her with legal conclusions to support its actions, to date, **as with Stor-All's Complaint filed in this action**, it has not been able to provide the Defendant with the information requested. Nevertheless, **as with Stor-All's Complaint,** *it continues to demand monies from the Defendant to which it is not entitled.* Stor-All being requested as early as May 13, 2008 to provide said information. See **EXHIBIT "9"** – electronic copy[9] attached hereto and incorporated herein as if set forth in full.

53. Defendant acted in good faith, and, before the institution of the proceeding of Stor-All's Complaint, Defendant stated all facts and circumstances connected with this matter to support her defense in this lawsuit. Stor-All was provided with facts, evidence and/or statutes/laws governing said matters which supported Defendant's defense to the monies it was asserting was owed it. Moreover, with case laws/statutes supporting a defense to the relief she sought. A jury trial on this matter will sustain that there is sufficient information in the possession of Stor-All to support the filing of its Complaint against Defendant is an ***abuse of process***, is not sound in law and filed in furtherance of the criminal and civil wrongs already rendered against Defendant.

54. Defendant, as lessee in the Rental Agreement entered into between Crown Storage and her, entered into said Agreement of the storage unit in good faith. Upon the execution of said Agreement, Defendant entered into possession of the premises under the terms of the Agreement and pursuant to the Agreement, remained in good standing as a tenant of said premises at all times until Stor-All took over and began claiming right and/or entitlement to Defendant's rent and the outrageous fees and liens charges leveled against her. Moreover, Stor-All's unlawful/illegal denying Defendant access and depriving her of her property in storage unit.

55. During the period when Defendant was entitled to the peaceable possession of the premises as a tenant under the Lease entered between she and Crown Storage, Stor-All unlawfully/illegally seized the Defendant's property and denied her access and/or retrieval of said property unless she paid the monies it attempted to extort from her. Stor-All doing so intending to injure Defendant in her good name and reputation, and in order to cause the Defendant great loss and damages, falsely, willfully, maliciously and without probable cause whatever, unlawfully took possession of Defendant's storage unit and property over the Defendant's objections, and caused the lock Defendant placed on her storage unit to secure her property to be removed and may have replaced it with a lock of its own to deprive the Defendant access to the demised premises and her property.

[9] Defendant reserving the right to supplement this Exhibit upon retrieving executed copy if requested.

56. Stor-All knew that Defendant had no binding Rental Agreement with it; moreover, that Defendant's Rental Agreement was with Crown Storage. However, through its unlawful seizure of the Defendant's storage unit and property, it attempted to unlawfully/illegally extort monies from the Defendant in exchange for her receipt of her property. Stor-All's sole purpose for filing its Forcible Entry and Detainer action is in furtherance of its unlawful and illegal practices of said extortion practices; moreover, to deprive Defendant access to her storage unit and her property. Thus, the filing of Stor-All's Forcible Entry and Detainer Complaint is an abuse of process in that its lawsuit is being used for a purpose other than that for which it was lawfully intended to be used for.

57. Stor-All devised an elaborate scam to unlawfully/illegally obtain the property of persons renting space at the 1109 Alfred Street, Cincinnati, Ohio 45214. Said scam involving the taking of person's property through a lawful process; however, through illegal means (i.e. by way of extorting money, etc. from persons through fear of losing their property). Stor-All using such methods for financial gain from the monies earned at auctioning off property. For instance, Defendant believes that an auction would have yielded Stor-All a profit – her rent being approximately $29.82 and had Stor-All sold it at auction, stood to earn a great deal more (perhaps hundreds and/or thousand of dollars more).

58. As a direct and proximate result of Stor-All's unlawful and illegal seizure and taking of Defendant's storage unit and its removal of Defendant's lock and may have replaced it with one of its own, Defendant was deprived of her rights as a tenant and of her personal property contained on the premises under the Rental Agreement between she and Crown Storage.

59. To date, Defendant has not recovered her property and is not certain if her property is still there in that she has been denied access to it for almost a year. An inability to recover because Stor-All has repeatedly attempted to extort monies from the Defendant in exchange and/or has attempted to get the Defendant to waive rights secured to her under the statutes/laws which would entitle her to relief for such unlawful/illegal practices.

60. Stor-All's acts were willful, malicious and wanton in hopes that Defendant would weary and eventually abandon her property. To Stor-All's disappointment, Defendant is literate, college educated and capable of researching the laws.

61. The record in Stor-All's possession will support the good faith efforts by the Defendant to support her response and the efforts made to resolve this matter and retrieve her property. However, Stor-All refused all such good faith efforts by Defendant in that it refused to accept its liability from the illegal/unlawful wrongs rendered the Defendant.

62. There is no Landlord and Tenant relationship between Stor-All and Defendant. Stor-All just asserted such title of Landlord over the Defendant's objections.

Moreover, with knowledge that Defendant did not wish to enter into a Rental Agreement with it. Action by Stor-All was for purpose of abuse of process.

63. Stor-All since asserting such relationship (Landlord and Tenant), has retaliated and deprived the Defendant of quiet enjoyment of premises as a direct result of Defendant's refusal to enter a Rental Agreement and to deprive her of property.

64. Stor-All's actions were intentional. Stor-All's conduct and behavior being done to deprive the Defendant beneficial enjoyment of premises and the retrieval of her property in that Defendant does not wish to enter a Rental Agreement with Stor-All.

65. Stor-All has intentionally filed its Forcible Entry and Detainer action knowing it is not entitled to the relief it seeks. Stor-All using a lawful purpose with unlawful/illegal intent; moreover, for abuse of process.

66. Since Stor-All's filing of its Complaint, Plaintiff was able to obtain the additional information and ill motive of Stor-All and its unrelenting efforts to destroy her life.

67. Defendant has given Stor-All reasonable time to return her property and in good faith has attempted to reach a financial settlement to compensate her for the injury/harm sustained. To no avail. Stor-All merely wants the Defendant to let it go without consequences for the criminal and/or illegal/unlawful wrongs rendered her.

68. Defendant believe that prior to bringing this counter-claim, she has in good faith attempted to mitigate damages; however, Stor-All again, simply wanted Defendant to agree to monies to which it was not entitled and/or leave without holding it accountable for the damages (injury/harm) Defendant sustained as a direct and proximate result of its unlawful/illegal actions.

COUNT ONE
ABUSE OF PROCESS
(OF AND AGAINST STOR-ALL ALFRED, LLC – WHICH INCLUDES STORE-ALL ALFRED, LLC, ITS AGENTS, REPRESENTATIVES, ATTORNEY, ETC.)

Defendant herein incorporates Paragraphs 1 through 68 of her Counter-Claim and Paragraphs 1 through 7 of Defendant's Answer to Complaint for Forcible Entry and Detainer as if set forth herein with said protection as that argued therein.

Defendant seeks relief as a direct and proximate result of Stor-All's abuse of process in the filing of its Complaint for Forcible Entry and Detainer. In support thereof, Defendant alleges:

69. Stor-All in the filing of its Complaint for Forcible Entry and Detainer has filed said action for purposes of abuse of process. Stor-All's bringing of its forcible entry and detainer action in a manner not proper in the regular conduct of such proceedings with ill and/or ulterior motives – i.e. to obtain an undue advantage over the Defendant, obtain storage unit and monies from the Defendant to which it was not entitled, subject the Defendant to injury/harm, etc.. Neither was Stor-All entitled, as a matter of law to bring said forcible entry and detainer action against the Defendant.

> **45 Ohio Jur.3d § 66 – *Distinctions*:**
>
> While the gist of the action for malicious prosecution is that the prosecution has been carried on maliciously and without probable cause, *the essence of the action for* ***abuse of process*** *is the* ***use*** *of process in a manner* ***not proper*** *in the regular conduct of the proceeding, with an* ***ulterior*** *motive*.

> **45 Ohio Jur.3d § 215 – *Distinguished from malicious prosecution*:**
>
> Under Ohio law, the tort of abuse of process differs from the tort of malicious criminal prosecution in that the gist of the tort of abuse of process is not commencing an action or causing process to issue without justification, but misusing, or misapplying process justified in itself for an end other than that which it was designed to accomplish; the purpose for which the process is used, once it is issued, is the only thing of importance. (*Bickley v. FMC Technologies, Inc.,* 282 F.Supp.2d 631 (N.D. Ohio 2003).

70. To support the prima facie requirement for abuse of process Defendant must show: (a) a legal proceeding has been set in motion in proper form and with probable cause; (b) the proceeding was perverted to attempt to accomplish an ulterior purpose for which it was not designed; and (c) direct damage has resulted from the wrongful use of process. Therefore, in support of said allegation that Stor-All's Complaint for Forcible Entry and Detainer is an abuse of process, Defendant states:

> **(a)** The filing of Stor-All's Complaint for Forcible Entry and Detainer initiated a legal proceeding in proper form and, through said acts, with its assertion for probable cause; **(b)** the filing of

Stor-All's Complaint has perverted these proceeding and the judicial process for purposes of attempting to accomplish an ulterior purpose – such as (i) extorting monies from the Defendant, (ii) cover-up/shield the unlawful/illegal eviction it initiated about April 2008, (iii) obstruct the administration of justice, deprive Defendant equal protection of the laws and due process of laws, (iv) financially devastating the Defendant for purposes of obtaining an undue advantage over her – Stor-All working on and/or seeing that Defendant was terminated from her place of employment in hopes that it would destitute the Defendant and force her to waive protected rights secured/guaranteed under the Ohio Constitution, U.S. Constitution, Landlord and Tenant Act, and other applicable statutes/laws governing said matters; and **(c)** as a direct a direct and proximate result of the unlawful/illegal as well as criminal and civil wrongs Stor-All leveled against the Defendant, she has sustained direct damage from the wrongful use of process – i.e. Stor-All's filing of Complaint was in furtherance of their criminal and civil wrongs already initiated against the Defendant. Stor All having already taken the laws into its hands and evicting the Defendant without legal authority and/or court order. Stor-All's filing of Complaint was merely a continuance of it *pattern-of-practice* in abuse of process and when it failed up under its repeated "Notice of Intent to Enforce Lien. . . ," it sought ways and means to see that Defendant was terminated from her place of employment until it accomplished such efforts on January 9, 2009, then it moved forward on January 20, 2009, and in continuance with *abuse of process*, filed its Complaint for Forcible Entry and Detainer.

45 Ohio Jur.3d § 214 – *Generally; Nature and elements of cause of action*:

Under Ohio law, the elements of a claim of abuse of process are that (1) a legal proceeding has been set in motion in proper form and with probable cause; (2) the proceeding has been perverted to attempt to accomplish an ulterior purpose for which it was not designed; and (3) direct damage has resulted from the wrongful use of process (*Voyticky v. Village of Timberlake, Ohio,* 412 F.3d 669, 2005 FED App. 0273P (6th Cir. 2005); *Bickley v. FMC Technologies, Inc.,* 282 F.Supp. 631 (N.D. Ohio 2003); *Greenwood v. Delphi Automotive Systems, Inc.,* 257 F.Supp.2d 1047 (S.D. Ohio 2003), aff'd, 103 Fed. Appx. 609 (6th Cir. 2004))…

71. In determining what relief, if any, the Defendant is entitled to for the Stor-All's abuse of process, the Court may: (a) consider loss of earnings, (b) physical

suffering, (c) mental suffering, (d) embarrassment, (e) humiliation, (f) loss of property or freedom, etc..

> **45 Ohio Jur.3d § 218 – *Damages*:**
>
> A prevailing plaintiff in an action for abuse of process is entitled to recover the amount of money which will reasonably compensate him for the actual damages he has sustained as a proximate result of the abuse of process in determining **compensatory** damages, the court may consider the plaintiff's ***loss of earnings***, medical and other expenses, ***physical*** *suffering,* ***mental*** *suffering****, embarrassment, humiliation****,* and *loss of personal property or freedom*. The plaintiff may recover only those damages which naturally resulted from defendant's acts, and the court cannot consider remote, indefinite or speculative injuries or damages.
>
> Actual malice is necessary for a recovery of punitive damages in an abuse of process case. Where defendant's abuse of the legal process involved a conscious disregard for the rights and safety of the plaintiff, as where the defendant was aware that his acts had a great probability of causing substantial harm to the plaintiff, an award of punitive damages is appropriate. (*Donohoe v. Burd,* 722 F.Supp. 1507 (S.D. Ohio 1989), judgment aff'd, 923 F.2d 854 (6th Cir. 1991).

72. Stor-All having knowledge of the injury that would be rendered and/or had been rendered Defendant, resorted to a commonly used practice used by it in depriving citizens, such as Defendant, of equal protection of the laws and due process of laws, in unlawfully/illegally seizing Defendants storage unit without legal authority.

73. The legal process for obtaining premises through a forcible entry and detainer action was abused by Stor-All. Stor-All evaded process and unlawfully evicted the Defendant and seized her property without just cause and without legal authority.

74. The perverted use by Stor-All of the legal process was done to deprive Defendant rights secured and/or guaranteed under the Ohio Constitution, U.S. Constitution, Ohio Landlord and Tenant Act and any/all applicable statutes/laws governing said matters.

75. Stor-All committed an illegal and wrongful act in commencing an eviction of the Defendant by seizing her storage unit and taking her property without legal justification and/or probable cause.

76. Stor-All resorted to abuse of process to coerce and obtain collateral advantage to force the Defendant to surrender her storage unit and/or abandon said storage unit, by abusing process, taking the laws into its own hands, unlawfully seizing

Defendants storage unit and taking her property for the means of extorting monies from her.

77. Acting with express authorization by Stor-All, its employees, agents and/or representatives willfully, maliciously, unlawfully and illegally entered the Defendant's storage unit in order to evict her without legal process and/or statutory right.

78. Access to the Defendant's storage unit was obtained by force without legal process and/or statutory right.

79. The malicious and wrongful acts of Stor-All caused Defendant damages, inconvenience and discomfort, mental suffering, embarrassment, humiliation, distress, loss of employment and more to Plaintiff's loss and damage in the sum to be determined.

80. Under Ohio law, the laws are clear on how matters involving rental of commercial property is to be handled.

81. Stor-All placed the *cart-before-the-horse* when it took the laws into its own hands and unlawfully/illegally evicted the Defendant from her storage unit. Now in a desperate effort to cover up such unlawful/illegal and criminal acts, it filed its January 20, 2009 Complaint for Forcible Entry and Detainer failing to advise the Court of the legal wrongs that it had rendered the Defendant. If Stor-All believed that it had a right to the Defendant's storage unit (when it did not), it should have brought a forcible entry and detainer action BEFORE the unlawful/illegal eviction it performed under its self-imposed laws.

82. Defendant was never indebted to Stor-All and neither has Stor-All presented any evidence to sustain such claim to monies alleged to be owed.

83. Stor-All's failure to comply with statutes/laws governing said matter subjected the Defendant to an illegal/unlawful eviction and the seizure of her property.

84. At any given time prior to Stor-All's filing of the instant lawsuit, it could have settled this matter; however, elected to move forward with ill motive.

85. On January 20, 2009, Stor-All maliciously sued out and caused *Summons in Action in Forcible Entry, Detainer, and Money* to be issued against Defendant, falsely and maliciously in connection to its Complaint for Forcible Entry and Detainer in the Hamilton County Municipal Court – Hamilton County, Ohio alleging failure to pay rent.

86. Stor-All had actual knowledge that the Defendant owed it no monies alleged prior to bringing this instant lawsuit. Nevertheless, is abusing the judicial process for ill motive.

87. None of Defendant's property that was unlawfully/illegal seized by Stor-All has been returned to the Defendant.

88. In perpetrating the above acts, Stor-All acted malicious and wrongfully and with the intent, design, and purpose to injure Defendant.

89. Stor-All's filing of this instant lawsuit and seeking out the Summons to be issued in this matter and causing said Summons to be executed, was willful, malicious and wanton.

90. Stor-All through its representative(s) contacted Defendant's employer via facsimile and/or other means known to it regarding dispute between it and Defendant. Stor-All doing so with ill intent/motive.

91. By filing this instant lawsuit and due to acts prior to filing by Stor-All, Defendant has incurred and continues to incur legal expenses. Said expenses and services which is expected to exceed $15,000. Moreover, Defendant may be required to retain an attorney in the representation of this matter.

92. Ohio Constitution, Ohio Landlord and Tenant Act and other statutes/laws governing such matters are clear that Stor-All's handling of Defendant has created an infringement upon her protected rights.

93. A reasonable mind may conclude that there were other means available to Stor-All prior to its unlawful/illegal eviction of Defendant from her storage unit and the seizure of her property. If Stor-All believed that it had a legal right (although it did not) to bring a forcible entry and detainer, it should have brought such action when at the time it claims rent was not paid – in April 2008 or shortly thereafter. Instead it elected to unlawful/illegally forcibly enter and seize the Defendant's storage unit and property rather than use the legal process to resolve this matter. A reasonable mind may conclude that the unlawful/illegal method used by Stor-All in the taking of the Defendant's storage unit and property is one commonly used by it to deprive citizens, such as Defendant, of protected rights.

94. The abuse of process by Stor-All was done with malice, forethought, harassment, retaliation, and improper motive to all this Court to grant punitive damages.

95. Stor-All with knowledge of the way its employees, agents and representatives were conducting business on its behalf, did nothing to deter, prevent and/or correct such legal wrongs rendered the Defendant. Instead, Stor-All made a willful and conscious decision to unlawfully/illegally evict the Defendant and seize her storage unit and property.

96. As a direct and proximate result Stor-All's acts, Defendant was injured, deprived entitlement to storage unit and property, deprived rights secured under the Ohio Constitution, U.S. Constitution, Ohio Landlord and Tenant Act, and any/all applicable laws governing said matters.

97. In perpetrating the above acts, Stor-All acted maliciously and wrongfully and with the intent, design, and purpose to injure Defendant. Accordingly, Defendant requests exemplary damages, compensatory damages, punitive damages against Stor-All in the sum to be determined by a jury.

WHEREFORE, Plaintiff request judgment of and against Plaintiff, Stor-All Alfred, LLC for:

98. Compensatory damages (if permissible by statutes/laws) in the amount of $250,000.

99. Actual damages (if permissible by statutes/laws) to be determined.

100. Consequential damages (if permissible by statutes/laws) in the amount of $225,000.

101. Future damages (if permissible by statutes/laws) in the amount of $225,000.

102. Punitive damages (if permissible by statutes/laws) in the amount of $750,000.

103. Enter the applicable injunctions and restraining orders requiring Plaintiff, Stor-All Alfred, LLC, their agents, employees, attorneys, representatives and all persons acting in concert with them to cease their unconstitutional and unlawful practices.

104. Reasonable fees and/or attorney fees.

105. Costs of suit; and

106. Such other further relief as the Court deem just and proper.

COUNT TWO
WRONGFUL EVICTION
(OF AND AGAINST STOR-ALL ALFRED, LLC – WHICH INCLUDES STORE-ALL ALFRED, LLC, ITS AGENTS, REPRESENTATIVES, ATTORNEY, ETC.)

Defendant herein incorporates Paragraphs 1 through 106 of her Counter-Claim and Paragraphs 1 through 7 of Defendant's Answer to Complaint for Forcible Entry and Detainer as if set forth herein with said protection as that argued therein.

Defendant brings this Counter-Claim for the wrongful eviction action of Stor-All. In Stor-All's filing of *Complaint for Forcible Entry and Detainer* it has asserted itself as a Landlord and, thus, has voluntarily surrendered itself to be liable to the damages and relief Defendant seeks through her Counter-Claim. Stor-All's Complaint for Forcible Entry and Detainer is done for purposes of wrongful eviction action. Even if Stor-All would now want to abandon its "Landlord" title to avoid liability, such acts would also fail in that such relinquishing of title would then allow the Defendant to bring an action against it for "malicious prosecution." Therefore, Defendant alleges:

107. On January 20, 2009, Stor-All filed Complaint for Forcible Entry and Detainer against the Defendant.

108. There is no Rental Agreement between Stor-All and the Defendant. An ***unexecuted*** Stor-All Lease Agreement between Stor-All and Defendant supports said averment. Therefore, under Ohio law, Stor-All has no right to entry and/or the relief sought in their Forcible Entry and Detainer action.

> **65 Ohio Jur.3d § 73 – *Generally*:**
>
> The estate of a landlord during the existence of an outstanding leasehold is a mere reversion, though, in the case of a tenancy under a lease, the lessor has an ever-present interest – a constant right to participate in the benefits of possession. *However, **in the absence of an agreement or statute** to the contrary, the landlord **has no right of entry** during the lease term.*

109. As a matter of Ohio law, Defendant was wrongfully evicted about April 2008, or shortly thereafter, in that Stor-All: (a) subjected her to disturbance in the use of her storage unit; (b) deprived Defendant of the enjoyment of her storage unit apparently as a third party either acting under its own authority or that of Crown Storage-Camp Washington, Defendant's landlord and/or in which a Rental Agreement was entered; (c) denied the Defendant access unless she paid the charges/fees alleged; (d) had the Defendant's lock removed from the storage unit in taking possession of it.

> **65 Ohio Jur.3d § 161 – *Generally*:**
>
> The term "*eviction*" is one with peculiar reference to a tenant, being the **disturbance** *of his possession*, or his *expulsion,* **depriving** *him of the **enjoyment** of the premises demised,* or any

> portion of them *by the landlord*, the act of **third persons** ***acting*** ***under*** ***the*** ***authority*** ***of*** ***the*** ***landlord,*** or by act of someone having a paramount title.

110. Stor-All's Forcible Entry and Detainer action has been brought against the Defendant although it is fully aware *that it has already* made an **unlawful** *entry* in an ***unreasonable*** *manner* of Defendant's storage unit. Moreover, Stor-All has repeatedly served the Defendant with "NOTICE OF INTENT TO ENFORCE LIEN ON STORED PROPERTY PURSUANT TO RC § 5322.01 ET.SEQ." with knowledge and/or should have known that such action was not permissible under the laws of the State of Ohio. Stor-All placing the cart-before-the-horse and being unsuccessful in such threats has now brought its Forcible Entry and Detainer action in furtherance of such threats, harassment and other unlawful/illegal means of which Defendant has had to endure in Stor-All's efforts of obtaining her property. Therefore, this action is necessary to obtain injunctive relief as well as additional relief to which the laws of the state of Ohio entitle the Defendant to.

> **65 Ohio Jur.3d § 130 –** ***Wrongful entry or wrongful refusal of access under 1974 Landlord and Tenant Act*****:**
>
> If a landlord under a rental agreement enters upon the demised premises in ***violation*** of the statutory provision governing the right of entry (R.C. 5321.04(A)(8), makes lawful entry in an ***unreasonable*** *manner*, or makes ***repeated*** *demands* for entry otherwise lawful, which have the effect of ***harassing*** *the tenant*, the tenant may recover actual damages resulting from the entry or demands, *obtain* ***injunctive*** *relief* to prevent the ***recurrence*** *of the conduct*, and obtain a judgment for reasonable *attorney fees*, or terminate the rental agreement. (R.C. 5321.04(B). As to award of attorney's fees under R.C. ch. 5321 and/or § 135).

111. Defendant has been subjected to acts of *actual eviction* by Stor-All in that she has been *excluded* from her storage unit and Stor-All has repeatedly denied her access unless she paid monies it was attempting to extort from her. Defendant has also been subjected to acts of *constructive eviction* by Stor-All in that: (a) it has repeatedly interfered and/or obstructed Defendant's access to her storage unit, removed the Defendant's lock she had on her storage unit and may have replaced it with one of their own, (b) it has substantially deprived the Defendant of the beneficial use of her storage unit and the Defendant has not returned; and (c) the Defendant has involuntarily relinquished possession of her storage unit – i.e. Stor-All unlawfully/illegally seizing storage unit and taking it as its own, (d) Stor-All's acts were meritless, done in malice and bad faith; moreover, so severe that it not only interfered with Defendant's peaceful enjoyment of the storage unit, but went as far as bringing such unlawful/illegal practices to the Defendant's place of employment which resulted in the Defendant being terminated.

65 Ohio Jur.3d § 162 – *Elements and requisites; actual or constructive eviction*:

An eviction, in the strict sense of the term, is to enter upon lands and expel the tenant (*Forbus v. Collier,* 7 Ohio Dec. Rep. 331, 2 W.L.B. 122, 1877 WL 7471 (Ohio Dist. Ct. 1877). However, the result is also an *eviction if the tenant loses the enjoyment of any part of the leased premises by some act of the landlord,* of a **permanent character**, *done with the* ***intention*** *of* ***depriving*** *him or* ***her*** ***of the enjoyment*** (*Id.*)

An eviction may be actual or constructive (*McAlpine v. Woodruff,* 11 Ohio St. 120, 1860 WL 31 (1860); *Wetzel V. Richcreek,* 53 Ohio St. 62, 40 N.E. 1004 (1895)). Actual eviction involves expulsion or exclusion from the demised premises (*Liberal Sav. & Loan Co. v. Frankel Realty Co.,* 137 Ohio St. 489, 19 Ohio Op. 170, 30 N.E.2d 1012 (1940); *Foote Theatre, Inc. v. Dixie Roller Rink, Inc.,* 14 Ohio App. 3d 456, 471 N.E. 2d 866 (3d Dist. Hardin County 1984)). In order to establish constructive eviction, there must be proof of active interference by the landlord or someone authorized by the landlord which compelled the tenant to leave (*Eckhart v. Robert E. Lee Motel,* 2 Ohio App. 3d 80, 440 N.E.2d 824 (10th Dist. Franklin County 1981)). Constructive eviction occurs when the landlord has substantially deprived the tenant of beneficial use of the premises, and the tenant vacates (*Wood v. Rathfelder,* 128 F. Supp.2d 1079 (N.D. Ohio 2000). So long as the tenant remains in possession, he or she cannot maintain that there has been a constructive eviction. Thus, for constructive eviction to occur when there is merely interference with the tenant's possession and enjoyment, the tenant must relinquish possession of premises (*Doll v. Rapp,* 74 Ohio Misc.2d 140, 660 N.E.2d 542 (Mun. Ct. 1995)). . . . Constructive eviction also occurs when the landlord's actions are **meritless**, done in ***malice*** or ***bad faith***, and so **severe** *as to* ***interfere*** *with the tenant's peaceful enjoyment of the premises.* (*Wood v. Rathfelder,* 128 F.Supp.2d 1079 (N.D. Ohio 2000)). Thus, a constructive eviction has also been defined as a failure or interference on the part of the landlord with the intended enjoyment of the leased premises, which is of a substantial nature, and so injurious as to deprive the tenant of the beneficial enjoyment of the leased premises. (*Nye v. Schuler,* 110 Ohio App. 443, 13 Ohio Op.2d 208, 82 Ohio L. Abs. 321, 165 N.E.2d 16 (4th Dist. Ross County 1959)).

65 Ohio Jur.3d § 173 – *Pleading and proof; Trial*:

♦ **Illustration:** A charge to the jury that a constructive eviction is such a failure or interference on the part of the landlord with the intended enjoyment of the leased premises as

to be of a substantial nature, and so injurious to the tenant as to deprive him or her of the beneficial enjoyment of the leased premises, is a clear and concise definition of a constructive eviction, and in the absence of a request for a more complete definition, is sufficient. (*Nye v. Schuler,* 110 Ohio App. 443, 13 Ohio Op.2d 208, 82 Ohio L. Abs. 321, 165 N.E.2d 16 (4th Dist. Ross County 1959)).

In an action for damages for breach of covenants in a lease, a defense that the lessor's agent evicted the lessee raises an issue of fact as the agency, *which* ***must*** be passed on by **a jury** unless a jury is waived (*Shepfer v. Hannenkrat,* 48 Ohio App. 35, 1 Ohio Op. 19, 17 Ohio L. Abs. 561, 192 N.E. 274 (5th Dist. Tuscarawas County 1933)).

112. On January 9, 2009, and on the same date that Defendant was terminated from her place of employment, Stor-All served her with "NOTICE TO LEAVE THE PREMISES" asserting that the Defendant *rented* from **it**. Requesting the Defendant to leave the premises with knowledge it has not allowed her on the premises and/or entry into her storage unit since about April 2008. Had Defendant complied with said notice and vacated, she would have lost her rights to bring this Counter-Claim, in that her vacating would have been taken as voluntary. At the time of Stor-All's filing of its Complaint for Forcible Entry and Detainer as well as its claim to ownership of the property, the Defendant was rightfully in possession of her storage unit and entitled to remain. In the interest of justice and in compliance with Ohio law, Defendant: (a) should await legal proceedings threatened against her – in which she has; and (b) rather than comply with Stor-All's notice to leave the premises (which it has denied her access for almost a year), bring an action such as her Counter-Claim for alleged damages that perhaps never would have resulted. In fact, Stor-All was so determined to ruin the Defendant; it went as far as engaging and/or providing information for review by her former employer for purposes of obtaining an undue advantage over the Defendant in the handling of this matter. A ***causal*** *link* between Stor-All's acts and Defendant's wrongful termination is established.

65 Ohio Jur.3d § 164 – *Notice to vacate; bringing possessory action*:

A notice by the landlord that the tenancy is being terminated, combined with a demand by him or her for possession of the premises, and voluntary compliance therewith by the tenant without protest, *is not an* eviction for which damages may be recovered. (*Greenberg v. Murphy,* 16 Ohio C.D. 359, 1904 WL 1147 (Ohio Cir. Ct. 1904)). [**Practice Guide:** If the tenant is *rightfully in possession and entitled to remain*, **the tenant should await legal proceedings that are threatened**, and make *defense* thereto, ***rather than comply*** *with the demand*, and then bring an

action for alleged damages that perhaps never would have resulted. (*Greenberg)*]

Where a tenant, upon request or notice to vacate, voluntarily abandons the premises without protest, no action for damages against the landlord, based on fraud or misrepresentations as to the reasons for such request can be maintained under rights recognized by the common law, or any statute of Ohio. (*Ferguson v. Buddenberg,* 87 Ohio App. 326, 42 Ohio Op. 488, 57 Ohio L. Abs. 473, 94 N.E.2d 568 (1st Dist. Hamilton County 1950)).

113. Stor-All through the filing of its Complaint for Forcible Entry and Detainer is attempting force the Defendant to give up her storage unit. The actions of Stor-All are in violation of the covenant of quiet enjoyment and statutory provisions governing rights given to the Defendant under the Ohio Landlord and Tenant Act. As a direct and proximate result of Stor-All's actions, Defendant has sustained damages and/or injury/harm to which she is entitled to compensatory damages to the extent that she is being forced to leave as well as having to pay more for a comparable space elsewhere.

65 Ohio Jur.3d § 131 – *Generally; liquated damages*:

General contract principles govern damages recoverable in an action for the breach of a lease, including claims for breach of a covenant of quiet enjoyment, breach of a warranty of habitability, and breach of a landlord's statutory duties. (*Allen v. Lee,* 43 Ohio App. 3d 31, 538 N.E.2d 1073 (8th Dist. Cuyahoga County 1987)). A party injured by a breach of a contract is entitled to his or her expectation interest, which is the injured party's interest in having the benefit of the bargain by being put in as good a position as that party would have been in had the contract been performed. (Ohio Jur. 3d, Damages § 18; see *F. Enterprises, Inc. v. Kentucky Fried Chicken Corp.*, 47 Ohio St. 2d 154, 1 Ohio Op. 3d 90, 351 N.E.2d 121 (1976)) [**Observation:** Under Ohio law, any ambiguities in commercial lease language setting forth damages recoverable upon default must be strictly construed *against* drafter of lease[10] (*New Market Acquisitions, Ltd. v. Powerhouse Gym,* 212 F.Supp. 2d 763 (S.D. Ohio 2002)).]

As to the damages recoverable for a breach by the lessor, the general rule is that a lessee who is forced by the lessor's breach to give up the lease incurs ***compensable*** damages to the extent that

[10] § 89 Construction Against Party Preparing Lease: The general rule that ambiguities in a written instrument must be construed against the person who prepared it (*Bevy's Dry Cleaners & Shirt Laundry, Inc. v. Streble,* 2 Ohio St.2d 250, 31 Ohio Op. 2d 507, 208 N.E.2d 528 (1965); *Crickets of Ohio, Inc. v. Hines Invests, L.L.C.,* 2006-Ohio-2901, 2006 WL 1575212 (Ohio Ct. App. 5th Dist. Fairfield County 2006); *Shaker Bldg. Co. v. Federal Lime & Stone Co.,* 28 Ohio Misc. 246, 57 Ohio Op. 2d 486, 277 N.E.2d 584 (Mun. Ct. 1971), rev'd on other grounds, 1972 WL 20379)(Ohio Ct. App. 8th Dist. Cuyahoga County 1972)) and favorably to the person who had no voice in the selection of the language (*Madden v. American News Co.,* 11 Ohio Misc. 119, 40 Ohio Op.2d 355, 229 N.E.2d 119 (C.P. 1967)) applies to the interpretation of the leases.

the lessee has to pay more for comparable space over the term of the original lease, plus any special damages (Am. Jur. 2d, Landlord and Tenant §§ 97, 98. As to measure of damages for breach of covenant of title of quiet enjoyment, see § 184).

114. Stor-All's Forcible Entry and Detainer action has been brought for purposes of extorting monies from the Defendant and to have her unlawfully/illegally evicted.

115. Stor-All having no authority under Ohio statutes/laws to bring this action against the Defendant.

116. Prior to Stor-All's filing of Forcible Entry and Detainer action, it knew and/or should have known that it was not entitled to bring this lawsuit against the Defendant.

117. As a direct and proximate result of Stor-All's acts, the Defendant has sustained damages and/or injury/harm to which she seeks relief thereof through the filing of this instant Counter-Claim. Said relief as allowed under Ohio law:

65 Ohio Jur.3d § 174 – *Measure and elements of damages*:

In many jurisdictions, the view is taken that in a tort action for wrongful eviction by a landlord or by persons for whose act the landlord is responsible, the tenant may recover as general damages the actual or rental value of the unexpired lease term less the rent reserved (Am. Jur.2d, Landlord and Tenant § 668). There is authority in Ohio supporting this view (*Grunau v. Faflik,* 50 Ohio L. Abs. 142, 77 N.E.2d 719 (Ct. App. 8th Dist. Cuyahoga County 1947)(damage for eviction by or under authority of landlord is reasonable value of leasehold) and also the view that a lessor is liable to the lessee (or a sublessor is liable to the sublessor) for all damages sustained by reason of a wrongful eviction for which he or she is responsible. (*Hoffstetter v. Harris,* 23 Ohio N.P. (n.s.) 579, 1921 WL 1344 (C.P. 1921)).

In actions based on the wrongful eviction of a tenant, damages for special losses, such as . . . expenses in defending an ejectment action, have been recovered. . . .exemplary damages are not recoverable in an action for breach of contract unless the conduct constituting the breach is also a tort for which punitive damages are recoverable (Ohio Jur.3d, Damages § 128). . . . [**Illustration:** A landlord's constructive eviction of the tenants. . . **in changing the locks of the tenants' door** one day after posting a three-day eviction notice . . .entitled the tenants to punitive damages (*Proctor v. Frame,* 90 Ohio Mis. 2d 11, 695 N.E.2d 357 (Mun. Ct. 1998)).

> A tenant who is constructively evicted . . . is entitled, as far as it is possible to do so, to a monetary award in order to be placed in the position that the tenant would have been in had constructive eviction not occurred, keeping in mind the purpose for which the premises were leased. Thus, where there is a constructive eviction of the tenant, ***the tenant may be awarded judgment*** on the landlord's counterclaims which are based on unpaid rent for the balance of the lease agreement (*Weingarden v. Eagle Ridge Condominiums,* 71 Ohio Misc.2d 7, 653 N.E.2d 759 (Mun. Ct. 1995)).

118. Defendant seeks any and all relief afforded to her under the laws of the State of Ohio and/or applicable statutes/laws governing such matters relating to the wrongful eviction she sustained. While Stor-All brought Complaint for Forcible Entry and Detainer on January 20, 2009, it had already taken the laws into its own hands by unlawfully/illegally evicting the Defendant under its *own* **self**-made laws. Since April 2008 to present, the Defendant has not been allowed to return to her storage unit. Moreover, in order to retrieve her property she was required to pay the monies Stor-All was attempting to extort from her. The acts of Stor-All were retaliatory, fraudulent, oppressive, willful, malicious and wanton entitling the Defendant to punitive damages. Moreover, the extremes of such acts are evidenced in Stor-All's obsessive acts in destroying the Defendant's life, liberty and pursuit of happiness. The evidence supports that aggravation and outrage, spite and malice, fraudulent and evil intent, as well as a conscious and deliberate disregard for the interests and rights of the Defendant.

> **49 Am. Jur.2d, Landlord and Tenant § 538 – *Generally, Measure of damages:***
>
> Where a tenant is wrongfully evicted by the landlord or by persons for whose acts the landlord is responsible, the tenant may maintain an action in tort against the landlord and may recover as general damage the actual or rental value of the unexpired term less the rent reserved. In addition, the tenant may recover all losses actually sustained, or which the tenant will necessarily sustain, under the circumstances, as a result of the unlawful eviction. Such losses may include the cost of moving, actual expenses, reasonably incurred, and lost profits.

> **49 Am. Jur.2d, Landlord and Tenant § 544 – *Punitive damage:***
>
> The damages recoverable for wrongful eviction, actual or constructive, may include punitive damages. The mere commission of the tort of wrongful eviction, however, is insufficient. There must be circumstances of aggravation or outrage, such as spite or malice, or a fraudulent or evil motive or such a conscious and deliberate disregard of the interests of others that the landlord's conduct may be call willful or wanton.

> A commercial landlord acted with malice toward a tenant, and thus an award of punitive damages was warranted on unlawful eviction and conversion claims, where the landlord suddenly locked the tenant out of the rented premises, wrongfully retained the tenant's business equipment, . . . and expressed personal animosity toward the tenant. . . It has also been stated that punitive damages may be awarded to tenants when a landlord's conduct is morally culpable or actuated by evil and reprehensible motives (*Maula v. Milford Management Corp.,* 559 F.Supp. 1000 (1983)), or is malicious and wanton (Stewart v. Johnson, 209 W. Va. 476, 549 S.E.2d 670 (2001)). In addition, a lessee who does not move, and is not evicted, because of a lessor's retaliatory act may nevertheless recover a statutory punitive damages award of the lessor's retaliatory act of fraud, oppression, or malice.

WHEREFORE, Plaintiff request judgment of and against Plaintiff, Stor-All Alfred, LLC for:

119. Compensatory damages (if permissible by statutes/laws) in the amount of $75,000.

120. Actual damages (if permissible by statutes/laws) to be determined.

121. Consequential damages (if permissible by statutes/laws) in the amount of $20,000.

122. Future damages (if permissible by statutes/laws) in the amount of $50,000.

123. Punitive damages (if permissible by statutes/laws) in the amount of $250,000.

124. Enter the applicable injunctions and restraining orders requiring Plaintiff, Stor-All Alfred, LLC, their agents, employees, attorneys, representatives and all persons acting in concert with them to cease their unconstitutional and unlawful practices.

125. Reasonable fees and/or attorney fees.

126. Costs of suit; and

127. Such other further relief as the Court deem just and proper.

COUNT THREE
LOSS OF ENJOYMENT/DISTURBANCE

(OF AND AGAINST STOR-ALL ALFRED, LLC – WHICH INCLUDES STORE-ALL ALFRED, LLC, ITS AGENTS, REPRESENTATIVES, ATTORNEY, ETC.)

Defendant herein incorporates Paragraphs 1 through 127 of her Counter-Claim and Paragraphs 1 through 7 of Defendant's Answer to Complaint for Forcible Entry and Detainer as if set forth herein with said protection as that argued therein.

Defendant seeks relief for the loss of enjoyment and disturbance to as a direct and proximate result of Stor-All's unlawful/illegal actions. In support thereof, Defendant alleges:

128. Stor-All had no right to enter remove the lock Defendant had placed on her storage unit. Defendant did not authorize said removal. Stor-All had no right to enter the Defendant's storage unit. Defendant did not authorize said entry. Even if Defendant's tenancy was at will (when it was not), Stor-All had no legal and/or statutory authority to enter the Defendant's storage unit; moreover, seize said unit and deny her access to it. Neither did Stor-All have a judgment from a court authorizing its actions taken against the Defendant. Stor-All bypassed the laws and took matters into it own hands and evicted the Defendant about April 2008.

> **65 Ohio Jur.3d § 137 – *Landlord's right of entry*:**
>
> In light of the fact that the interest that a lessor normally retains in the leased premises is merely that of a reversion, a lessor generally has no right to enter the demised premises during the term of the lease (*State of Cincinnati Tin & Japan Co.,* 66 Ohio St. 182, 64 N.E. 68 (1902); *Nigh v. Keifer,* 3 Ohio C.D. 1, 1890 WL 343 (Ohio Cir. Ct. 1890); *Kilfoyl v. Hull,* 4 Ohio Dec. Rep. 552, 2 Cleve. Law Rep. 369, 1879 WL 6355 (Ohio C.P. 1879)). Even under a tenancy at will, the landlord has no right to enter without the tenant's permission; he or she must resort to a legal remedy to enforce a right to possession. (*Coward v. Fleming*, 89 Ohio App. 485, 46 Ohio Op. 289, 102 N.E.2d 850 (1st Dist. Hamilton County 1951)).
>
> Notwithstanding the general rule that a lessor has no right to enter the demised premises during the term of the lease, a lessor may enter the premises without incurring liability as a trespasser where:. . .● there has been a breach of condition, ● the entry is limited to common areas, ● the lessor is acting under an express right of entry provided for in the lease (*Helvich v. George A. Rutherford Co.,* 96 Ohio App. 367, 54 Ohio Op. 365, 114 N.E.2d

514 (8th Dist. Cuyahoga County 1953)), ● the lessor is acting under a right of entry provided by statute.

129. The July 27, 2007, Rental Agreement was entered into between Crown Storage-Camp Washington ("Crown Storage") and Defendant. Stor-All claims it is now owner of the property at which Defendant has a storage unit. Even if said property was sold and Stor-All purchased it, said purchase did not pass possession and control under the Rental Agreement to it. Accordingly, Stor-All by having no right to enter the leased premises has no power to authorize someone else to enter on its behalf. While Stor-All claims ownership of said property, it provided no evidence to support such claim.

> **65 Ohio Jur.3d § 138 – *Landlord's right of entry – Entry of others on landlord's behalf*:**
>
> In conjunction with the passing of possession and control of the premises under a lease agreement to the lessee, the lessor ***parts*** *with the power and right to admit people to the premises or to exclude them.* Accordingly, a landlord who has no right to enter the leased premises has no power to authorize someone else to enter on his or her behalf. (*Richmond Glass and Aluminum Corp. v. Wynn,* 1991 WL 172902 (Ohio Ct. App. 7th Dist. Columbiana County 1991)).

130. In entering the Rental Agreement with Crown Storage, the "covenant of quiet enjoyment" is implied and protected Defendant's right to peaceful and undisturbed enjoyment of her storage unit. Under said covenant, Defendant was entitled to believe that Crown Storage would do no act (or allow anyone else – i.e. such as Stor-All) which interrupts the free and peaceable enjoyment of her storage unit and/or premises during the terms of said Agreement, and indemnified the Defendant from against such unlawful/illegal acts as committed against her by Stor-All.

> **65 Ohio Jur.3d § 176 – *Covenants respecting enjoyment of premises by lessee*:**
>
> A covenant of quiet enjoyment is implied into every lease contract for realty (*Hamilton Brownfields Redevelopment, LLC v. Duro Tire & Wheel,* 156 Ohio App.3d 525, 2004-Ohio-1365, 806 N.E.2d 1039 (12th Dist. Butler County 2004); *Dworkin v. Paley,* 93 Ohio App.3d 383, 638 N.E.2d 636 (8th Dist. Cuyahoga County 1994)) and protects the tenant's right to peaceful and undisturbed enjoyment of the leasehold. (*Dworkin*).
>
> A covenant of quiet enjoyment, insofar as leases are concerned, has been defined as an undertaking on the part of the grantor to do no act which interrupts the free and peaceable enjoyment of the premises demised during the continuance of the term, and to indemnify the lessee against all acts committed by virtue of paramount title (*Barker v. Blanchard,* 5 Ohio N.P. 398, 7

Ohio Dec. 537, 1898 WL 1464 (C.P. 1898)). Quiet enjoyment has also been defined to mean a right to enjoy unimpaired (*so far as a landlord who is owner to the leased property can insure*) the physical status of the property at the time of the execution of the lease, and for the duration of the lease. (*Weiss-Pollak Co. v. Gibson Art Co.,* 27 Ohio N.P. (n.s.) 354, 1929 WL 2385 (C.P. 1929))

131. The covenant of quiet enjoyment afford to the Defendant under the Rental Agreement with Crown Storage was interfered with when Stor-All took the laws into its own hands and obstructed and/or interfered with, as well as took away from the Defendant the entire access and use of her storage unit. Stor-All in committing such acts ousted and/or evicted the Defendant and has not allowed her to enter her storage unit unless she agreed to pay the monies they were attempting to extort from her and/or agreed to the unlawful/illegal terms presented by Stor-All to get her to waive her rights.

65 Ohio Jur.3d § 178 – *Acts of landlord*:

The covenant of quiet enjoyment is breached when the landlord obstructs, interferes with, or takes away from the tenant a substantial degree of beneficial use of the leasehold. (*Hamilton)*. Thus, the following acts may constitute a breach of the covenant for quiet enjoyment: interference by the landlord with the lessee's possession by ousting the lessee from possession (*Weiss-Pollak*).

132. As a matter of law and in the interest of justice, Defendant is entitled to compensatory damages, punitive damages and/or any and all applicable damages permissible by law.

65 Ohio Jur.3d § 184 – *Measure and elements of damages*:

In the case of a breach of covenant of quiet enjoyment by an eviction, the majority rule is that the measure of damages is the difference between the actual value of the unexpired term and the agreed rent, with actual value of the unexpired term and the agreed rent, with the actual value generally being measured by the rental value (Am. Jur.2d, Landlord and Tenant § 621)(*Howard v. Simon,* 18 Ohio App.3d 14, 480 N.E.2d 99 (8th Dist. Cuyahoga County 1984); *F.W. Woolworth Co. v. Russo,* 16 Ohio L. Abs. 307, 1933 WL 2293 (Ct. App.2d Dist. Clark County 1933)).

A tenant is entitled to damages for the period during which the landlord breaches the covenant of quiet enjoyment (*Hamilton).*

The evidence supported the award of punitive damages to the tenants. . . The landlord had resorted to self-help in resolving the lease dispute against the advice of counsel, for the malicious purpose of compelling the tenants to terminate the lease or to obtain a more favorable rental agreement. (*Stern Enterprises v. Plaza Theaters I & II, Inc.*, 105 Ohio App. 3d 601, 664 N.E.2d 981

(11th Dist. Portage County 1995). [▪ **Practice Guide:** The fact that the jury awarded **15 thousand dollars** in *compensatory* damages to the wife but no compensatory damages to the husband on a claim against the landlord for breach of the covenant of quiet and peaceful enjoyment, even though the husband and wife were both parties to the lease, indicated that the trial court failed to properly instruct the jury on that claim (*Hayes v. Heintz,* 2002-Ohio-2608, 2002 WL 1041370 (Ohio Ct. App. 8th Dist. Cuyahoga County 2002)).

133. Defendant is has a right of action in tort against Stor-All for its wrongful interference with Defendant's use and access to her property and/or enjoyment of using her storage unit. Stor-All's intrusion in Defendant's storage unit without invitation from her constitutes trespassing in that Stor-All, as a matter of statute/law, had no legal authority to enter.

65 Ohio Jur.3d § 154 – *Generally; Right of tenant against landlord*:

The act of a landlord may constitute a wrong causing injury to the tenant for which injunctive relief may be sought or an *action of **tort*** will lie. A tenant, therefore, has a right of action against the landlord to recover damages for a wrongful injury to the demised premises which affects his or her rights, and it has been held that a tenant has a right of action in tort against a landlord for a wrongful interference with his or her possession or enjoyment of the demised premises. (Am. Jur.2d Landlord and Tenant § 550).

. . .a landlord's attempted intrusion into a tenant's apartment without invitation from the tenant constitutes a trespass in the absence of a showing that the landlord reserved a right of entry into the apartment. (*McGuire v. Corn,* 92 Ohio App. 445, 50 Ohio Op. 35, 110 N.E.2d 809 (6th Dist. Lucas County 1952)).

134. Defendant, as a matter of law, has a right to bring this Counter-Claim against Stor-All. The only Rental Agreement that existed at the time of the incurrence of the allegations of Stor-All mentioned in its Complaint was that executed between Crown Storage and the Defendant. Stor-All is a third party who interfered with and caused a disturbance involving the Defendant's storage unit. Stor-All as a third party interfered with Defendant's use of her storage unit. Stor-All interfered with Defendant's enjoyment of her storage unit. Stor-All's interference decreases the value of the use during the period alleged in its Complaint. Stor-All's interference has affected the Defendant's interest therein.

65 Ohio Jur.3d § 155 – *Right of tenant against third persons*:

It is well-settled that a right of action accrues in favor of a tenant for any injury to the demised premises where the wrongful act of a third person interferes with or disturbs the tenant's

possession, use, or enjoyment of the premises, decreases the value of the use during the tenant's term, or otherwise affects the tenant's interest therein. (Am. Jur.2d, Landlord and Tenant § 543)

135. Defendant's Counter-Claim has been filed in good faith to preserve the rights secured to her under the Ohio Constitution, United States Constitution, Ohio Landlord and Tenant Act, and any/all applicable statutes/laws governing said matters. Defendant's Counter-Claim has been brought to recover damages of and against Stor-All for a nuisance – i.e. interference with the use or enjoyment of Defendant's property, etc. – which infringed upon the rights of Defendant.

65 Ohio Jur.3d § 157 – *Acts constituting nuisance*:

A lessee may maintain an action to recover damages for a nuisance which is an infringement of his or her rights in the demised premises, such as a disturbance of the temporary possession as distinguished from the permanent possession. (*Waugh v. Village of Marble Cliff,* 19 Ohio N.P. (n.s.) 17, 26 Ohio Dec. 477, 1916 WL 967 (C.P. 1916)).

136. As a matter of law, because there is no written or verbal agreement between Stor-All and Defendant; however, there is a Rental Agreement between Crown Storage and Defendant, Stor-All may be considered a stranger and/or third party who interfered with Defendant's enjoyment or possession of her storage unit; moreover in committing such wrongs against the Defendant, did so as a trespasser and not as Defendant's landlord. Stor-All was aware that Defendant did not want to enter a rental agreement with it. Nevertheless, through the acts of Stor-All tried to force the Defendant into a rental agreement to which she strongly objected. While the actions of Crown Storage amounts to a breach of contract, Defendant is only required to defend this action brought against her by Stor-All and may bring future claims for damages of and against Stor-All as well as a "***malicious*** prosecution" claim against Stor-All in its institution of the January 20, 2009 Complaint to which it knew and/or should have known it was not entitled to bring. From the *unrelenting* acts of Stor-All, Defendant has a right to bring this instant Counter-Claim and, through said counter-claim, seek injunctive relief.

65 Ohio Jur.3d § 158 – *Remedies*:

Interference by the landlord or a stranger with the lessees's enjoyment or possession of the leased premises is a basis for the ordinary actions, such as an action of trespass. (*Wilber v. Paine,* 1 Ohio 251, 1824 WL 1 (1824)). Also, such interference may serve as the basis of an action for breach of lease (*Ketcham v. Miller,* 104 Ohio St. 372, 136 N.E. 145 (1922)) or as an action for breach of covenant of title or quiet enjoyment (§§ 175 to 184). In proper cases, actions of forcible entry may be available, or injunctive relief may be obtained.

137. Defendant's Counter-Claim has been filed in good faith in that she is entitled to injunctive relief of and against Stor-All who has brought the Complaint against her. Said injunction is permissible as a matter of law to correct and/or prevent the continued violations committed by Stor-All against the Defendant, in its wrongful entry and abuse of statutory right of entry from interfering with her right to peaceable enjoyment and possession of her storage unit. Stor-All alleges it is the owner of the property at which Defendant has a storage unit. Therefore, Defendant, as a matter of law, through this Counter-Claim, is entitled to a permanent injunction against Stor-All (who alleges to be the owner and/or purchaser of the property located at 1109 Alfred Street, Cincinnati, Ohio 45214) for its entry upon demised property of Defendant and making use of said property in a way that has deprived the Defendant of her rights under the tenancy.

> **65 Ohio Jur.3d § 159 – *Remedies – Injunctive relief*:**
>
> In certain instances, a tenant may be entitled to injunctive relief to prevent a landlord (Galati v. Sabbatino, 2 Ohio L. Abs. 523, 1924 WL 1974 (Ct. App. 8th Dist. Cuyahoga County 1924); Robert Raitz & Co. v. Dow, 20 Ohio C.D. 284, 1907 WL 1140 (Ohio Cir. Ct. 1907); Weiss-Pollak Co. v. Gibson Art Co., 27 Ohio N.P. (n.s.) 354, 1929 WL 2385 (C.P. 1929) – As to the right of a tenant, under the 1974 Landlord and Tenant Act (R.C. 5321.01 et. Seq.), to injunctive relief against a landlord's wrongful entry or abuse of statutory right of entry, see § 130) or a third person (*Goodyear Tire & Rubber Co. v. Loomis Realty Co.,* 32 Ohio C.D. 493, 1912 WL 796 (Ohio Cir. Ct. 1912), aff'd 88 Ohio St. 617, 106 N.E. 1066 (1913); *Sedaris v. Riley,* 27 Ohio N.P. (n.s.) 215, 1928 WL 2743 (C.P. 1928)) from interfering with his or her right to peaceable enjoyment and possession of the demised premises. (*Newstedt v. Scarborough,* 13 Ohio Dec. 327, 1902 WL 1023 (Super. Ct. 1902)).
>
> A person out of possession and claim a valid lease may obtain an order restraining another claimant who is in possession from occupying the premises, so as to avoid a multiplicity of actions for trespass. (*Sedaris v. Riley,* 27 Ohio N.P. (n.s.) 215, 1928 WL 2743 (C.P. 1928)). A tenant in possession is entitled to a permanent injunction against a purchaser of land who enters upon the demised premises and makes use of the premises in a way that deprives the tenant of his or her rights under the tenancy. (*Kemp v. Feldman,* 84 Ohio App. 154, 39 Ohio Op. 173, 81 N.E.2d 319 (2d Dist. Montgomery County 1948)).

138. As a matter of law, the Defendant has a right to bring this instant Counter-Claim for the injuries and/or harm sustained as a direct and proximate result of Stor-All's legal wrongs – i.e. trespassing, nuisance, etc. – which has affected her use of the storage unit. About April 2008, Stor-All took the laws into its own hands and unlawfully evicted

the Defendant and seized her property. Refusing to return said property to the Defendant unless she paid the monies it was demanding. The injuries sustained by the Defendant as a direct and proximate result of Stor-All's actions, involved Defendant's reputation, feelings, and/or loss of employment, etc. Defendant's landlord, Crown Storage, did not encounter any problems with the Defendant in the payment of her rent. Defendant's payments were in compliance with the terms and conditions of the Rental Agreement between Crown Storage and her. Defendant demands a *jury trial* in this action for the determination and measurement of damages she sustained.

> **65 Ohio Jur.3d § 160– *Measure and elements of damages*:**
>
> In the case of a temporary injury to a leasehold, such as a trespass or nuisance of a temporary character affecting the use and enjoyment of the premises, the diminution in the value of such use and enjoyment during the period of the tenancy up to the commencement of the action is the measure of the tenant's damages for injury to the estate.
>
> Where there is some act of interference. . . by the landlord which does not amount to an eviction, the lessee is entitled to recover in damages such amount as will fully and adequately compensate him or her for the losses sustained. (*Allen v. Lee,* 43 Ohio App. 3rd 31, 538 N.E.2d 1073 (8th Dist. Cuyahoga County 1987); *F.W. Woolworth Co. v. Russo,* 16 Ohio L. Abs. 307, 1933 WL 2293 (Ct. App. 2d Dist. Clark County 1933)).. . .
>
> In the case of a nuisance, where the injury complained of is to the person – that is, to the reputation, feelings, or health of the individual – *it is **unnecessary*** to prove damages in a monetary amount; it is sufficient to prove the facts causing the injury, *in which case the **jury*** will determine the measure of damages sustained. (*Dieringer v. Wehrman,* 9 Ohio Dec. Rep. 355, 12 W.L.B. 222, 1883 WL 5080 (Ohio Dist. Ct. 1883)).

WHEREFORE, Plaintiff request judgment of and against Plaintiff, Stor-All Alfred, LLC for:

139. Compensatory damages (if permissible by statutes/laws) in the amount of $75,000.

140. Actual damages (if permissible by statutes/laws) to be determined.

141. Consequential damages (if permissible by statutes/laws) in the amount of $125,000.

142. Future damages (if permissible by statutes/laws) in the amount of $125,000.

143. Punitive damages (if permissible by statutes/laws) in the amount of $650,000.

144. Enter the applicable injunctions and restraining orders requiring Plaintiff, Stor-All Alfred, LLC, their agents, employees, attorneys, representatives and all persons acting in concert with them to cease their unconstitutional and unlawful practices.

145. Reasonable fees and/or attorney fees.

146. Costs of suit; and

147. Such other further relief as the Court deem just and proper.

COUNT FOUR
EXTORTION

(OF AND AGAINST STOR-ALL ALFRED, LLC – WHICH INCLUDES STORE-ALL ALFRED, LLC, ITS AGENTS, REPRESENTATIVES, ATTORNEY, ETC.)

Defendant herein incorporates Paragraphs 1 through 147 of her Counter-Claim and Paragraphs 1 through 7 of Defendant's Answer to Complaint for Forcible Entry and Detainer as if set forth herein with said protection as that argued therein.

Defendant seeks relief acts taken by Stor-All in its efforts of extorting monies from her. In support thereof, Defendant alleges:

148. About early/mid 2008, Stor-All seized the Defendant's storage unit and to date has refused to return it and her property unless she pays the monies it is attempting to extort from her. Defendant has repeatedly been subjected to threats of Stor-All's intent to enforce lien on her property pursuant to RC §5322.01 et seq. A copy of such notices is attached hereto at Exhibit "8." In furtherance of said criminal acts of extortion, Stor-All has now initiated a Complaint against the Defendant in efforts of extorting monies from her to which it is not entitled. Moreover, is attempting to get this Court to assist it in the committal of such criminal acts.

> "Extortion" is the obtaining of property by the use of serious threats. *U.S. v. Heller,* 579 F.2d 990 (C.A. Ohio 1978)

149. The laws are clear that such criminal acts by Stor-All in its efforts of extorting monies from the Defendant is prohibited by laws. Moreover, Stor-All's *unrelenting* services of writings is evidenced in its "NOTICE OF INTENT TO ENFORCE LIEN ON STORED PROPERTY PURSUANT TO RC §5322.01, ET SEQ." and now through its January 20, 2009 Complaint against the Defendant. Said writings of

Stor-All contain willful and malicious threats of injury. Said writings of Stor-All involve the use of this instant lawsuit for purposes of this Court's aiding in such criminal acts of extortion. Stor-All knew and/or should have known that its acts amounted to extortion. Moreover, Stor-All was timely, properly and adequately placed on notice by the Defendant that they were committing such criminal acts. As with Stor-All taking the laws into its own hands and depriving the Defendant of rights, it proceeded to attempt to extort monies from her.

> Statute providing that no person shall knowingly send or deliver a writing for purpose of extorting money or other valuable thing or containing willful and malicious threats of injury or send or deliver in writing simulating legal process with intent to extort proscribed the sending or delivering of a writing with the purpose to extort, the sending or delivering of a writing containing willful and malicious threats of injury and sending or delivering a writing simulating legal process with intent to extort. R.C. § 2901.39 (*State v. Kiser,* 235 N.E.2d 126, 13 Ohio St.2d 126, 42 O.O.2d 337)

150. Rather than give in to the criminal acts of Stor-All and pay it the monies it was attempting to extort from the Defendant, Defendant knew that Stor-All would eventually deliver itself to the Court willingly and such criminal activity would further be evidenced in the record. Over the Defendant's protest and objections, Stor-All has now brought this instant lawsuit to extort monies from the Defendant it knew and/or should have known it was not entitled to.

> A petition alleging that plaintiff in response to a warrant was informed by village mayor that plaintiff was guilty of selling intoxicating liquor and that plaintiff must either go to jail or pay $107.20 and that plaintiff paid said sum under protest stated cause of action on ground that plaintiff by reason of such threats and duress was deprived of due process and of the money paid to the mayor. *St. Clair v. Teeples,* 6 O.L.A. 174 (Ohio Appo. 1928)

WHEREFORE, Plaintiff request judgment of and against Plaintiff, Stor-All Alfred, LLC for:

150. Compensatory damages (if permissible by statutes/laws) in the amount of $150,000.

151. Actual damages (if permissible by statutes/laws) to be determined.

152. Consequential damages (if permissible by statutes/laws) in the amount of $250,000.

153. Future damages (if permissible by statutes/laws) in the amount of $275,000.

154. Punitive damages (if permissible by statutes/laws) in the amount of 1,000,000.

155. Enter the applicable injunctions and restraining orders requiring Plaintiff, Stor-All Alfred, LLC, their agents, employees, attorneys, representatives and all persons acting in concert with them to cease their unconstitutional and unlawful practices.

156. Reasonable fees and/or attorney fees.

157. Costs of suit; and

158. Such other further relief as the Court deem just and proper.

COUNT FIVE
RETALIATION
(OF AND AGAINST STOR-ALL ALFRED, LLC – WHICH INCLUDES STORE-ALL ALFRED, LLC, ITS AGENTS, REPRESENTATIVES, ATTORNEY, ETC.)

Defendant herein incorporates Paragraphs 1 through 158 of her Counter-Claim and Paragraphs 1 through 7 of Defendant's Answer to Complaint for Forcible Entry and Detainer as if set forth herein with said protection as that argued therein.

Defendant seeks relief for Stor-All's retaliation against her. In support thereof, Defendant alleges:

159. Stor-All in Paragraph 1 of its Complaint for Forcible Entry and Detainer asserts and/or alleges itself as "owner" and Defendant as "tenant" and in its January 9, 2009 "NOTICE TO LEAVE THE PREMISES" (attached as Exhibit A to its Complaint), as "Landlord." Stor-All knowingly doing so because it did not think such slight and craftiness of the pen would be noticed. Stor-All with knowledge it had no claim to a relationship with the Defendant as "Landlord," failed to produce the ***unexecuted*** Stor-All Lease Agreement it had.

160. Stor-All is aware that there is no written or oral rental agreement between it and the Defendant to sustain such entitlement as landlord. Even if Stor-All was Defendant's landlord (when it was not) then it would be subject to the statute/laws

governing said relationships (Ohio Landlord and Tenant Act and/or applicable statutes/laws).

161. Prior to Stor-All's bringing of the instant lawsuit, it knew and or should have known it was not entitled to do so and neither was it entitled to the relief sought therein.

162. Stor-All's filing of this instant lawsuit is in retaliation of Defendant's advising it of violations – i.e. unlawful entry, depriving her of property, unlawful seizure, unlawful withholding of property, etc. -committed against her. Said retaliation is prohibited by law pursuant to RC § 5321.02.

163. Through this instant lawsuit, Defendant may use her Counter-Claim as a defense to Stor-All's Complaint to recover her storage unit that was unlawfully/illegally seized by Stor-All without probable cause and/or legal process. Defendant is entitled to recover damages for said seizure, deprivation of rights, interference, etc. pursuant to RC § 5321.02.

164. Stor-All's filing this instant lawsuit does not prevent the Defendant from recovering damages for any violations rendered against her. Stor-All knew and/or should have known that the filing of this lawsuit was an abuse of process. See RC § 5321.03.

165. Stor-All's unlawful/illegal seizure of Defendant's storage unit and property deprived her rights secured under the statutes/laws of the state of Ohio. Moreover, governing Landlord and Tenant matters.

166. As a matter of statute/law, the Defendant is entitle to recover damages from Stor-All for the bringing of this instant lawsuit.

> **5321.02 Retaliatory conduct of landlord prohibited.**
> (A) Subject to section 5321.03 of the Revised Code, a landlord may not retaliate against a tenant by increasing the tenant's rent, decreasing services that are due to the tenant, or bringing or threatening to bring an action for possession of the tenant's premises because:. . .
>
> > (2) The tenant has complained to the landlord of any violation of section 5321.04 of the Revised Code;
>
> (B) If a landlord acts in violation of division (A) of this section the tenant may:
>
> (1) Use the retaliatory action of the landlord as a defense to an action by the landlord to recover possession of the premises;

(2) Recover possession of the premises; or

(3) Terminate the rental agreement. In addition, the tenant may recover from the landlord any actual damages together with reasonable attorneys' fees.

5321.03 Actions by landlord authorized
(B) The maintenance of an action by the landlord under this section does not prevent the tenant from recovering damages for any violation by the landlord of the rental agreement or of section 5321.04 of the Revised Code.

5321.04 Obligations of landlord.
(A) A landlord who is a party to a rental agreement shall do all of the following:
(7) Not abuse the right of access conferred by division (B) of section 5321.05 of the Revised Code;
(8) Except in the case of emergency or if it is impracticable to do so, give the tenant reasonable notice of his intent to enter and enter only at reasonable times. Twenty-four hours is presumed to be a reasonable notice in the absence of evidence to the contrary.
(B) If the landlord makes an entry in violation of division (A)(8) of this section, makes a lawful entry in an unreasonable manner, or makes repeated demands for entry otherwise lawful that have the effect of harassing the tenant, the tenant may recover actual damages resulting from the entry or demands, obtain injunctive relief to prevent the recurrence of the conduct, and obtain a judgment for reasonable attorney's fees, or may terminate the rental agreement.

521.12 Recover damages.
In any action under Chapter 5321. of the Revised Code, any party may recover damages for the breach of contract or the breach of any duty that is imposed by law.

167. Even if Stor-All would now want to abandon its claim to being "Landlord" to avoid liability, such defense would also fail. Moreover, would only swing the door wide open and/or support any action Defendant may elect to bring for malicious prosecution. Malicious prosecution in that Stor-All initiated the instant lawsuit with knowledge that it was not Defendant's landlord; moreover, knew and/or should have known that it was not authorized to assert such claim and relief requested but nevertheless brought is lawsuit with malicious intent. Malicious prosecution in that Stor-All initiated this instant lawsuit for an improper purpose and without probable cause.

168. Stor-All's instant lawsuit is vexatious.

WHEREFORE, Plaintiff request judgment of and against Plaintiff, Stor-All Alfred, LLC for:

169. Compensatory damages (if permissible by statutes/laws) in the amount of $250,000.

170. Actual damages (if permissible by statutes/laws) to be determined.

171. Consequential damages (if permissible by statutes/laws) in the amount of $300,000.

172. Future damages (if permissible by statutes/laws) in the amount of $300,000.

173. Punitive damages (if permissible by statutes/laws) in the amount of $1,500,000.

174. Enter the applicable injunctions and restraining orders requiring Plaintiff, Stor-All Alfred, LLC, their agents, employees, attorneys, representatives and all persons acting in concert with them to cease their unconstitutional and unlawful practices.

175. Reasonable fees and/or attorney fees.

176. Costs of suit; and

177. Such other further relief as the Court deem just and proper.

COUNT SIX
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(OF AND AGAINST STOR-ALL ALFRED, LLC – WHICH INCLUDES STORE-ALL ALFRED, LLC, ITS AGENTS, REPRESENTATIVES, ATTORNEY, ETC.)

Defendant herein incorporates Paragraphs 1 through 177 of her Counter-Claim and Paragraphs 1 through 7 of Defendant's Answer to Complaint for Forcible Entry and Detainer as if set forth herein with said protection as that argued therein.

Defendant seeks relief for intentional infliction of emotional distress against Stor-All. In support thereof, Defendant alleges:

178. In mid 2008, Stor-All began serving the Defendant with "NOTICE OF INTENT TO ENFORCE LIEN ON STORED PROPERTY PURSUANT TO RC § 5322.01, ET SEQ." Stor-All knew and/or should have known that it was not entitled to the relief sought through said notice. Defendant *timely, properly* and *adequately* **repeatedly** advised Stor-All that it was not entitled to said relief.

179. The acts of Stor-All described in this Counter-Claim in the filing of Plaintiff's Complaint for Forcible Entry and Detainer, were done willfully, maliciously, outrageously, deliberately, and purposely with the intention to inflict emotional distress upon the Defendant. Such acts were done in reckless disregard of the probability of causing the Defendant emotional distress. These acts did in fact result in severe and extreme emotional distress.

180. On December 9, 2008, Plaintiff's representative, Lori Whiteside, sent a facsimile transmission to the Defendant's place of employment. Whiteside sending said facsimile to fax number (513) 852-6087. Defendant did not authorize Whiteside to send her faxes at (513) 852-6087; moreover, Defendant provided Whiteside with a fax number (513) 419-6453 to which she could submit fax prior to her December 9, 2008 fax. Whiteside may have obtained knowledge that Defendant was presently working with an attorney (Thomas J. Breed) who was a former employee of the law firm (Schwartz Manes & Ruby – a/k/a Schwartz Manes Ruby & Slovin, LPA) of their attorney, David Meranus. With said knowledge a reasonable mind may conclude that Whiteside set her sights to get the Defendant terminated from her place of employment in efforts of or unlawfully/illegally placing the Defendant in financial distress in hopes that it would force her to give in to Stor-All's extortion demands. A reasonable mind may conclude that Whiteside's acts were willful, malicious and wanton and done with intent to place Defendant's employer on notice of the personal matters involving Plaintiff and the Defendant. Thus, establishing and evidencing a ***causal*** link.

181. Upon receipt of Stor-All's Complaint for Forcible Entry and Detainer she observed the law firm (Schwartz Manes Ruby & Slovin, LPA) under Stor-All's counsel's name. From observation, it alerted the Defendant to the fact that the attorney (Thomas J. Breed) she worked with at her former employer (Wood & Lamping) was employed with Schwartz Manes & Ruby prior to coming to Defendant's former employer. To verify this, Defendant retrieved document from the internet (August 28, 1997 Letter to Ms. Bobbie Sterne from William B. Singer at: http://city-egov.cincinnati-oh.gov/Webtop/ws/council/public/child/Blob/12586.pdf;jsessionid=A31B4EA5C076983FC37980F6654496F9?rpp=-10&m=1&w=doc_no%3D'199701890'). See attached hereto at **EXHIBIT "10"** and incorporated herein by reference. Sure enough there is Thomas J. Breed (approximately fourth names down) on Schwartz Manes' letterhead. Thus, establishing the ill motive for Stor-All's acts and Defendant's wrongful termination – conflict of interest. Stor-All stood to gain from the Defendant's termination. Moreover, an undue advantage over her if it could financially devastate her. Thinking that because Defendant was terminated, she would not be able to defend a lawsuit brought against her. Stor-All realizing that Defendant had been terminated, in furtherance of its criminal and

civil wrongs against her, initiated this lawsuit to extort the monies from her that she advised it was not entitled to.

182. Stor-All knew and/or should have known that its egregious acts complained of in this Counter-Claim against the Defendant would cause her injury/harm.

183. The conduct of Stor-All was extreme and outrageous and beyond the scope of conduct which would be tolerated by citizens in a democratic and civilized society. However, in order to deliberately injure Defendant, Stor-All committed the aforementioned extreme and outrageous acts with intent to inflict severe mental and emotional distress upon Defendant.

184. As a direct and proximate result of the Stor-All's acts alleged above, Defendant was caused to incur severe and grievous mental and emotional suffering, fright, anguish, shock, anxiety. Defendant continues to suffer same. For this harm Plaintiff requests compensatory damages in an amount to be determined by a jury.

185. As a direct and proximate result of Stor-All's willful, intentional and malicious conduct, Defendant suffered severe and extreme mental and emotional distress. Therefore, Defendant is entitled to an award of punitive damages as against Stor-All. Defendant has suffered damage as set forth in this Counter-Claim.

186. As a direct and proximate result of the Plaintiff's acts alleged above, and the willful, malicious and wanton acts in placing the Defendant's employer on notice (through the transmittal of a facsimile on December 9, 2008) sent to the Defendant's place of employment for her employer and its employees to view, Defendant was caused to incur severe and grievous mental and emotional suffering, fright, anguish, shock, anxiety, loss of employment approximately one month later (January 9, 2009). Defendant research revealed from information provided that Plaintiff knew and/or should have known that in the Defendant's employment she worked with and or directly assisted an attorney (Thomas J. Breed) that was employed with the law firm (Schwartz, Manes & Ruby) of its counsel, David Meranus. The termination of Defendant's employment coming on January 9, 2009 – the ***exact date*** of the beginning of Plaintiff's Amnesty Weekend which included January 9, 10, and 11, 2009 (See Exhibit "19") For this harm Plaintiff requests punitive damages in an amount to be determined a jury.

WHEREFORE, Plaintiff request judgment of and against Plaintiff, Stor-All Alfred, LLC for:

187. Compensatory damages (if permissible by statutes/laws) in the amount of $250,000.

188. Actual damages (if permissible by statutes/laws) to be determined.

189. Consequential damages (if permissible by statutes/laws) in the amount of $300,000.

190. Future damages (if permissible by statutes/laws) in the amount of $300,000.

191. Punitive damages (if permissible by statutes/laws) in the amount of $500,000.

192. Enter the applicable injunctions and restraining orders requiring Plaintiff, Stor-All Alfred, LLC, their agents, employees, attorneys, representatives and all persons acting in concert with them to cease their unconstitutional and unlawful practices.

193. Reasonable fees and/or attorney fees.

194. Costs of suit; and

195. Such other further relief as the Court deem just and proper.

COUNT SEVEN
ACTION FOR NEGLECT TO PREVENT
(OF AND AGAINST STOR-ALL ALFRED, LLC – WHICH INCLUDES STORE-ALL ALFRED, LLC, ITS AGENTS, REPRESENTATIVES, ATTORNEY, ETC.)

Defendant herein incorporates Paragraphs 1 through 195 of her Counter-Claim and Paragraphs 1 through 7 of Defendant's Answer to Complaint for Forcible Entry and Detainer as if set forth herein with said protection as that argued therein.

Defendant seeks relief against Stor-All for its failure to prevent the legal wrongs complained of in this Counter-Claim. In support thereof, Defendant alleges:

196. Stor-All as early as April and/or May 2008 had knowledge of the wrong, illegal and unlawful acts complained of herein regarding its employees and/or representatives handling of matter regarding Defendant and the power to prevent or aid in preventing of said wrongs; however, did nothing to deter or prevent such actions. Even upon notification by the Defendant of such unlawful/illegal acts and/or injustices, Stor-All did nothing to correct the wrongs complained of; instead, made a conscious, willful and deliberate decision to continue to threaten the Defendant with lien actions.

197. As early as December 2008 (if not sooner – file submitted in December), Stor-All's attorney (an *officer of the Court*), David Meranus at the law firm of Schwartz Manes Ruby & Slovin LPA, had knowledge of the wrong, illegal and unlawful acts complained of herein and the power to prevent or aid in preventing said wrongs, did

nothing to deter or prevent such actions, but encouraged it and/or participated in such legal wrongs. Then on January 20, 2009, Stor-All under the advisement of counsel authorized David Meranus to file the Complaint for Forcible Entry and Detainer against the Defendant.

198. While Stor-All's counsel, knew and/or should had known that its client had no legal basis and/or statutory right to the lawsuit he filed, he went ahead and on behalf of his client, he did so anyhow. Said acts by counsel for Stor-All being willful, malicious and wanton; moreover, was done with knowledge that his actions and that of his client was an infringement on the Defendant's rights.

WHEREFORE, Plaintiff request judgment of and against Plaintiff, Stor-All Alfred, LLC for:

199. Compensatory damages (if permissible by statutes/laws) in the amount of $250,000.

200. Actual damages (if permissible by statutes/laws) to be determined.

201. Consequential damages (if permissible by statutes/laws) in the amount of $250,000.

202. Future damages (if permissible by statutes/laws) in the amount of $500,000.

203. Punitive damages (if permissible by statutes/laws) in the amount of $2,000,000.

204. Enter the applicable injunctions and restraining orders requiring Plaintiff, Stor-All Alfred, LLC, their agents, employees, attorneys, representatives and all persons acting in concert with them to cease their unconstitutional and unlawful practices.

205. Reasonable fees and/or attorney fees.

206. Costs of suit; and

207. Such other further relief as the Court deem just and proper.

COUNT EIGHT
NEGLIGENCE

(OF AND AGAINST STOR-ALL ALFRED, LLC – WHICH INCLUDES STORE-ALL ALFRED, LLC, ITS AGENTS, REPRESENTATIVES, ATTORNEY, ETC.)

Defendant herein incorporates Paragraphs 1 through 207 of her Counter-Claim and Paragraphs 1 through 7 of Defendant's Answer to Complaint for Forcible Entry and Detainer as if set forth herein with said protection as that argued therein.

Defendant seeks relief from acts taken by Stor-All as a direct and proximate result of its negligence in this matter. In support thereof, Defendant alleges:

208. Defendant realleges and incorporates by reference herein Paragraphs 1 through 207 of this Counter-Claim, except for any and all allegations of intentional, malicious, extreme, outrageous, wanton and oppressive conduct by Stor-All and any and all allegations requesting punitive damages.

209. At all times mentioned herein, Stor-All was subject to a duty of care, to avoid causing unnecessary harm and distress to citizens in the exercise of their duties. The conduct of Stor-All, as set forth herein, did not comply with the standard of care to be exercised by reasonable persons or private citizens, or officers of law, proximately causing Defendant to suffer damages as set forth in this Counter-Claim.

WHEREFORE, Plaintiff request judgment of and against Plaintiff, Stor-All Alfred, LLC for:

210. Compensatory damages (if permissible by statutes/laws) in the amount of $250,000.

211. Actual damages (if permissible by statutes/laws) to be determined.

212. Consequential damages (if permissible by statutes/laws) in the amount of $250,000.

213. Future damages (if permissible by statutes/laws) in the amount of $250,000.

214. Punitive damages (if permissible by statutes/laws) in the amount of $2,000,000.

215. Enter the applicable injunctions and restraining orders requiring Plaintiff, Stor-All Alfred, LLC, their agents, employees, attorneys, representatives and all persons acting in concert with them to cease their unconstitutional and unlawful practices.

216. Reasonable fees and/or attorney fees.

217. Costs of suit; and

218. Such other further relief as the Court deem just and proper.

COUNT NINE
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
(OF AND AGAINST STOR-ALL ALFRED, LLC – WHICH INCLUDES STORE-ALL ALFRED, LLC, ITS AGENTS, REPRESENTATIVES, ATTORNEY, ETC.)

Defendant herein incorporates Paragraphs 1 through 218 of her Counter-Claim and Paragraphs 1 through 7 of Defendant's Answer to Complaint for Forcible Entry and Detainer as if set forth herein with said protection as that argued therein.

Defendant seeks relief from acts taken by Stor-All as a direct and proximate result of its negligent infliction of emotional distress of her. In support thereof, Defendant alleges:

219. Defendant realleges and incorporates by reference herein Paragraphs 1 through 218 of this Complaint, except for any and all allegations of intentional, malicious, extreme, outrageous, wanton and oppressive conduct by Stor-All, and any and all allegations requesting punitive damages.

220. At all times mentioned herein, Defendants were subject to a duty of care, to avoid causing unnecessary harm and distress to citizens. The conduct of Stor-All, as set forth in this Counter-Claim, did not comply with the standard of care to be exercised by reasonable private citizens or officials of law, proximately causing Defendant to suffer damages as set forth in this Counter-Claim.

WHEREFORE, Plaintiff request judgment of and against Plaintiff, Stor-All Alfred, LLC for:

219. Compensatory damages (if permissible by statutes/laws) in the amount of $350,000.

220. Actual damages (if permissible by statutes/laws) to be determined.

221. Consequential damages (if permissible by statutes/laws) in the amount of $350,000.

222. Future damages (if permissible by statutes/laws) in the amount of $350,000.

223. Punitive damages (if permissible by statutes/laws) in the amount of $2,500,000.

224. Enter the applicable injunctions and restraining orders requiring Plaintiff, Stor-All Alfred, LLC, their agents, employees, attorneys, representatives and all persons acting in concert with them to cease their unconstitutional and unlawful practices.

225. Reasonable fees and/or attorney fees.

226. Costs of suit; and

227. Such other further relief as the Court deem just and proper.

DEMAND FOR JURY TRIAL

228. Defendant hereby demands a jury trial in this action.

PRAYER FOR RELIEF

WHEREFORE, Defendant prays for relief as follows:

229. General damages, if permissible, in an amount no less than $150,000.

230. Special damages, if permissible, in an amount no less than $550,000.

231. Compensatory damages, if permissible, in an amount no less than $1,000,000.

232. Punitive damages, if permissible, in an amount no less than $2,500,000.

233. Declare that the acts of Plaintiff, Stor-All Alfred, LLC, with regards to Defendant's rights under the Ohio Constitution, United States Constitution, Ohio Landlord and Tenant Act and other governing statutes/laws were in violation of Defendant's Constitutional rights.

234. Enter the applicable injunctions and restraining orders requiring Plaintiff, Stor-All Alfred, LLC, their agents, employees, attorneys, representatives and all persons acting in concert with them to cease their unconstitutional and unlawful practices.

235. Reasonable fees and/or attorney fees.

236. Costs of suit incurred herein; and

237. Such other and further relief as the Court may deem just and proper.

Respectfully submitted this **29th** day of **January, 2009.**

Denise Newsome, *Defendant Pro Se*
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the forgoing pleading was HAND DELIVERED to:

Schwartz Manes Ruby & Slovin, LPA
Attn: David Meranus, Esq.
2900 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202

Dated this **29th** day of **January, 2009.**

Denise Newsome

OFFICIAL FAMILY AND MEDICAL LEAVE ACT COMPLAINT OF AND AGAINST WOOD & LAMPING, LLP FILED WITH THE UNITED STATES DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION WAGE AND HOUR DIVISION – CINCINNATI AREA OFFICE ON JANUARY 16, 2009[1]

COMES NOW Denise Newsome ("Newsome"), an African-American female, and files this her Official Complaint with the *Secretary of Labor* through the United States Department of Labor – Employment Standards Administration Wage and Hour Division, in its Cincinnati, Ohio Area Office of and against Wood & Lamping, LLP and/or its representatives under the Family Medical Leave Act of 1993 ("FMLA"), and any/all applicable statutes/laws under which the jurisdiction of the *Secretary of Labor* is applicable. In support of this Complaint Newsome states the following:

JURISDICTION

The jurisdiction of the *Secretary of Labor* is invoked under the Family and Medical Leave Act ("FMLA") pursuant to 29 USC § 2654, 29 CFR 825.400 and the **Equal** *Protection* Clause of the Fourteen Amendment of the United States Constitution (Art. XIV, U.S. Constitution) and any/all applicable laws governing said matters.

> 29 CFR 825.400
> Subpart D_What Enforcement Mechanisms Does FMLA Provide?
>
> Sec. 825.400 What can employees do who believe that their rights under FMLA have been violated?
>
> (a) The employee has the choice of:

[1] Newsome relied upon legal resources (i.e. such as United States Code Annotated, American Jurisprudence Pleading and Practice Forms, Internet, etc. in the preparation of this Complaint. Boldface, underline, italics added for emphasis.

EXHIBIT 105

(1) Filing, or having another person file on his or her behalf, a complaint with the ***Secretary of Labor***, or

(2) Filing a private lawsuit pursuant to section 107 of FMLA.

(b) If the employee files a private lawsuit, it must be filed within two years after the last action which the employee contends was in violation of the Act, or three years if the violation was willful.

(c) If an employer has violated one or more provisions of FMLA, and if justified by the facts of a particular case, an employee may receive one or more of the following: wages, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or, where no such tangible loss has occurred, such as when FMLA leave was unlawfully denied, any actual monetary loss sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to 12 weeks of wages for the employee. In addition, the employee may be entitled to interest on such sum, calculated at the prevailing rate. An amount equalling the preceding sums may also be awarded as liquidated damages unless such amount is reduced by the court because the violation was in good faith and the employer had reasonable grounds for believing the employer had not violated the Act. When appropriate, the employee may also obtain appropriate equitable relief, such as employment, reinstatement and promotion. When the employer is found in violation, the employee may recover a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action from the employer in addition to any judgment awarded by the court.

This instant Complaint is timely filed pursuant to 29 CFR 825.401 which states:

Subpart D_What Enforcement Mechanisms Does FMLA Provide?

Sec. 825.401 Where may an employee file a complaint of FMLA violations with the Federal government?

(a) A complaint may be filed in person, by mail or by telephone, with the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. A complaint may be filed at any local office of the Wage and Hour

Division; the address and telephone number of local offices may be found in telephone directories.

(b) A complaint filed with the Secretary of Labor should be filed within a reasonable time of when the employee discovers that his or her FMLA rights have been violated. In no event may a complaint be filed more than two years after the action which is alleged to be a violation of FMLA occurred, or three years in the case of a willful violation.

(c) ***No particular form*** **of complaint** is required, except that a **complaint must be reduced to writing** and should **include a full statement of the acts and/or omissions, with pertinent dates,** which are believed to constitute the violation.

Employees believing they have been denied their FMLA rights may assert a cause of action for FMLA interference. Family and Medical Leave Act of 1993, § 105(a)(1), 29 U.S.C.A. § 2615(a)(1). - *Novak v. MetroHealth Medical Center,* 503 F.3d 572 (C.A.6.**Ohio**,2007)

PARTIES TO THIS COMPLAINT

Complainant/Employee:

Denise Newsome
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922
Job Title: Secretary/Legal Assistant

Respondent/Employer:

Wood & Lamping, LLP and/or Representatives
c/o Andrea Griffith (Human Resources)
600 Vine Street – Suite 2500
Cincinnati, Ohio 45202
Phone: (513) 852-6006

FACTS OF THIS COMPLAINT

VIOLATION OF STATUTE:

1. Wood & Lamping, LLP ("W&L"), Newsome's former employer, is a private sector employer who employs approximately 50 or more employees for at least 20 work weeks in the current or preceding calendar year and is engaged in an activity affecting commerce.

2. Andrea Griffith (Human Resources Manager/Representative) and C. J. Schmidt (Attorney and Managing Partner) at Wood & Lamping, LLP are people who act, directly, in the interest of their employer (Wood & Lamping, LLP) to the employees of said employer.

3. Newsome worked for a covered employer (W&L). Newsome's hire date being effective September 11, 2006. Newsome was employed as *Estate Planning Coordinator*.

4. Newsome worked for covered employer (W&L) for at least 12 months.

5. Newsome has worked at least 1250 hours over the prior 12 months.

6. Newsome worked for a covered employer (W&L) where at least 50 employees are employed by W&L within 75 miles.

7. Newsome is entitled to take reasonable leave, not to exceed a total of 12 workweeks of leave during any 12 month period, to attend to medical (due to serious health condition) need that may arise.

8. W&L and/or its representatives ***interfered*** with Newsome's exercise of her right to take reasonable leave to seek medical attention for the condition it was timely, properly and adequately notified of. Newsome was entitled to the medical leave sought. The FMLA clearly prohibits interference with protected rights under said Act - **Interference Claim** – 29 USC § 2615(a)(1)

> For an eligible employee to establish liability under Family and Medical Leave Act (FMLA), employee must establish entitlement to leave and that entitlement to leave was interfered with by employer. *McClain v. Southwest Steel Co., Inc.*, 940 F.Supp. 295.

Even under Ohio law, such interference is prohibited: *Davison v. Roadway Exp., Inc.*, 562 F.Supp.2d 971 (N.D.**Ohio.**W.Div.,2008) - To prevail on an Family and Medical Leave Act (FMLA) interference claim, a plaintiff must establish that (1) he is an eligible employee, (2) the defendant is an employer, (3) the employee was entitled to leave under the FMLA, (4) the employee gave the employer notice of his intention to take leave, and (5) the employer denied the employee FMLA benefits to which he was entitled. Family and Medical Leave Act of 1993, §§ 101(2, 4), 102(a)(1), (e)(1), 29 U.S.C.A. §§ 2611(2, 4), 2612(a)(1) . *Novak v. MetroHealth Medical Center,* 503 F.3d 572 (C.A.6.**Ohio,**2007) - To prevail on an FMLA interference claim, an employee must establish that (1) she was an eligible employee as defined under the FMLA, (2) her employer was a covered employer as defined under the FMLA, (3) she was entitled to leave under the FMLA, (4) she gave the employer notice of her intention to take FMLA leave, and (5) her employer denied FMLA benefits to which she was entitled. Family and Medical Leave Act of 1993, § 105(a)(1), 29 U.S.C.A. § 2615(a)(1).

> Newsome was an eligible employee. W&L is an employer as defined under FMLA. Newsome was entitled to leave under the

> FMLA. Newsome was entitled to leave under the FMLA and gave both verbal notice in December 2008 and written notice on January 8, 2009. W&L denied Newsome FMLA benefits to which she is entitled and terminated her employment with it.

Federal courts recognize two distinct theories of recovery that arise under the FMLA statute, "entitlement," also called interference, and "retaliation," also called discrimination. Family and Medical Leave Act of 1993, § 105(a)(1, 2), 29 U.S.C.A. § 2615(a)(1, 2) - *Cox v. True North Energy, LLC*, 524 F.Supp.2d 927 (N.D.**Ohio**.E.Div.,2007)

9. In **December 2008 (well over 30 days)**, Newsome first *verbally* notified W&L through its representative Andrea Griffith ("Griffith"), Human Resource Manager/Representative, of her request for leave to have a medical procedure performed. Newsome advised Griffith of this to determine how W&L handles such medical requests and was advised that she would be okay under the FMLA. Moreover, that W&L would provide a percentage of her salary during the time taken. Newsome advised Griffith of the approximate date (January 29, 2009) on which she was to begin the procedure. Griffith advised Newsome she could use either her sick time, vacation time and/or both, but would wait to see how much time would be required. Thus supporting W&L's knowledge of Newsome being availed FMLA protection.

> When requesting unpaid leave, employee need not mention Family and Medical Leave Act (FMLA) and can be completely ignorant of benefits conferred by Act, and **notice is sufficient if employee provides employer with enough information to put employer on notice that FMLA-qualifying leave is needed.** *Stoops v. One Call Communications, Inc.*, 141 F.3d 309 (7th Cir.).

10. On **January 8, 2009**, Newsome submitted her Request for Medical Leave on January 29, 2009. (See attached hereto as **EXHIBIT "A"** and incorporated herein by reference as if set forth in full). Newsome's Request for this leave was approved by the attorneys (Sharon S. Parsley and Thomas J. Breed) she assisted and then submitted to Griffith for handling. Newsome following the procedures of W&L to obtain this leave.

11. On **January 9, 2009,** Newsome was taken by ***surprise*** when Griffith approached her and asked see her. Newsome followed Griffith to her office where C. J. Schmidt was awaiting their arrival. During this meeting Newsome was advised that her employment with W&L is being terminated in that her position was being eliminated. Newsome was advised that she would be compensated for that week and given two additional weeks of pay. Newsome was advised that her medical insurance would lapse at the end of January 2009 (approximately two days after beginning of the medical process Newsome advised Griffith of in December 2008) and that any additional medical coverage could be maintained through COBRA if she desired. Thus supporting W&L's termination of Newsome was illegally motivated and to deprive her protection under the FMLA; moreover to deprive her benefits afforded to other employees similarly situated.

> Employer ***may not use*** **reduction-in-force** (RIF), reorganization, or improved-efficiency rationale *as pretext* **to mask actual *discrimination* or *retaliation*** for employee's exercise of FMLA rights; the mere incantation of the mantra of "efficiency" is not a talisman insulating an employer from liability for invidious discrimination. *Hodgens v. General Dynamics Corp.*, 144 F.3d 151 (1998). Moreover, *Hodgens* goes on to find "an employer may not use its RIF/reorganization/improved-efficiency rationale as a **pretext** to *mask* **actual** *discrimination* or *retaliation*; the mere incantation of the mantra of "efficiency" is not a talisman insulating an employer from liability for invidious discrimination. See *McDonnell Douglas*, 411 U.S. at 804, 93 S.Ct. 1817 (employer may not use an ostensibly legitimate reason for an adverse action as a pretext for discrimination that is prohibited by statute); 29 U.S.C. § 2615(a); 29 C.F.R. § 825.220; cf. *INS v. Chadha*, 462 U.S. 919, 944, 103 S.Ct. 2764, 77 L.Ed.2d 317 (1983): "Convenience and efficiency are not the primary objectives-or the hallmarks-of democratic government." Nor are they the objectives of public policy underlying statutes like the FMLA or the ADA."

Ohio law is clear that an employer may not retaliate against an employee who exercises rights under the FMLA:

> *Campbell v. Washington County Public Library*, 241 Fed.Appx. 271 (C.A.6.**Ohio**,2007) - County public library employee established prima facie case that her discharge was discriminatory in violation of FMLA; employee faced adverse employment action shortly after taking FMLA leave and filing a complaint to Department of Labor, and there was evidence that library director was upset about employee's complaint. Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C.A. § 2601 et seq.
>
> *Nocella v. Basement Experts of America*, 499 F.Supp.2d 935 (N.D.**Ohio**.W.Div.,2007) - There was sufficient evidence to establish a prima facie case of retaliation under the Family and Medical Leave Act (FMLA) in connection with the termination of an employee approximately one week after she returned from her leave; the time lapse from the beginning of her leave until the elimination of her position was nine weeks at most, only about five weeks elapsed between the elimination of her position and her permanent firing, and there were attempts to keep her from returning to work. Family and Medical Leave Act of 1993, § 105(a)(2), (b), 29 U.S.C.A. § 2615(a)(2), (b).
>
> *Chester v. Quadco Rehabilitation Center*, 484 F.Supp.2d 735 (N.D.**Ohio**.W.Div.,2007) - There was sufficient temporal

> proximity between employee's FMLA leave request and his termination to establish the causal connection needed for prima facie case of retaliation under FMLA, where employee was terminated less than one month after he made his FMLA request. Family and Medical Leave Act of 1993, § 105(a)(2), 29 U.S.C.A. § 2615(a)(2).

12. W&L, through its duly authorized agents and employees, who acted on behalf of W&L within the scope of their employment, intentionally discriminated against Newsome based on her request for medical leave and may also be based on her race; and/or for her insistence on the exercise of rights secured/protected under the FMLA and/or her engagement in other protected rights made known to W&L during the course of Newsome's employment.

13. As a direct and proximate result of the intentional discriminatory acts and practices of W&L, its agents and employees, including the taking away of Newsome's duties as *Estate Planning Coordinator* to give to other employees (white) to provide them with job security,[2] and terminating Newsome's employment **AFTER** she requested medical leave, she has suffered and continues to suffer injury, including past and future loss of income and other employment benefits, severe emotional pain and suffering, mental anguish, humiliation, loss of enjoyment of life, costs associated with obtaining reemployment, embarrassment, damage to her reputation, and other past and future pecuniary losses.

14. W&L acts described above and/or in this instant Complaint were intentional, willful, and performed with malice or reckless indifference to Newsome's federally protected rights, within the meaning of the FMLA (29 USC § 2654, 29 CFR 825.401) and/or the applicable statutes/laws governing such matters.

15. The termination of Newsome's employment by W&L constituted a wrongful discharge and violated public policy of the State of Ohio, as articulated in the Ohio Human Rights Act.

16. As a direct and proximate result of the acts and practices of W&L, its agents and employees, in the wrongful discharge of Newsome from employment, Newsome has suffered and continues to suffer injury/harm, including loss of employment, past and future loss of income and other employment benefits, severe emotional pain and suffering, mental anguish, humiliation, loss of enjoyment of life, costs associated with obtaining reemployment, embarrassment, damage to her reputation and other past and future pecuniary losses.

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[2] See **EXHIBIT "B"** *Wood & Lamping, LLP The Employer's Guide to Employment Law in Ohio, Kentucky, and Indiana* at p. 25 – **Reduction in Force:** Sometimes it becomes necessary for a company to reduce its work force to cope with economic conditions. Care should be taken to be sure that the determination of which employees are to be laid off is done in a nondiscriminatory way. Appropriate factors to consider include the need for a particular job function, seniority, and objectively determined by job performance. . . . **Final Paycheck and Paperwork:** Pay, including any benefits and unused vacation, **should be delivered at the termination meeting**. This is not only good policy, frequently it's the law. . . . In addition, the employee should be given the termination paperwork while still on the premises, and sign a receipt form. If the employee refuses to sign, the fact should be noted on the paperwork in the employee's presence.

17. **IT IS IMPORTANT TO NOTE** that **W&L specializes in *employment* law**; therefore, it knew and/or should have known that its acts rendered Newsome was discriminatory and unlawful/illegal. In fact, in its *Wood & Lamping, LLP The Employer's Guide to Employment Law in Ohio, Kentucky, and Indiana* at p. 24 – **Informing the Employee**, it states: *Obtain Legal Advice. Every situation is different; therefore employers should consult with their attorney before disciplining or discharging an employee. Wood & Lamping regularly consults with clients regarding problems with employees and/or the discharge of employees, advising them as to the best way to handle a particular situation in order to avoid potential litigation.* (See **EXHIBIT "B"** attached hereto and incorporated herein by reference as if set forth in full). Moreover, a reasonable mind may conclude W&L and/or its representative's taking of Newsome's Employee Handbook was clear and convincing knowledge they were aware civil wrongs were being committed. Furthermore, that such acts were done to shield/mask an illegal animus.

ADDITIONAL FACTS PERTINENT TO THIS COMPLAINT:

18. On **January 9, 2009**, W&L waited until the end of the day and had Griffith approach Newsome, taking Newsome by ***surprise,***[3] and asked Newsome to come to her office where C.J. Schmidt (attorney and Managing Partner of W&L) was waiting both of them to return. It was at this time, that Newsome was advised that her employment with W&L was being terminated due to the need to eliminate her position. Newsome was taken by surprise with this news in that she was not aware or given notice of W&L's intent to do so. Newsome was advised that she would be receiving pay for that week as well as two weeks pay and that she would have medical coverage through the end of the month (January 2009); however, any other medical coverage she desired, would have to be obtained through COBRA which would kick in immediately and would have to be paid by her.

Newsome believe the actions by W&L and/or its representatives were willful, malicious and wanton and done to deprive Newsome rights secured/guaranteed under the FMLA, and/or the applicable statutes/laws governing said matters. Newsome believe such acts by W&L and/or its representatives are discriminatory and may be based on race as well as retaliatory for her complaining of violations and discriminatory treatment during her employment. In support thereof, Newsome states:

a) During Newsome's employment white employees and/or those similarly situated provided notice of medical procedures that they would have done and were allowed to proceed with such medical procedures without losing their jobs; moreover, some had to obtain

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[3] See *Wood & Lamping, LLP The Employer's Guide to Employment Law in Ohio, Kentucky, and Indiana* at p. 22 – Employee Termination: **"A termination conversation should not occur suddenly or as a surprise."** . . . *Always treat employees equally and consistently under similar circumstances. You may create the appearance of unlawful discrimination if you allow some employees to engage in prohibited conduct and then claim good cause for firing others for the same reason.* See **EXHIBIT "B"** attached hereto and incorporated by reference as if set forth in full herein.

medical procedures on a last-minute basis which did not afford them the opportunity to notify W&L prior to seeking such attention, however, they were not terminated and they were allowed to return to their employment with W&L. When such employees did not have time for sick leave and/or medical leave W&L took extra steps to accommodate them with the time and allowed them to return to employment. Therefore, Newsome believe her termination with W&L may have been a direct and proximate result to deprive Newsome rights secured/guaranteed under the FMLA. Furthermore, in retaliation of Newsome's participation in protected activities known to W&L and/or its representatives.

> Employer may not defend its interference with FMLA's substantive rights on the ground that it treats all employees equally poorly without discriminating; employer's subjective intent is not relevant, and the issue is simply whether the employer provided its employee the entitlements set forth in FMLA. *Hodgens v. General Dynamics Corp.*, 144 F.3d 151 (1st Cir. 1998).

b) Newsome was officially, hired on with W&L on September 11, 2006, after working briefly as a contract worker. It was made known by certain attorneys at W&L that they were pleased with Newsome's work and wanted to hire her on for a position with them. Newsome was contacted by a representative at an employment agency and advised of W&L's request for the employment of her services which Newsome accepted. Newsome was hired on as an *Estate Planning Coordinator*. ***During the course of her employment and at the termination of her employment the duties of an Estate Planning Coordinator was needed.*** To assure that other white employees had a job and/or employment W&L took the bulk of the duties of the *Estate Planning Coordinator* from Newsome and gave them to white employees to perform. Newsome shared her disappointment with Griffith about this change and/or decision of W&L in that she enjoyed what she was doing and the people she worked with. Nevertheless, W&L and/or its representatives had made a decision that Newsome would lose these duties and they would be given to someone else. While Newsome lost the bulk of these duties upon which she was hired to white employee(s), she continued to work during her course of employment with at least one attorney at all times in the *Estate Planning* group – at the beginning and during her employment she was assigned Jan M. Frankel (Partner) and during her employment W&L removed Frankel and provided her with Thomas J. Breed (Partner and **Department Head** *of the Estate Planning Group*). Newsome was working with Breed at the time of her termination. His job requests

requiring the duties Newsome performed as the Estate Planning Coordinator that were taken away from Newsome.

It is important to note whenever such changes were made, Newsome was advised it was because of her work ethics, ability to perform the duties being assigned and W&L needing to keep attorneys assigned to her happy, etc – thus, providing the confidence W&L and/or its representatives had in Newsome's ability to perform her duties and the tasks assigned her.

c) **IT IS IMPORTANT TO NOTE**, that upon Newsome's hiring it was brought to her attention that a Paralegal (contractor and white) was upset at Newsome being hired in that the Paralegal had been there before Newsome and wanted to be hired on as well. It was also brought to Newsome's attention that this Paralegal (married) was having a sexual relationship and/or affair with one of the attorneys (Brian P. Gillan – of counsel and white) which may have been exposed by the Paralegal's husband. The Paralegal was let go and of course Gillan denied having any such relationship with the Paralegal although there was evidence on the W&L's computer to this relationship, in that both spent time using W&L's e-mail to correspond with each other. **Gillan specializes in employment law; therefore, he knew and/or should have known of the liability such acts would cost W&L. Nevertheless, he was allowed to remain in the employment of W&L with W&L knowledge of such conduct.**

d) **IT IS IMPORTANT TO NOTE**, that during Newsome's employment, one of the first attorneys, Elizabeth Horwitz ("Horwitz"), assigned to Newsome was allowed by W&L to assist Newsome on a Landlord and Tenant matter she was involved in. From the feedback provided from Horwitz and information she would relate back to Newsome, Newsome had concerns that Horwitz in corresponding with the Landlord's attorney was attempting to get Newsome to give up her apartment in which Newsome wanted to keep and advised of her entitlement to live where she desired under the *Fair Housing Act*. Disappointed that Newsome would not give up her apartment and/or agree to leave – waive rights afforded her under the *Fair Housing Act*, Horwitz did not want to work with Newsome anymore and made it known to W&L. While Horwitz advised Newsome she had nothing to do with the change that had occurred, Horwitz indeed did. *W&L e-mails will evidence such.* Moreover, notes surrounding Horwitz request may be found in Griffith's notes used in preparation of performance reviews.

e) **IT IS IMPORTANT TO NOTE**, that upon Horwitz being removed from Newsome's desk, W&L decided to assign Newsome to Brian P.

Gillan ("Gillan"). Gillan being with W&L for only a ***few months*** however, having been assigned approximately two or three Secretaries/Legal Assistants prior to Newsome (with Newsome being the third or fourth) because of his inability to work with them. While Gillan *complimented* Newsome on her work (evidenced in e-mail) for some reason, he decided to begin to subject her to *harassment, hostile treatment and discriminatory practices* **to which she objected**. Gillan doing so via e-mail as well as verbal confrontations, over Newsome's objection. **Although Gillan was advised by Griffith to cease such behavior and correspondence via e-mail**; ***Gillan continued to do so***. Such unlawful/illegal actions by Gillan had become more hostile, brutal, unrelenting and unbearing that Newsome became emotionally affected by such and was witnessed by Griffith who called Newsome into her office to discuss the matter. In that Newsome had put in for Vacation Leave, Griffith advised Newsome to take her vacation and W&L would handle it in her absence and let her know when she returned. When Newsome returned from vacation, W&L had not done anything and advised Newsome that *Gillan wanted to continue to work with her*. Newsome voiced her objections and advised that she could not understand in that Gillan made it clear it was not working out (evidenced in e-mail). **Nevertheless, W&L required Newsome to continue to work with Gillan; however, did not require white employees assigned him prior to Newsome's employment to continue under such conditions**. Newsome again complained and advised that she would take the matter to the appropriate authorities as well as advise William Ellis (attorney/Partner at W&L) of what was going on. Ellis being a litigation attorney and advising Newsome during her employment that if there were any problems that she could come talk to him. Only after notifying of doing this, was Gillan pulled. Leaving Newsome to believe that W&L's refusal to remove Gillan, left the appearance and/or impression that certain ones at W&L may have agreed with Gillan and was behind his acts in that they knew how it was affecting Newsome (*emotionally and physically*). Moreover, that certain ones at W&L allowed Gillan to proceed in such a manner they knew were clearly in violation of Title VII; however, allowed him to proceed. An attorney who was known to be engaging in such acts that may present a liability to W&L; however, was allowed to continue in such a manner. *Again, an attorney who specializes in employment law; therefore, a reasonable mind may conclude he was aware of his conduct and the liability thereof. Moreover, W&L knew as well and supported such behavior and conduct of Gillan – as evidenced in its retaining his employment.*

f) **IT IS IMPORTANT TO NOTE**, that certain *Senior* Partners made it known as to their concerns regarding Brian Gillan; however, Gillan was allowed to remain on with W&L. Gillan being employed at the

time of Newsome's termination. Concerns being made known of Gillan's employment in that he does not bring in a great deal of business to the practice; moreover, during the time Newsome worked with him, the majority of his time was being billed to W&L. Not only that, during his employment, he received increases in the hourly rate he was charging for his services. No it appears objections over Gillan's behavior and employment came into question; however, as with Newsome's concerns, must have been ignored. Resulting in attorneys with a great amount of longevity and seniority leaving W&L. Some of these attorneys who questioned the employment and actions of Gillan.

A reasonable mind may conclude given the facts and evidence any argument that W&L may attempt to assert for the elimination of Newsome's position is pretext to shield/mask an illegal animus. Moreover, that the keeping of an attorney who an investigation may yield repeatedly violated the laws under Title VII, is W&L condoning of such unlawful/illegal discriminatory practices. *Therefore, any assertion that reduction in eliminating Newsome's position is merely pretext and an investigation into this matter may yield evidence to support that W&L provided Gillan as well as other employees with additional salary increases and promotions. Thus, supporting that any proffered reason by W&L is pretext to mask/shield an illegal animus – Newsome's complaining of employment violations and W&L's knowledge of Newsome's participation in protected activities.*

g) **IT IS IMPORTANT TO NOTE**, that during Newsome's employment W&L terminated another attorney (Peter K. Newman). From Newsome's understanding, Newman was painted as an attorney with behavior that was hostile, aggressive, harassing, etc.; however, W&L terminated his employment. Moreover, after the incident gave his assistant, Kathy Ritchie ("Ritchie") some time off after the ordeal. Nevertheless, W&L allowed Gillan to continue on knowing his history and reputation; moreover, liability to W&L.

h) **IT IS IMPORTANT TO NOTE**, that should W&L assert any such claim as to the need for Newsome's termination may have been for financial purposes, she believes a reasonable mind may conclude that she was making way less in salary than Gillan. Moreover, over the advice of seasoned lawyers, W&L elected to keep on Gillan who hardly brought in any business and paid him a substantial salary compared to that of Newsome. Moreover, during his employment provided him with rapid increase(s) in hourly rates with knowledge that a great deal of his hours were being billed to W&L. W&L made a willful, deliberate and conscious decision to keep Gillan employed and to pay him an extremely high salary at the expense of Newsome and

others who objected to his work ethics as well as employment violations.

i) **IT IS IMPORTANT TO NOTE**, that during Newsome's employment she was required to perform duties of that of paralegals; however, did not obtain the title or pay associated with it. However, whites similarly situated that were performing such duties were either promoted to such a title and obtained additional pay to compensate them for the additional duties obtained while Newsome (African-American) just obtained additional duties and was required to remain at her annual salary and only obtained the annual salary increase.

j) **IT IS IMPORTANT TO NOTE**, on October 9, 2008, Newsome was unlawfully/illegally evicted from my apartment (due to the ongoing landlord matter Horwitz was assigned to assist with). Such actions coming although there was a binding Injunction and Restraining Order issued by the Court and Newsome was required to pay rent into escrow which was current at the time of such actions. As a direct and proximate result, Newsome filed a Complaint of criminal charges with the Federal Bureau of Investigations ("FBI") – a matter that Newsome believes is still pending at the time of the filing of this instant charge. It is important to note that W&L was made aware of this situation as well as the fact that Newsome had filed a formal charge with the FBI. Said notification was made verbally and via e-mail. **IT IS IMPORTANT TO NOTE,** *that while W&L states in its Employee Handbook, that it will not discriminate against employees who engage in protected activities (lawsuits*), that Newsome's termination of January 9, 2009, may have been illegally motivated as well for her exercise of such rights secured to her under the Civil Rights Act, United States Constitution and/or the applicable statutes/laws governing said matters. **Moreover, W&L's representative's taking of Newsome's Employee Handbook prior to her termination may leave a reasonable mind to conclude the January 9, 2009 reasons provided for her termination was pretext to mask/shield an illegal animus. Moreover, to shield/mask the fact that their Employee Handbook clearly states it will not discriminate against employee who engages in protected activities (i.e filed lawsuit).**

While discussing the October 9, 2009 incident with Thomas Breed (attorney Newsome worked with), he asked whether or not she needed representation. Newsome advised Breed that she had sought W&L's assistant and was assigned Elizabeth Horwitz; however, Horwitz developed an attitude because Newsome did not accept her advice and refused to waive rights secured under the Fair Housing Act. Newsome advised she was in no hurry and that she had filed a complaint with the appropriate agency to investigate the matter.

k) **IT IS IMPORTANT TO NOTE**, Newsome kept a copy of the ***Employee*** *Handbook* in her desk. However, upon cleaning out her desk, Newsome noticed her Employee Handbook had been removed by a representative of W&L. Newsome believes the removal of the Employee Handbook was done with willful and malicious intent by W&L and/or its representatives to cover-up their employment violations. Moreover, supports W&L and/or its representatives having knowledge that they were acting in violation of FMLA, Title VII and/or any other applicable laws governing said matters. Furthermore, such acts may support ill motive and the actual/underlying reasons for Newsome's termination. W&L specializes in employment laws, so it knew and/or should have known that its actions were unlawful and/or illegal. Moreover, a reasonable mind may conclude that the taking Newsome's Employee Handbook from her desk may have been acts done by W&L to shield the fact they knew the Employee Handbook contained information pertaining to the handling of FMLA requests, termination, etc. that they knew and/or should have known they were violating on January 9, 2009, and they did not want Newsome to be able to use this information in any legal action she may bring. However, to their disappointment, Newsome had obtained a copy of the Employee Handbook in that it was brought to her attention that W&L's representatives were known to practice in such a manner. Thus making it difficult for the employee to bring legal action against them. *A reasonable mind may conclude this is why W&L uses the* ***surprise*** *approach that they advise against in their Employer's Guide in their termination of employees.*

19. The FMLA entitles the employee to take reasonable leave for medical reasons – 29 U.S.C. § 2601(b)(1) - and contains two distinct provisions and entitlements in its anti-discrimination clause – 29 U.S.C. § 2612, 2615 (*Hodgens v. General Dynamics Corp.*, 144 F.3d 151, 159 (1st Cir. 1998)

20. **The FMLA allows for Intermittent leave to**: (a) attend appointments with a healthcare provider for necessary treatment of a serious health condition (29 USC § 2612(6), a claim can be asserted (1) the employer interfered with, restrained, or denied the exercise of or the attempt to exercise, any right provided under the FMLA, or (2) that the employer discharged or discriminated against the former employee for utilizing or availing himself/herself to the rights under FMLA. (*Williams v. Rubicon, Inc.*, 754 So. 2d 1081)

Family and Medical Leave Act (FMLA) contemplates intermittent leave. *Williams v. Shenango, Inc.*, 986 F.Supp. 309.

Newsome believes the evidence contained in this instant Complaint as well as an investigation into the said claims will support: (a) W&L and/or its representatives interfered with

Newsome's exercising rights secured/guaranteed under the FMLA; and (b) her employment was terminated as a direct and proximate result of exercising said right and/or its knowledge of Newsome's participation in protected activities secured to her under the Civil Rights Act, United States Constitution and/or applicable statutes/laws governing such matters in which she engaged.

21. Newsome believes an investigation into the claims of this instant Complaing will yield **PRIMA FACIE CASE under FMLA**: (a) he/she availed himself of a protective right under the FMLA; (b) he/she was adversely affected by an employment decision; and (c) a causal connection existed between the employees protected activity and the employer's adverse employment action. (*Hodgens,* 144 F3d at 160, 161; *Randlett v. Shalala,* 118 F.3d 857, 862 (1st Cir.); *Morgan,* 108 F.3d at 1324; *Hypes,* 134 F.3d 726). **Retaliation** – *Sherrod,* 132 F.3d 1122(A); *Long,* 88 F.3d at 3057. **Adverse Affect** – *Chafflin,* 179 F3d at 319; *King,* 166 F3d at 891; *Bocalbos,* 162 F3d at 383; *Hodgens,* 144 F3d at 161. The FMLA clearly prohibits retaliation against an employee who exercises rights under the Act.

Newsome believes that in investigation into the handling of this instant Charge will support: (a) she availed herself of a protective right under the FMLA. Moreover, rights secured under the United States Constitution, Civil Rights Act and any/all applicable statutes/laws governing said matters. (b) she was adversely affected by an employment decision by W&L and/or its representatives in terminating her employment as a direct and proximate result of engaging in protected activities; and (c) a causal connection exist between the Newsome's protected rights and W&L's and/or its representatives adverse employment action – moreover, W&L attempted to cover up such actions by taking information/documentation (i.e. Employee Manual) they felt Newsome may be able to use and/or would reveal their procedures and the violations rendered Newsome in their handling of termination as well as matters which occurred during her employment.

22. There are three (3) factors to determine causal link in prima facie case: (a) Plaintiff's past disciplinary record; (b) whether the employer followed its typical policy procedures in terminating the employee; and (c) temporal relationship between the employee's conduct and discharge. (*Nowlin v. RTC,* 33 F3d 498, 507-08 (5th Cir. 1994); *Jenkins v. Orkin Exterminating Company,* 646 F.Supp. 1274, 1277). The timing of the adverse employment action can be significant, although not a necessarily determinate factor. (*Mayberry v. Vought Aircraft Company,* 55 F3d at 1086, 1092 (5th Cir. 1995); *Hodgens,* 144 F3d 168, 170; *Grizzle,* 14 F.3d at 268).

Newsome believes that an investigation may yield there was a causal link with her engagement in protected activities and her termination; moreover, (a) Newsome had no past disciplinary record with W&L.

That Newsome complained of concerns of employment violations to W&L, and that Plaintiff would talk with Griffith regarding concerns and/or issues that arose that affected her and/or her ability to perform her duties; (b) that W&L did not follow its typical policy procedures and prior to terminating Newsome, knew that it was not in compliance with its policies and procedures and was in violation of the laws; therefore, in an effort to shield/mask such unlawful/illegal acts it removed the Employee Handbook Newsome kept at her desk in efforts of making it difficult to show such violations; and (c) that there is a connection with Newsome's engagement in protected activities and her termination – i.e. Newsome followed company policy and provided notification of the medical procedure and leave which was authorized by her attorneys (a method used for prior leave requests) and as direct result of such request, Newsome's employment was terminated. Moreover, an investigation may yield W&L's knowledge of Newsome's participation in protected activities in which it states in its Employee Handbook they would not discriminate based upon such information.

The **Seventh** Circuit Court of appeals finding in *King v. Preferred Technical Group,* 166 F.3d 887 (C.A.7.**Ind.**,1999) - Causal link between employee's protected activity and employer's adverse employment action, required for prima facie case of retaliatory discharge under FMLA, may be established by reference to temporal proximity between employee's taking of protected leave and employee's termination. Family and Medical Leave Act of 1993, § 105(a)(1, 2), 29 U.S.C.A. § 2615(a)(1, 2).

23. Newsome believes that in an investigation into this Complaint will yield she has proven **PRIMA FACIE CASE under the FMLA**: (a) that she/he is an eligible employee under the FMLA; (b) that Defendant is an employer as defined in FMLA; (c) that he/she was entitled to leave under the FMLA; (d) that he/she gave notice to the Defendant of her intention to take leave; and (e) he/she was denied benefits to which he/she was entitled under FMLA. (*Santos v. Knitgoods Workers' Union, Local 155* (No. 99 Civ. 1499, 1999 WL 397500 at *3); *Mayo v. Columbia University* (no. 01 Civ. 2002, 2003 WL 1824628, *8); *Parker v. Hanhemann University Hospital,* 234 F.Supp.2d 478, 489)). **Negative factor** – *Darby v. Bratch,* 287 F3d 673, 679 (8th Cir. 2002)

Newsome was an eligible employee under the FMLA. W&L is an employer as defined in FMLA and governed by the provisions of same. Newsome was entitled to leave under the FMLA and that W&L had afforded other employees similarly situated protection under the FMLA. Newsome provided W&L more than 30 days (December 2008) notice as well as later followed up with the written Medial Leave request required by W&L on January 8, 2009 for her leave on January 29, 2009 – said notice was in compliance with W&L's policies and procedures. However, W&L and/or its representatives denied Newsome benefits to which she

was entitled to under the FMLA and such benefits which it afforded to others similarly situated and/or are white.

24. Newsome believes that an investigation into the claims of this Complaint will support W&L and/or its representatives retaliated against her. In support thereof **RETALIATION PRIMA FACIE:** (a) Employee was protected under the FMLA; (b) Employee suffered an adverse employment decision; and (3a) he/she was treated less favorably than an employee who had not requested leave under the FMLA; or (3b) the adverse decision was made because of the employee's request for leave. (Bocalbos v. Nat'l Western Life Insurance Company, 162 F3d 379, 383 (5th Cir. 1998).

Newsome was protected under the FMLA. Newsome suffered an adverse employment decision wherein her employment with W&L was terminated. Newsome was treated less favorably than an employee who had not requested leave under the FMLA – moreover, was denied FMLA protection as that afforded to whites and/or those similarly situated that W&L granted to others and has allowed special provisions to aid whites and/or those similarly situated to seek medical attention requested; however, when Newsome approached them, her employment was terminated and she was advised that if she wanted to continue to have medical coverage, she would be required to carry her own under COBRA. Newsome believes the adverse decision by W&L to terminate her was due to her request for medical leave as well as its knowledge of Newsome's engagement in protected activities secured to her under the Civil Rights Act, United States Constitution and/or applicable statutes/laws.

IT IS IMPORTANT TO NOTE approximately a week prior to Newsome submitting her medical leave request, another white employee (Brian Knaur) had a medical emergency arise regarding his spouse in which it required Knaur to be absent from W&L – such request may have come with Knaur providing short notice due to an emergency that may have occurred; however, Newsome is not aware of this employee being terminated and at the time of her termination, and believe this employee was still employed. Furthermore, such short notices are also covered under the FMLA; however, Newsome was not afforded this right as that extended to white employees and/or those similarly situated.

Employee's telephone call to employer informing employer that she had been hospitalized and that she would be unable to return to work for some time due to her medical condition was sufficient notice under FMLA caselaw and regulations that employee was in the "serious health condition" category of employees eligible for FMLA leave. *Viereck v. City of Gloucester City,* 961 F.Supp. 703 (1997).

ADDITIONAL STATUTES/LAWS GOVERNING SAID MATTERS:

CODE OF FEDERAL REGULATIONS[4]
(See EXHIBIT "C" attached hereto and incorporated by reference)

Code: 29 CFR **Title / Description Excerpts**

Part 825.200: Subpart B_**What Leave Is an Employee Entitled To Take Under the Family and Medical Leave Act?**

Sec. 825.200 ***How much leave may an employee take?***

(a) An eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during any 12-month period for any one, or more, of the following reasons: . . .

(4) Because of a serious health condition that makes the employee
unable to perform one or more of the essential functions of his or her job.

Part 825.203: Subpart B_**What Leave Is an Employee Entitled To Take Under the Family and Medical Leave Act?**

Sec. 825.203 ***Does FMLA leave have to be taken all at once, or can it be taken in parts?***

(a) FMLA leave may be taken ``intermittently or on a reduced leave schedule'' under certain circumstances. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason.. . .

(c) Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition. . . .

(1) Intermittent leave may be taken for a serious health condition which requires treatment by a health care provider periodically, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months,. . .An example of an employee taking leave on a reduced leave schedule

[4] Information cut and pasted into this Complaint.

is an employee who is recovering from a serious health condition and is not strong enough to work a full-time schedule...

(d) There is no limit on the size of an increment of leave when an employee takes intermittent leave or leave on a reduced leave schedule. . . .For example, an employee might take two hours off for a medical appointment, or might work a reduced day of four hours over a period of several weeks while recuperating from an illness. An employee may not be required to take more FMLA leave than necessary to address the circumstance that precipitated the need for the leave,. . .

Part 825.207: Subpart B_**What Leave Is an Employee Entitled To Take Under the Family and Medical Leave Act?**

Sec. 825.207 ***Is FMLA leave paid or unpaid?***

(a) Generally, FMLA leave is unpaid. However, under the circumstances described in this section, FMLA permits an eligible employee to choose to substitute paid leave for FMLA leave. If an employee does not choose to substitute accrued paid leave, the employer may require the employee to substitute accrued paid leave for FMLA leave.. . .

(c) Substitution of paid accrued vacation, personal, or medical/sick leave may be made for any (otherwise) unpaid FMLA leave needed to care for . . . the employee's own serious health condition.

(e) Paid vacation or personal leave, including leave earned or accrued under plans allowing ``paid time off,'' may be substituted, at either the employee's or the employer's option, for any qualified FMLA leave.. . . An employee using accrued paid leave, especially vacation or personal leave, may in some cases not spontaneously explain the reasons or their plans for using their accrued leave.

Part 825.208: Subpart B_**What Leave Is an Employee Entitled To Take Under the Family and Medical Leave Act?**

Sec. 825.208 ***Under what circumstances may an employer designate leave, paid or unpaid, as FMLA leave and, as a result, count it against the employee's total FMLA leave entitlement?***

(a) In all circumstances, it is the employer's responsibility to designate leave, paid or unpaid, as FMLA-qualifying, and to give notice of the designation to the employee as provided in this section.. . .

(1) An employee giving notice of the need for unpaid FMLA leave must explain the reasons for the needed leave so as to allow

the employer to determine that the leave qualifies under the Act...

(2) As noted in Sec. 825.302(c), an employee giving notice of the need for unpaid FMLA leave does not need to expressly assert rights under the Act or even mention the FMLA to meet his or her obligation to provide notice, though the employee would need to state a qualifying reason for the needed leave. An employee requesting or notifying the employer of an intent to use accrued paid leave, even if for a purpose covered by FMLA, would not need to assert such right either. However, if an employee requesting to use paid leave for an FMLA-qualifying purpose does not explain the reason for the leave--consistent with the employer's established policy or practice--and the employer denies the employee's request, the employee will need to provide sufficient information to establish an FMLA-qualifying reason for the needed leave so that the employer is aware of the employee's entitlement (i.e., that the leave may not be denied) and, then, may designate that the paid leave be appropriately counted against (substituted for) the employee's 12-week entitlement. Similarly, an employee using accrued paid vacation leave who seeks an extension of unpaid leave for an FMLA-qualifying purpose will need to state the reason. If this is due to an event which occurred during the period of paid leave, the employer may count the leave used after the FMLA-qualifying event against the employee's 12-week entitlement.

(b)(1) Once the employer has acquired knowledge that the leave is being taken for an FMLA required reason, the employer must promptly (within two business days absent extenuating circumstances) notify the employee that the paid leave is designated and will be counted as FMLA leave. . .

(2) The employer's notice to the employee that the leave has been designated as FMLA leave may be orally or in writing. If the notice is oral, it shall be confirmed in writing, no later than the following payday (unless the payday is less than one week after the oral notice, in which case the notice must be no later than the subsequent payday). The written notice may be in any form, including a notation on the employee's pay stub.

Part 825.209: Subpart B_**What Leave Is an Employee Entitled To Take Under the Family and Medical Leave Act?**

Sec. 825.209 ***Is an employee entitled to benefits while using FMLA leave?***

(a) During any FMLA leave, an employer must maintain the employee's coverage under any group health plan (as defined in the Internal Revenue

> Code of 1986 at 26 U.S.C. 5000(b)(1)) on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period.. . .
>
> (f) Except as required by the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) and for ``key'' employees (as discussed below), an employer's obligation to maintain health benefits during leave (and to restore the employee to the same or equivalent employment) under FMLA ceases if and when the employment relationship would have terminated if the employee had not taken FMLA leave (e.g., **if the employee's position is eliminated as part of a nondiscriminatory reduction in force** and the employee would not have been transferred to another position)

IMPORTANT TO NOTE: During Newsome's meeting where she was advised of termination, Griffith advised that Newsome would have medical insurance coverage through the end of January (2009). Newsome's request for medical leave was for January 29, 2009. Griffith advised Newsome that if she was interested in continuing medical insurance coverage, she could do so under COBRA. Newsome is not aware of any other employee being terminated prior to the medical attention they advised Wood & Lamping they would be having and that such other employee was required to cover their medical expenses under COBRA. In Newsome's case, Wood & Lamping LLP terminated her employment and is terminating my medical insurance effective January 31, 2009, and thereafter, Newsome would be required to pay for any other medical expenses for the medical services she advised Griffith of in December 2008 directly out of pocket – extremely high premium under the COBRA option (Newsome would be requested to pay 100% of the premium cost) – to secure the medical attention Newsome sought and advised Wood & Lamping/Griffith of. Pursuant to the Wood & Lamping LLP Employer's Guide, it states:

> COBRA gives an employee covered by an employer's group health plan the right to stay covered when coverage is lost due to certain qualifying events, and the employee pays for 100% of the premium cost. COBRA coverage must be elected within 60 days after coverage would otherwise end or from the date the election form was sent, whichever is later. *The employer is required to continue the same coverage available to **similarly situated** employees.* The cost can be up to the entire cost of coverage, plus a small (2%) additional charge for administration , as decided by the employer. Employers must maintain records pertaining to compliance with COBRA.

(See **EXHIBIT "B"** at p. 26 of Wood & Lamping LLP's Employer's Guide attached hereto and incorporated by reference). Given such facts, Newsome believes a reasonable mind may

conclude that Wood & Lamping LLP and/or its representatives are in violation of COBRA. Moreover, acts may be willful, malicious and wanton. Acts knowingly and deliberately done to deprive me of medical services under the FMLA. Moreover, that the taking of Newsome's Employee Handbook were acts by W&L to shield an illegal animus. However, to their disappointment, Newsome had obtained a copy of the binders handed out at the seminar hosted by an attorney (Julie R. Pugh) she assisted and Heather Walsh. Newsome being advised during her employment of the corrupt practices of W&L also proceeded to make a copy of the Employee Handbook that W&L's representatives removed from her desk.

Part 825.220: Subpart B_**What Leave Is an Employee Entitled To Take Under the Family and Medical Leave Act?**

Sec. 825.220 ***How are employees protected who request leave or otherwise assert FMLA rights?***

(a) The FMLA prohibits interference with an employee's rights under the law, and with legal proceedings or inquiries relating to an employee's rights. More specifically, the law contains the following employee protections:

(1) An employer is prohibited from interfering with, restraining, or denying the exercise of (or attempts to exercise) any rights provided by the Act.

(2) An employer is prohibited from discharging or in any other way discriminating against any person (whether or not an employee) for opposing or complaining about any unlawful practice under the Act.

(3) All persons (whether or not employers) are prohibited from discharging or in any other way discriminating against any person (whether or not an employee) because that person has—

> (i) Filed any charge, or has instituted (or caused to be instituted) any proceeding under or related to this Act;
> (ii) Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under this Act;
> (iii) Testified, or is about to testify, in any inquiry or proceeding relating to a right under this Act.. . .

(b) Any violations of the Act or of these regulations constitute interfering with, restraining, or denying the exercise of rights provided by the Act. ``Interfering with'' the exercise of an employee's rights would include, for example, not only refusing to authorize FMLA leave, but discouraging an employee from using such leave.. . .

(c) An employer is prohibited from discriminating against employees or prospective employees who have used FMLA leave. For example, if an employee on leave without pay would otherwise be entitled to full benefits (other than health benefits), the same benefits would be required to be provided to an employee on unpaid FMLA leave. By the same token, employers cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or disciplinary actions; nor can FMLA leave be counted under ``no fault'' attendance policies.. . .

(e) Individuals, and not merely employees, are protected from retaliation for opposing (e.g., file a complaint about) any practice which is unlawful under the Act. They are similarly protected if they oppose any practice which they reasonably believe to be a violation of the Act or regulations.

Part 825.300: Subpart C_**How do Employees Learn of Their FMLA Rights and Obligations, and What Can an Employer Require of an Employee?**

Sec. 825.300 ***What posting requirements does the Act place on employers?***

(a) Every employer covered by the FMLA is required to post and keep posted on its premises, in conspicuous places where employees are employed, whether or not it has any ``eligible'' employees, a notice explaining the Act's provisions and providing information concerning the procedures for filing complaints of violations of the Act with the Wage and Hour Division. The notice must be posted prominently where it can be readily seen by employees and applicants for employment. Employers may duplicate the text of the notice contained in Appendix C of this part, or copies of the required notice may be obtained from local offices of the Wage and Hour Division. The poster and the text must be large enough to be easily read and contain fully legible text.

(b) An employer that willfully violates the posting requirement may be assessed a civil money penalty by the Wage and Hour Division not to exceed $100 for each separate offense. Furthermore, an employer that fails to post the required notice cannot take any adverse action against an employee, including denying FMLA leave, for failing to furnish the employer with advance notice of a need to take FMLA leave.

Part 825.301: Subpart C_**How do Employees Learn of Their FMLA Rights and Obligations, and What Can an Employer Require of an Employee?**

Sec. 825.301 ***What other notices to employees are required of employers under the FMLA?***

(a)(1) If an FMLA-covered employer has any eligible employees and has any written guidance to employees concerning employee benefits or leave rights, such as in an employee handbook, information concerning FMLA entitlements and employee obligations under the FMLA must be included in the handbook or other document. For example, if an employer provides an employee handbook to all employees that describes the employer's policies regarding leave, wages, attendance, and similar matters, the handbook must incorporate information on FMLA rights and responsibilities and the employer's policies regarding the FMLA. Informational publications describing the Act's provisions are available from local offices of the Wage and Hour Division and may be incorporated in such employer handbooks or written policies.. . .

(b)(1) The employer shall also provide the employee with written notice detailing the specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. The written notice must be provided to the employee in a language in which the employee is literate (see Sec. 825.300(c)). Such specific notice must include, as appropriate:

> (i) that the leave will be counted against the employee's annual FMLA leave entitlement (see Sec. 825.208);
>
> (ii) any requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to do so (see Sec. 825.305);
>
> (iii) the employee's right to substitute paid leave and whether the employer will require the substitution of paid leave, and the conditions related to any substitution;. . .

(d) Employers are also expected to responsively answer questions from employees concerning their rights and responsibilities under the FMLA.. . .

(f) If an employer fails to provide notice in accordance with the provisions of this section, the employer may not take action against an employee for failure to comply with any provision required to be set forth in the notice.

Part 825.302: Subpart C_**How do Employees Learn of Their FMLA Rights and Obligations, and What Can an Employer Require of an Employee?**

Sec. 825.302 ***What notice does an employee have to give an employer when the need for FMLA leave is foreseeable?***

(a) An employee must provide the employer at least 30 days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based . . . or planned medical treatment for a serious health condition of the employee. . . If 30 days notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable.. .

(b) ``As soon as practicable'' means as soon as both possible and practical, taking into account all of the facts and circumstances in theindividual case. For foreseeable leave where it is not possible to give as much as 30 days notice, ``as soon as practicable'' ordinarily would mean at least verbal notification to the employer within one or two business days of when the need for leave becomes known to the employee.

(c) An employee shall provide **at least verbal** notice sufficient to make the employer aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave. The *employee need **not** expressly* assert rights under the FMLA ***or even mention*** the FMLA, but may only state that leave is needed . . .

(d) An employer may also require an employee to comply with the employer's usual and customary notice and procedural requirements for requesting leave. For example, an employer may require that written notice set forth the reasons for the requested leave, the anticipated duration of the leave, and the anticipated start of the leave. However, failure to follow such internal employer procedures will not permit an employer to disallow or delay an employee's taking FMLA leave if the employee gives timely verbal or other notice.

(e) When planning medical treatment, the employee must consult with the employer and make a reasonable effort to schedule the leave so as not to disrupt unduly the employer's operations, subject to the approval of the health care provider. Employees are ordinarily expected to consult with their employers prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the employer and the employee.. .

(f) In the case of intermittent leave or leave on a reduced leave schedule which is medically necessary, an employee shall advise the employer, upon request,

> of the reasons why the intermittent/reduced leave schedule is necessary and of the schedule for treatment, if applicable. The employee and employer shall attempt to work out a schedule which meets the employee's needs without unduly disrupting the employer's operations, subject to the approval of the health care provider.. .

IMPORANT TO NOTE: Newsome believes Wood & Lamping LLP and/or its representative was timely, properly and adequately placed on notice of my intent to have a medical procedure done which would require absence from employment. Looking in the Wood & Lamping LLP "*The Employer's Guide to Employment Law in Ohio, Kentucky and Indiana*" that I obtained from the seminar that Julie Pugh and Heather Walsh conducted it states (boldface, underline, italics added for emphasis):

> If the condition for which leave is granted is **foreseeable**, employees **must** provide the employer with **30** ***days notice*** **to be entitled to the protection of the FMLA**.
>
> . .
>
> Upon return from leave granted under the FMLA, employees are entitled to reinstatement to the position of employment previously held, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment . . . Employer's **may not** interfere with any employee's attempt to exercise his/her rights under the FMLA. It is also **illegal** *for employers to* ***discriminate*** *against or discharge an employee because he/she has attempted to exercise his/her rights. . .granted by the FMLA.*

See **EXHIBIT "B"** at p. 32 of Wood & Lamping's Employer's Guide attached hereto and incorporated by reference as if set forth in full herein. Therefore a reasonable mind may conclude that W&L's and/or its representative's removal of Newsome's Employee Handbook was a willful and malicious act and pretext to shield its knowledge that it was about to commit legal wrongs against Newsome.

Part 825.400: Subpart D_**What Enforcement Mechanisms Does FMLA Provide?**

Sec. 825.400 ***What can employees do who believe that their rights under FMLA have been violated?***

(a) The employee has the choice of:

(1) Filing, or having another person file on his or her behalf, complaint with the Secretary of Labor, or

(2) Filing a private lawsuit pursuant to section 107 of FMLA.

(b) If the employee files a private lawsuit, it must be filed within two years after the last action which the employee contends was in violation of the Act, or three years if the violation was willful.

(c) If an employer has violated one or more provisions of FMLA, and if justified by the facts of a particular case, an employee may receive one or more of the following: wages, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or, where no such tangible loss has occurred, such as when FMLA leave was unlawfully denied, any actual monetary loss sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to 12 weeks of wages for the employee. In addition, the employee may be entitled to interest on such sum, calculated at the prevailing rate. An amount equalling the preceding sums may also be awarded as liquidated damages unless such amount is reduced by the court because the violation was in good faith and the employer had reasonable grounds for believing the employer had not violated the Act. When appropriate, the employee may also obtain appropriate equitable relief, such as employment, reinstatement and promotion. When the employer is found in violation, the employee may recover a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action from the employer in addition to any judgment awarded by the court.

Part 825.401: Subpart D_**What Enforcement Mechanisms Does FMLA Provide?**

Sec. 825.401 ***Where may an employee file a complaint of FMLA violations with the Federal government?***

(a) A complaint may be filed in person, by mail or by telephone, with the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. A complaint may be filed at any local office of the Wage and Hour Division; the address and telephone number of local offices may be found in telephone directories.

(b) A complaint filed with the Secretary of Labor should be filed within a reasonable time of when the employee discovers that his or her FMLA rights have been violated. In no event may a complaint be filed more than two years after the action which is alleged to be a violation of FMLA occurred, or three years in the case of a willful violation.

(c) No particular form of complaint is required, except that a complaint must be reduced to writing and should include a full statement of the acts and/or omissions, with pertinent dates, which are believed to constitute the violation.

RELIEF SOUGHT

WHEREFORE, PREMISES CONSIDERED Newsome request the following relief:

a) Investigation into the allegations/claims addressed in this instant Complaint, the Secretary of Labor's findings, evidence and legal conclusions it relied upon to render its findings and/or conclusion;

b) That if violations are found, that the Secretary of Labor, bring the applicable actions of and against Wood & Lamping, LLP, its representatives and employees that engaged in such unlawful/illegal acts complained of herein;

c) Award Newsome damages against W&L in an amount equal to any wages, salary, employment benefits, and other compensation denied or lost to Newsome by reason of the violation of the statute;

d) Award Newsome interest in the amount of any wages, salary, employment benefits and other compensation denied or lost to Newsome by reason of the violation of the statute;

e) Award Newsome an additional amount as liquidated damages equal to the sum of the amount of any wages, salary, employment benefits, and other compensation denied or lost to Newsome and the interest on that amount;

f) *Newsome believes her termination would evidence that Wood & Lamping, LLP does not want her in its employment. Moreover, that during her employment she was subjected to discriminatory and retaliatory treatment for exercising rights secured/guaranteed to her under the applicable statutes/laws of the State of Ohio and/or United States. Newsome does not believe given the facts evidence and legal conclusions set forth herein and that to be determined through an investigation, that a reasonable mind may conclude that it would be in her best interest (mentally or physically) to return to the employment of Wood & Lamping, LLP.* Therefore, Newsome is to be awarded such equitable relief as may be appropriate; including salary of approximately **three (3) years** – in that Newsome

believes an investigation into this matter will yield the acts of W&L and/or its representatives and employees was done with malicious intent; moreover, was done in that it knew and/or should have known the difficulty Newsome would face based upon information they have obtained on Newsome; moreover, its acts being to interfere with Newsome's exercise of protected rights guaranteed and/or secured under the United States Constitution, Civil Rights Act and/or any and all applicable statutes laws governing the protected activities in which Newsome has engaged and/or participated in. Newsome request that W&L be required to provide her with the appropriate benefits (insurance coverage) afforded to her during her employment and/or other employees for a period of **three (3) years**. Moreover, be required maintain any COBRA benefits for a period of three (3) years if it does not want to cover the Plaintiff under its group health coverage and paying any and all over insurance premium coverage to which Newsome became accustomed during her employment with W&L;

g) As a direct and proximate result of Wood & Lamping, LLP's unlawful/illegal actions rendered Newsome she has suffered and continues to suffer injury, including past and future loss of income and other employment benefits, severe emotional pain and suffering, mental anguish, humiliation, loss of enjoyment of life, costs associated with obtaining reemployment, embarrassment, damage to her reputation, and other past and future pecuniary losses. Therefore, Newsome seeks the appropriate relief afforded by laws for such injury/harm and to deter Wood & Lamping, LLP from continuing to practice in such violation of laws.

h) Award Newsome reasonable costs associated with the bringing of this Complaint;

i) Grant Newsome such other and further relief – injunction, etc. – which the Secretary of Labor may deem appropriate to correct the injury/harm sustained by Newsome.

Respectfully Submitted this **16th** day of **January, 2009**.

Denise Newsome
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

WOOD & LAMPING LLP

SINCE 1927

VACATION REQUEST FORM

Associates and paralegals should coordinate this vacation request with the attorneys with whom they work, get the Department Head's approval, and give this form to the manager of Human Resources. Secretaries and support staff should get approval from the attorney(s)/manager with whom they work and then submit this form to the manager of Human Resources for approval. The original of this form is filed in your attendance record and a copy is returned to you.

NAME: Denise Newsome **DATE:** 01/08/09

DAY(S) OF REQUEST (Monday-Friday)	DATE(S) OF REQUEST (Month-Day-Year)	TYPE OF DAY (Vacation or Floating Holiday)	TEMP. NEEDED? (for secretary)
Thursday	1/29/09 (1/2 Day - Medical)		No

APPROVED BY: _____ (Attorneys)

_____

_____

APPROVED BY: _____ (Department Head/Manager)

APPROVED BY: _____ (Manager of Human Resources)

****

(To be completed by Human Resources)

Beginning balance of days: _____ Vacation days rolled over from last year

+_____ Vacation days earned during this year

+_____ Floating holiday

=_____ Total number of days

Less days already taken: --_____

Less days already scheduled, but not yet taken (including above): --_____

Number of days to schedule: _____ Vacation days

+_____ Floating holiday

=_____ Total number of days

****

Number of sick days available: _____

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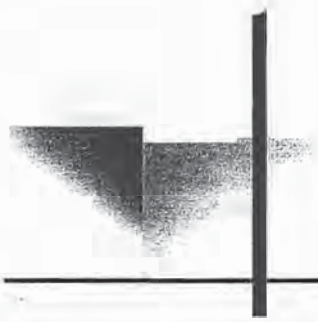
Rev. 01/01/01

A



WOOD & LAMPING LLP

SINCE 1927

THE EMPLOYER'S GUIDE

TO EMPLOYMENT LAW IN OHIO, KENTUCKY AND INDIANA

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B

EMPLOYEE TERMINATION

Ideally, the employee in question has had some feedback on job performance and disciplinary steps have been taken prior to the termination. A termination conversation should not occur suddenly or as a surprise.



In an at-will employment circumstance, all reasons for terminating an employee are lawful subject to certain exceptions. These exceptions are statutorily defined, and include (but are not limited to):

- Discrimination
- Retaliation
- Public Policy
- Employment Contracts
- Disability
- Pregnancy

However, well-documented and supportable reasons for termination will reduce the likelihood of litigation. These reasons may include:

- poor performance
- refusal to follow instructions
- excessive absenteeism, abuse of sick leave, habitual tardiness (caution: FMLA may apply)
- violation of company policies
- endangering health and safety of self or others
- dishonesty
- engaging in criminal activity
- possessing a weapon at work
- behaving violently at work
- drug or alcohol use at work
- gambling at work
- disclosing confidential information to others
- poor relationships with co-workers

Always treat employees equally and consistently under similar circumstances.

Always treat employees equally and consistently under similar circumstances. You may create the appearance of unlawful discrimination if you allow some employees to engage in prohibited conduct and then claim good cause for firing others for the same reason.

INFORMING THE EMPLOYEE

Informing the Employee of the Termination

Never say, "I know what you're going through," even if you do.

- Reserve a private neutral meeting room where the conversation will not be overseen or overheard by other employees;
- Have a manager or other authority figure handle the discharge in person with a witness present, preferably a human resources representative;
- Take notes;
- Go into the meeting understanding that the conversation will not be comfortable,
- Watch your tone of voice. Choose your words carefully, but make sure you convey a tone of cordiality and sympathy. Be compassionate but firm, honest but guarded. Never say, "I know what you're going through," even if you do.
- State the actual reason for termination;
- Treat the employee with respect;
- Seek the employee's feedback. Although it's important to keep the meeting short, encourage the employee to voice his feelings after the news has been delivered. If he doesn't answer immediately, count to 20 before moving on. The last thing you want is a reputation for being heartless. If recriminations result, however, take charge and cut him off; remember that you're terminating his employment, not engaging in a dialogue.
- Collect keys, files and any company property;
- Arrange for the employee to remove personal property;
- Take no unnecessary action to draw attention to the discharge proceedings; and,
- Always end the meeting on a positive note. Offer words of encouragement and confidence in the employee's future career. Stand and extend your hand to indicate the meeting has ended. And of course, thank the employee for his service. But don't be surprised or hurt if the employee declines to thank you for firing him.





Obtain Legal Advice

Every situation is different; therefore, employers should consult with their attorney before disciplining or discharging an employee. Wood & Lamping regularly consults with clients regarding problems with employees and/or the discharge of employees, advising them as to the best way to handle a particular situation in order to avoid potential future litigation.

REDUCTIONS IN FORCE

Sometimes it becomes necessary for a company to reduce its work force to cope with economic conditions. Care should be taken to be sure that the determination of which employees are to be laid off is done in a nondiscriminatory way. Appropriate factors to consider include the need for a particular job function, seniority, and objectively determined job performance. Once layoff candidates are identified, it is a good idea to review the list with counsel in order to spot any potential problems. Severance pay is not required, but if given, should be awarded on an equitable basis.

The ADEA has specific requirements in a Reduction in Force scenario to prevent disabled individuals from being adversely impacted by a Reduction in Force ("RIF"). Your legal counsel should be contacted to ensure adequate compliance with federal statutes.



If an entire facility or a substantial portion of the company's operations are being shut down, the federal Plant Closing Act (the "WARN" Act) may apply, which requires that employees and the public be given 60 days advance notice of the shutdown.

Final Paycheck and Paperwork

Pay, including any benefits and unused vacation, should be delivered at the termination meeting. This is not only good policy, frequently it's the law.

- Ohio – no special statute
- Indiana - Whenever any employer separates any employee from the payroll, the unpaid wages or compensation of such employee shall become due and payable at regular pay day for pay period in which separation occurred. IC 22-2-9-2.
- Kentucky - Employees who have been discharged shall not be paid any more than 14 days after termination, or any later than the next pay period, whichever event takes place last. KRS 337.055.



In addition, the employee should be given the termination paperwork while still on the premises, and sign a receipt form. If the employee refuses to sign, the fact should be noted on the paperwork in the employee's presence.

COBRA AND HIPAA

Consolidated Omnibus Budget Reconciliation Act ("COBRA")
COBRA gives an employee covered by an employer's group health plan the right to stay covered when coverage is lost due to certain qualifying events. This continuation of coverage lasts between 18 and 36 months, depending on the events, and the employee pays for 100% of the premium cost. COBRA coverage must be elected within 60 days after coverage would otherwise end or from the date the election form was sent, whichever is later. The employer is required to continue the same coverage available to similarly situated employees. The cost can be up to the entire cost of coverage, plus a small (2%) additional charge for administration, as decided by the employer. Employers must maintain records pertaining to compliance with COBRA. COBRA applies to most employer group health plans but not to all of them. For example, it does not apply to plans of employers with fewer than 20 employees or to church plans. Many plans of small employers, however, are subject to State laws similar to COBRA.

More information about COBRA can be obtained through the Department of Labor on the Internet at www.dol.gov/dol/topic/health-plans/cobra.htm.

State Codes with "mini COBRA" laws similar to the federal requirements:

- Ohio: The Ohio statute governing continued health insurance coverage requires that employees must be terminated from employment involuntarily, have had three months of prior continuous coverage, and be eligible for Unemployment Compensation. R.C § 3923.38,
- Indiana: If you were denied coverage, the law provides "Comprehensive Health Insurance" for State residents. IC 27-8-10.
- Kentucky: A participant in a plan with 2-19 employees can qualify for 18 months of state continuation coverage. KRS 304.17A-005.

The Health Insurance Portability and Accountability Act of 1996 ("HIPAA")
HIPAA is a federal law that regulates employers of two or more individuals, and health insurance companies. HIPAA was enacted to provide for, among other things, improved portability and continuity of health insurance coverage in the group and individual insurance markets, and group health plan coverage provided in connection with employment. Employers must maintain records pertaining to compliance with HIPAA.

Some of the most significant of HIPAA's provisions include those that:

- limit exclusions for preexisting medical conditions;
- prohibit discrimination in enrollment and premiums against employees and their dependents based on health status; and,
- guarantee availability of health insurance coverage for small employers and renewability of health insurance coverage in both the small and large group markets.

For more information about HIPAA refer to the Internet address at www.hhs.gov/ocr/hipaa.

FMLA



If the condition for which leave is granted is foreseeable, employees must provide the employer with 30 days notice to be entitled to the protections of the FMLA. Employers can require that any request for leave is supported by a certification from a health care provider. In addition, where the requested leave is for the care of a child, parent or spouse with a serious health condition and is foreseeable, the employee must make a reasonable effort to schedule treatment so as not to disrupt the employer's business.

The FMLA only requires employers to grant unpaid leave. However, during any period in which an eligible employee takes leave, employers must maintain coverage under any group health plan for the duration of the leave, and may not change the coverage or conditions thereof. In limited circumstances, the employer may be able to recover any premiums it paid under a group health plan if the employee does not return to work.



Upon return from leave granted under the FMLA, employees are entitled to reinstatement to the position of employment previously held, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. However, the Act does provide an exception for certain highly compensated employees. Employers should seek the advice of counsel as to whether the exception applies in a particular situation.

Employees are entitled to any benefits which had accrued prior to the date upon which leave commenced, but are not entitled to the accrual of seniority or any other employment benefits during any period of leave.

Employers may not interfere with any employee's attempt to exercise his/her rights under the FMLA. It is also illegal for employers to discriminate against or discharge an employee because he/she has attempted to exercise his/her rights, or has filed or testified in any cause of action related to the rights granted by the FMLA.



Obtain Legal Advice

There are many aspects of the FMLA that could not be covered here. Employers should consult with their attorney regarding the specifics of any situation involving the FMLA. Wood & Lamping's Employment Law attorneys regularly consult with clients regarding the Family Medical Leave Act and other laws that govern employers.



WOOD & LAMPING LLP

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The attorneys in Wood & Lamping's Employment / Labor Law Group primarily represent management in labor, employment, immigration and workers' compensation matters. We service clients of all sizes, from large companies with multiple locations to companies with a single office and few employees. Wood & Lamping offers a broad range of services to meet your labor and employment needs:

- Employment Litigation. We represent small and large employers in class actions and individual cases in state and federal courts, arbitrations and mediations. Our areas of litigation experience include wrongful termination, sexual and other harassment, age discrimination, race and national origin discrimination, retaliation matters, implied and express contracts, trade secret theft, and disability discrimination.
- Litigation Prevention. Wood & Lamping strives to assist its clients in preventing costly litigation by offering training, conflict resolution consulting, and personal attention. Our employment attorneys provide manager and employee sexual harassment training, human resources policy review, workplace violence prevention plans, equal employment opportunity guidance, and employee exit policies to help our clients make the best legal decisions possible.
- Client Counseling. Our attorneys regularly advise employers on their employment policies and practices, including employment handbooks, drug policies, employment contracts, independent contractor agreements, terminations, severance plans and releases, Family and Medical Leave Act (FMLA), wage hour compliance, return to work issues, affirmative action plans, immigration issues, workers' compensation programs, trade/business secrets, non-compete agreements, plant closing, reduction-in-force, technology matters, privacy issues, Federal and State investigations, and Occupational Safety and Health issues.

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TITLE 29--LABOR

CHAPTER V--WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 825_THE FAMILY AND MEDICAL LEAVE ACT OF 1993--Table of Contents

Subpart B_What Leave Is an Employee Entitled To Take Under the Family and Medical Leave Act?

Sec. 825.200 How much leave may an employee take?

(a) An eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during any 12-month period for any one, or more, of the following reasons:

(1) The birth of the employee's son or daughter, and to care for the newborn child;

(2) The placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;

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(3) To care for the employee's spouse, son, daughter, or parent with a serious health condition; and,

(4) Because of a serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job.

(b) An employer is permitted to choose any one of the following methods for determining the ``12-month period'' in which the 12 weeks of leave entitlement occurs:

(1) The calendar year;

(2) Any fixed 12-month ``leave year,'' such as a fiscal year, a year required by State law, or a year starting on an employee's ``anniversary'' date;

(3) The 12-month period measured forward from the date any employee's first FMLA leave begins; or,

(4) A ``rolling'' 12-month period measured backward from the date an employee uses any FMLA leave (except that such measure may not extend back before August 5, 1993).

(c) Under methods in paragraphs (b)(1) and (b)(2) of this section an employee would be entitled to up to 12 weeks of FMLA leave at any time in the fixed 12-month period selected. An employee could, therefore, take 12 weeks of leave at the end of the year and 12 weeks at the beginning of the following year. Under the method in paragraph (b)(3) of this section, an employee would be entitled to 12 weeks of leave during the year beginning on the first date FMLA leave is taken; the next 12-month period would begin the first time FMLA leave is taken after completion of any previous 12-month period. Under the method in paragraph (b)(4) of this section, the ``rolling'' 12-month period, each time an employee takes FMLA leave the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months. For example, if an employee has taken

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eight weeks of leave during the past 12 months, an additional four weeks of leave could be taken. If an employee used four weeks beginning February 1, 1994, four weeks beginning June 1, 1994, and four weeks beginning December 1, 1994, the employee would not be entitled to any additional leave until February 1, 1995. However, beginning on February 1, 1995, the employee would be entitled to four weeks of leave, on June 1 the employee would be entitled to an additional four weeks, etc.

(d)(1) Employers will be allowed to choose any one of the alternatives in paragraph (b) of this section provided the alternative chosen is applied consistently and uniformly to all employees. An employer wishing to change to another alternative is required to give at least 60 days notice to all employees, and the transition must take place in such a way that the employees retain the full benefit of 12 weeks of leave under whichever method affords the greatest benefit to the employee. Under no circumstances may a new method be implemented in order to avoid the Act's leave requirements.

(2) An exception to this required uniformity would apply in the case of a multi-State employer who has eligible employees in a State which has a family and medical leave statute. The State may require a single method of determining the period during which use of the leave entitlement is measured. This method may conflict with the method chosen by the employer to determine ``any 12 months'' for purposes of the Federal statute. The employer may comply with the State provision for all employees employed within that State, and uniformly use another method provided by this regulation for all other employees.

(e) If an employer fails to select one of the options in paragraph (b) of this section for measuring the 12-month period, the option that provides the most beneficial outcome for the employee will be used. The employer may subsequently select an option only by providing the 60-day notice to all employees of the option the employer intends to implement. During the running of the 60-day period any other employee who needs FMLA leave may use the option providing the most beneficial outcome to that employee. At the conclusion of the 60-day period the employer may implement the selected option.

(f) For purposes of determining the amount of leave used by an employee, the fact that a holiday may occur within the week taken as FMLA leave has no effect; the week is counted as a week of FMLA leave. However, if for

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some reason the employer's business activity has temporarily ceased and employees generally are not expected to report for work for one or more weeks (e.g., a school closing two weeks for the Christmas/New Year holiday or the summer vacation or an employer closing the plant for retooling or repairs), the days the employer's activities have ceased do not count against the employee's FMLA leave entitlement. Methods for determining an employee's 12-week leave entitlement are also described in Sec. 825.205.

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Subpart C_How do Employees Learn of Their FMLA Rights and Obligations, and What Can an Employer Require of an Employee?

Sec. 825.300 What posting requirements does the Act place on employers?

(a) Every employer covered by the FMLA is required to post and keep posted on its premises, in conspicuous places where employees are employed, whether or not it has any ``eligible'' employees, a notice explaining the Act's provisions and providing information concerning the procedures for filing complaints of violations of the Act with the Wage and Hour Division. The notice must be posted prominently where it can be readily seen by employees and applicants for employment. Employers may duplicate the text of the notice contained in Appendix C of this part, or copies of the required notice may be obtained from local offices of the Wage and Hour Division. The poster and the text must be large enough to be easily read and contain fully legible text.

(b) An employer that willfully violates the posting requirement may be assessed a civil money penalty by the Wage and Hour Division not to exceed $100 for each separate offense. Furthermore, an employer that fails to post the required notice cannot take any adverse action against an employee, including denying FMLA leave, for failing to furnish the employer with advance notice of a need to take FMLA leave.

(c) Where an employer's workforce is comprised of a significant portion of workers who are not literate in English, the employer shall be responsible for providing the notice in a language in which the employees are literate.

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Subpart B_What Leave Is an Employee Entitled To Take Under the Family and Medical Leave Act?

Sec. 825.203 Does FMLA leave have to be taken all at once, or can it be taken in parts?

(a) FMLA leave may be taken ``intermittently or on a reduced leave schedule'' under certain circumstances. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday. A reduced leave schedule is a change in the employee's schedule for a period of time, normally from full-time to part-time.

(b) When leave is taken after the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the employer agrees. Such a schedule reduction might occur, for example, where an employee, with the employer's agreement, works part-time after the

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birth of a child, or takes leave in several segments. The employer's agreement is not required, however, for leave during which the mother has a serious health condition in connection with the birth of her child or if the newborn child has a serious health condition.

(c) Leave may be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition. It may also be taken to provide care or psychological comfort to an immediate family member with a serious health condition.

(1) Intermittent leave may be taken for a serious health condition which requires treatment by a health care provider periodically, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy. A pregnant employee may take leave intermittently for prenatal examinations or for her own condition, such as for periods of severe morning sickness. An example of an employee taking leave on a reduced leave schedule is an employee who is recovering from a serious health condition and is not strong enough to work a full-time schedule.

(2) Intermittent or reduced schedule leave may be taken for absences where the employee or family member is incapacitated or unable to

perform the essential functions of the position because of a chronic serious health condition even if he or she does not receive treatment by a health care provider.

(d) There is no limit on the size of an increment of leave when an employee takes intermittent leave or leave on a reduced leave schedule. However, an employer may limit leave increments to the shortest period of time that the employer's payroll system uses to account for absences or use of leave, provided it is one hour or less. For example, an employee might take two hours off for a medical appointment, or might work a reduced day of four hours over a period of several weeks while recuperating from an illness. An employee may not be required to take more FMLA leave than necessary to address the circumstance that precipitated the need for the leave, except as provided in Sec. Sec. 825.601 and 825.602.

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Subpart B_What Leave Is an Employee Entitled To Take Under the Family and Medical Leave Act?

Sec. 825.207 Is FMLA leave paid or unpaid?

(a) Generally, FMLA leave is unpaid. However, under the circumstances described in this section, FMLA permits an eligible employee to choose to substitute paid leave for FMLA leave. If an employee does not choose to substitute accrued paid leave, the employer may require the employee to substitute accrued paid leave for FMLA leave.

(b) Where an employee has earned or accrued paid vacation, personal or family leave, that paid leave may be substituted for all or part of any (otherwise) unpaid FMLA leave relating to birth, placement of a child for adoption or foster care, or care for a spouse,

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child or parent who has a serious health condition. The term ``family leave'' as used in FMLA refers to paid leave provided by the employer covering the particular circumstances for which the employee seeks leave for either the birth of a child and to care for such child, placement of a child for adoption or foster care, or care for a spouse, child or parent with a serious health condition. For example, if the employer's leave plan allows use of family leave to care for a child but not for a parent, the employer is not required to allow accrued family leave to be substituted for FMLA leave used to care for a parent.

(c) Substitution of paid accrued vacation, personal, or medical/sick leave may be made for any (otherwise) unpaid FMLA leave needed to care for a family member or the employee's own serious health condition. Substitution of paid sick/medical leave may be elected to the extent the circumstances meet the employer's usual requirements for the use of sick/medical leave. An employer is not required to allow substitution of paid sick or medical leave for unpaid FMLA leave ``in any situation'' where the employer's uniform policy would not normally allow such paid leave. An employee, therefore, has a right to substitute paid medical/sick leave to care for a seriously ill family member only if the employer's leave plan allows paid leave to be used for that purpose. Similarly, an employee does not have a right to substitute paid medical/sick leave for a serious health condition which is not covered by the employer's leave plan.

(d)(1) Disability leave for the birth of a child would be considered FMLA leave for a serious health condition and counted in the 12 weeks of leave permitted under FMLA. Because the leave pursuant to a temporary disability benefit plan is not unpaid, the provision for substitution of paid leave is inapplicable. However, the employer may designate the

leave as FMLA leave and count the leave as running concurrently for purposes of both the benefit plan and the FMLA leave entitlement. If the requirements to qualify for payments pursuant to the employer's temporary disability plan are more stringent than those of FMLA, the employee must meet the more stringent requirements of the plan, or may choose not to meet the requirements of the plan and instead receive no payments from the plan and use unpaid FMLA leave or substitute available accrued paid leave.

(2) The Act provides that a serious health condition may result from injury to the employee ``on or off'' the job. If the employer designates the leave as FMLA leave in accordance with Sec. 825.208, the employee's FMLA 12-week leave entitlement may run concurrently with a workers' compensation absence when the injury is one that meets the criteria for a serious health condition. As the workers' compensation absence is not unpaid leave, the provision for substitution of the employee's accrued paid leave is not applicable. However, if the health care provider treating the employee for the workers' compensation injury certifies the employee is able to return to a ``light duty job'' but is unable to return to the same or equivalent job, the employee may decline the employer's offer of a ``light duty job''. As a result the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the 12-week entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or the employer may require the use of accrued paid leave. See also Sec. Sec. 825.210(f), 825.216(d), 825.220(d), 825.307(a)(1) and 825.702(d) (1) and (2) regarding the relationship between workers' compensation absences and FMLA leave.

(e) Paid vacation or personal leave, including leave earned or accrued under plans allowing ``paid time off,'' may be substituted, at either the employee's or the employer's option, for any qualified FMLA leave. No limitations may be placed by the employer on substitution of paid vacation or personal leave for these purposes.

(f) If neither the employee nor the employer elects to substitute paid leave for unpaid FMLA leave under the above conditions and circumstances, the employee will remain entitled to

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all the paid leave which is earned or accrued under the terms of the employer's plan.

(g) If an employee uses paid leave under circumstances which do not qualify as FMLA leave, the leave will not count against the 12 weeks of FMLA leave to which the employee is entitled. For example, paid sick leave used for a medical condition which is not a serious health condition does not count against the 12 weeks of FMLA leave entitlement.

(h) When an employee or employer elects to substitute paid leave (of any type) for unpaid FMLA leave under circumstances permitted by these regulations, and the employer's procedural requirements for taking that kind of leave are less stringent than the requirements of FMLA (e.g., notice or certification requirements), only the less stringent requirements may be imposed. An employee who complies with an employer's less stringent leave plan requirements in such cases may not have leave for an FMLA purpose delayed or denied on the grounds that the employee has not complied with stricter requirements of FMLA. However, where accrued paid vacation or personal leave is substituted for unpaid FMLA leave for a serious health condition, an employee may be required to comply with any less stringent medical certification requirements of the employer's sick leave program. See Sec. Sec. 825.302(g), 825.305(e) and 825.306(c).

(i) Section 7(o) of the Fair Labor Standards Act (FLSA) permits public employers under prescribed circumstances to substitute compensatory time off accrued at one and one-half hours for each overtime hour worked in lieu of paying cash to an employee when the employee works overtime hours as prescribed by the Act. There are limits to the amounts of hours of compensatory time an employee may accumulate depending upon whether the employee works in fire protection or law enforcement (480 hours) or elsewhere for a public agency (240 hours). Compensatory time off is not a form of accrued paid leave that an employer may require the employee to substitute for unpaid FMLA leave. The employee may request to use his/her balance of compensatory time for an FMLA reason. If the employer permits the accrual to be used in compliance with regulations, 29 CFR 553.25, the absence which is paid from the employee's accrued compensatory time ``account'' may not be counted against the employee's FMLA leave entitlement.

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Subpart B_What Leave Is an Employee Entitled To Take Under the Family and Medical Leave Act?

Sec. 825.208 Under what circumstances may an employer designate leave, paid or unpaid, as FMLA leave and, as a result, count it against the employee's total FMLA leave entitlement?

(a) In all circumstances, it is the employer's responsibility to designate leave, paid or unpaid, as FMLA-qualifying, and to give notice of the designation to the employee as provided in this section. In the case of intermittent leave or leave on a reduced schedule, only one such notice is required unless the circumstances regarding the leave have changed. The employer's designation decision must be based only on information received from the employee or the employee's spokesperson (e.g., if the employee is incapacitated, the employee's spouse, adult child, parent, doctor, etc., may provide notice to the employer of the need to take FMLA leave). In any circumstance where the employer does not have sufficient information about the reason for an employee's use of paid leave, the employer should inquire further of the employee or the spokesperson to ascertain whether the paid leave is potentially FMLA-qualifying.

(1) An employee giving notice of the need for unpaid FMLA leave must explain the reasons for the needed leave so as to allow the employer to determine that the leave qualifies under the Act. If the employee fails to explain the reasons, leave may be denied. In many cases, in explaining the reasons for a request to use paid leave, especially when the need for the leave was unexpected or unforeseen, an employee will provide sufficient information for the employer to designate the paid leave as FMLA leave. An employee using accrued paid leave, especially vacation or personal leave, may in some cases not spontaneously explain the

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reasons or their plans for using their accrued leave.

(2) As noted in Sec. 825.302(c), an employee giving notice of the need for unpaid FMLA leave does not need to expressly assert rights under the Act or even mention the FMLA to meet his or her obligation to provide notice, though the employee would need to state a qualifying reason for the needed leave. An employee requesting or notifying the employer of an intent to use accrued paid leave, even if for a purpose covered by FMLA, would not need to assert such right either. However, if an employee requesting to use paid leave for an FMLA-qualifying purpose does not explain the reason for the leave--consistent with the employer's established policy or practice--and the employer denies the employee's request, the employee will need to provide sufficient

information to establish an FMLA-qualifying reason for the needed leave so that the employer is aware of the employee's entitlement (i.e., that the leave may not be denied) and, then, may designate that the paid leave be appropriately counted against (substituted for) the employee's 12-week entitlement. Similarly, an employee using accrued paid vacation leave who seeks an extension of unpaid leave for an FMLA-qualifying purpose will need to state the reason. If this is due to an event which occurred during the period of paid leave, the employer may count the leave used after the FMLA-qualifying event against the employee's 12-week entitlement.

(b)(1) Once the employer has acquired knowledge that the leave is being taken for an FMLA required reason, the employer must promptly (within two business days absent extenuating circumstances) notify the employee that the paid leave is designated and will be counted as FMLA leave. If there is a dispute between an employer and an employee as to whether paid leave qualifies as FMLA leave, it should be resolved through discussions between the employee and the employer. Such discussions and the decision must be documented.

(2) The employer's notice to the employee that the leave has been designated as FMLA leave may be orally or in writing. If the notice is oral, it shall be confirmed in writing, no later than the following payday (unless the payday is less than one week after the oral notice, in which case the notice must be no later than the subsequent payday). The written notice may be in any form, including a notation on the employee's pay stub.

(c) If the employer requires paid leave to be substituted for unpaid leave, or that paid leave taken under an existing leave plan be counted as FMLA leave, this decision must be made by the employer within two business days of the time the employee gives notice of the need for leave, or, where the employer does not initially have sufficient information to make a determination, when the employer determines that the leave qualifies as FMLA leave if this happens later. The employer's designation must be made before the leave starts, unless the employer does not have sufficient information as to the employee's reason for taking the leave until after the leave commenced. If the employer has the requisite knowledge to make a determination that the paid leave is for an FMLA reason at the time the employee either gives notice of the need for leave or commences leave and fails to designate the leave as FMLA leave (and so notify the employee in accordance with paragraph (b)), the employer may not designate leave as FMLA leave retroactively, and may designate only prospectively as of the date of notification to the employee of the designation. In such circumstances, the employee is subject to the full protections of the Act, but none of the absence preceding the notice to the employee of the designation may be counted against the employee's 12-week FMLA leave entitlement.

(d) If the employer learns that leave is for an FMLA purpose after leave has begun, such as when an employee gives notice of the need for an extension of the paid leave with unpaid FMLA leave, the entire or some portion of the paid leave period may be retroactively counted as FMLA leave, to the extent that the leave period qualified as FMLA leave. For example, an employee is granted two weeks paid vacation leave for a skiing trip. In mid-week of the second week, the employee

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contacts the employer for an extension of leave as unpaid leave and advises that at the beginning of the second week of paid vacation leave the employee suffered a severe accident requiring hospitalization. The employer may notify the employee that both the extension and the second week of paid vacation leave (from the date of the injury) is designated

as FMLA leave. On the other hand, when the employee takes sick leave that turns into a serious health condition (e.g., bronchitis that turns into bronchial pneumonia) and the employee gives notice of the need for an extension of leave, the entire period of the serious health condition may be counted as FMLA leave.

(e) Employers may not designate leave as FMLA leave after the employee has returned to work with two exceptions:

(1) If the employee was absent for an FMLA reason and the employer did not learn the reason for the absence until the employee's return (e.g., where the employee was absent for only a brief period), the employer may, upon the employee's return to work, promptly (within two business days of the employee's return to work) designate the leave retroactively with appropriate notice to the employee. If leave is taken for an FMLA reason but the employer was not aware of the reason, and the employee desires that the leave be counted as FMLA leave, the employee must notify the employer within two business days of returning to work of the reason for the leave. In the absence of such timely notification by the employee, the employee may not subsequently assert FMLA protections for the absence.

(2) If the employer knows the reason for the leave but has not been able to confirm that the leave qualifies under FMLA, or where the employer has requested medical certification which has not yet been received or the parties are in the process of obtaining a second or third medical opinion, the employer should make a preliminary designation, and so notify the employee, at the time leave begins, or as soon as the reason for the leave becomes known. Upon receipt of the requisite information from the employee or of the medical certification which confirms the leave is for an FMLA reason, the preliminary designation becomes final. If the medical certifications fail to confirm that the reason for the absence was an FMLA reason, the employer must withdraw the designation (with written notice to the employee).

[60 FR 2237, Jan. 6, 1995; 60 FR 16383, Mar. 30, 1995]

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TITLE 29--LABOR

CHAPTER V--WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 825_THE FAMILY AND MEDICAL LEAVE ACT OF 1993--Table of Contents

Subpart B_What Leave Is an Employee Entitled To Take Under the Family and Medical Leave Act?

Sec. 825.209 Is an employee entitled to benefits while using FMLA leave?

(a) During any FMLA leave, an employer must maintain the employee's coverage under any group health plan (as defined in the Internal Revenue Code of 1986 at 26 U.S.C. 5000(b)(1)) on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period. All employers covered by FMLA, including public agencies, are subject to the Act's requirements to maintain health coverage. The definition of ``group health plan'' is set forth in Sec. 825.800. For purposes of FMLA, the term ``group health plan'' shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that:

(1) no contributions are made by the employer;

(2) participation in the program is completely voluntary for employees;

(3) the sole functions of the employer with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer;

(4) the employer receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction; and,

(5) the premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

(b) The same group health plan benefits provided to an employee prior to taking FMLA leave must be maintained during the FMLA leave. For example, if family member coverage is

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provided to an employee, family member coverage must be maintained during the FMLA leave. Similarly, benefit coverage during FMLA leave for medical care, surgical care, hospital care, dental care, eye care, mental health counseling, substance abuse treatment, etc., must be maintained during leave if provided in an employer's group health plan, including a supplement to a group health plan, whether or not provided through a flexible spending account or other component of a cafeteria plan.

(c) If an employer provides a new health plan or benefits or changes health benefits or plans while an employee is on FMLA leave, the employee is entitled to the new or changed plan/benefits to the same

extent as if the employee were not on leave. For example, if an employer changes a group health plan so that dental care becomes covered under the plan, an employee on FMLA leave must be given the same opportunity as other employees to receive (or obtain) the dental care coverage. Any other plan changes (e.g., in coverage, premiums, deductibles, etc.) which apply to all employees of the workforce would also apply to an employee on FMLA leave.

(d) Notice of any opportunity to change plans or benefits must also be given to an employee on FMLA leave. If the group health plan permits an employee to change from single to family coverage upon the birth of a child or otherwise add new family members, such a change in benefits must be made available while an employee is on FMLA leave. If the employee requests the changed coverage it must be provided by the employer.

(e) An employee may choose not to retain group health plan coverage during FMLA leave. However, when an employee returns from leave, the employee is entitled to be reinstated on the same terms as prior to taking the leave, including family or dependent coverages, without any qualifying period, physical examination, exclusion of pre- existing conditions, etc. See Sec. 825.212(c).

(f) Except as required by the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) and for ``key'' employees (as discussed below), an employer's obligation to maintain health benefits during leave (and to restore the employee to the same or equivalent employment) under FMLA ceases if and when the employment relationship would have terminated if the employee had not taken FMLA leave (e.g., if the employee's position is eliminated as part of a nondiscriminatory reduction in force and the employee would not have been transferred to another position); an employee informs the employer of his or her intent not to return from leave (including before starting the leave if the employer is so informed before the leave starts); or the employee fails to return from leave or continues on leave after exhausting his or her FMLA leave entitlement in the 12-month period.

(g) If a ``key employee'' (see Sec. 825.218) does not return from leave when notified by the employer that substantial or grievous economic injury will result from his or her reinstatement, the employee's entitlement to group health plan benefits continues unless and until the employee advises the employer that the employee does not desire restoration to employment at the end of the leave period, or FMLA leave entitlement is exhausted, or reinstatement is actually denied.

(h) An employee's entitlement to benefits other than group health benefits during a period of FMLA leave (e.g., holiday pay) is to be determined by the employer's established policy for providing such benefits when the employee is on other forms of leave (paid or unpaid, as appropriate).

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PART 825_THE FAMILY AND MEDICAL LEAVE ACT OF 1993--Table of Contents

Subpart B_What Leave Is an Employee Entitled To Take Under the Family and Medical Leave Act?

Sec. 825.220 How are employees protected who request leave or otherwise assert FMLA rights?

(a) The FMLA prohibits interference with an employee's rights under the law, and with legal proceedings or inquiries relating to an employee's rights. More specifically, the law contains the following employee protections:

(1) An employer is prohibited from interfering with, restraining, or denying the exercise of (or attempts to exercise) any rights provided by the Act.

(2) An employer is prohibited from discharging or in any other way discriminating against any person (whether or not an employee) for opposing or complaining about any unlawful practice under the Act.

(3) All persons (whether or not employers) are prohibited from discharging or in any other way discriminating against any person (whether or not an employee) because that person has--

(i) Filed any charge, or has instituted (or caused to be instituted) any proceeding under or related to this Act;

(ii) Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under this Act;

(iii) Testified, or is about to testify, in any inquiry or proceeding relating to a right under this Act.

(b) Any violations of the Act or of these regulations constitute interfering with, restraining, or denying the exercise of rights provided by the Act. ``Interfering with'' the exercise of an employee's rights would include, for example, not only refusing to authorize FMLA leave, but discouraging an employee from using such leave. It would also include manipulation by a covered employer to avoid responsibilities under FMLA, for example:

(1) transferring employees from one worksite to another for the purpose of reducing worksites, or to keep worksites, below the 50-employee threshold for employee eligibility under the Act;

(2) changing the essential functions of the job in order to preclude the taking of leave;

(3) reducing hours available to work in order to avoid employee eligibility.

(c) An employer is prohibited from discriminating against employees or prospective employees who have used FMLA leave. For example, if an employee on leave without pay would otherwise be entitled to full benefits (other than health benefits), the same benefits would be required to be provided to an employee on unpaid FMLA leave. By the same token, employers cannot use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions or disciplinary

actions; nor can FMLA leave be counted under ``no fault'' attendance policies.

(d) Employees cannot waive, nor may employers induce employees to waive, their rights under FMLA. For example, employees (or their collective bargaining representatives) cannot ``trade off'' the right to take FMLA leave against some other benefit offered by the employer. This does not prevent an

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employee's voluntary and uncoerced acceptance (not as a condition of employment) of a ``light duty'' assignment while recovering from a serious health condition (see Sec. 825.702(d)). In such a circumstance the employee's right to restoration to the same or an equivalent position is available until 12 weeks have passed within the 12-month period, including all FMLA leave taken and the period of ``light duty.''

(e) Individuals, and not merely employees, are protected from retaliation for opposing (e.g., file a complaint about) any practice which is unlawful under the Act. They are similarly protected if they oppose any practice which they reasonably believe to be a violation of the Act or regulations.

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TITLE 29--LABOR

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Subpart C_How do Employees Learn of Their FMLA Rights and Obligations, and What Can an Employer Require of an Employee?

Sec. 825.301 What other notices to employees are required of employers under the FMLA?

(a)(1) If an FMLA-covered employer has any eligible employees and has any written guidance to employees concerning employee benefits or leave rights, such as in an employee handbook, information concerning FMLA entitlements and employee obligations under the FMLA must be included in the handbook or other document. For example, if an employer provides an employee handbook to all employees that describes the employer's policies regarding leave, wages, attendance, and similar matters, the handbook must incorporate information on FMLA rights and responsibilities and the employer's policies regarding the FMLA. Informational publications describing the Act's provisions are available from local offices of the Wage and Hour Division and may be incorporated in such employer handbooks or written policies.

(2) If such an employer does not have written policies, manuals, or handbooks describing employee benefits and leave provisions, the employer shall provide written guidance to an employee concerning all the employee's rights and obligations under the FMLA. This notice shall be provided to employees each time notice is given pursuant to paragraph (b), and in accordance with the provisions of that paragraph. Employers may duplicate and provide the employee a copy of the FMLA Fact Sheet available from the nearest office of the Wage and Hour Division to provide such guidance.

(b)(1) The employer shall also provide the employee with written notice detailing the specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. The written

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notice must be provided to the employee in a language in which the employee is literate (see Sec. 825.300(c)). Such specific notice must include, as appropriate:

(i) that the leave will be counted against the employee's annual FMLA leave entitlement (see Sec. 825.208);

(ii) any requirements for the employee to furnish medical certification of a serious health condition and the consequences of failing to do so (see Sec. 825.305);

(iii) the employee's right to substitute paid leave and whether the employer will require the substitution of paid leave, and the conditions related to any substitution;

(iv) any requirement for the employee to make any premium payments

to maintain health benefits and the arrangements for making such payments (see Sec. 825.210), and the possible consequences of failure to make such payments on a timely basis (i.e., the circumstances under which coverage may lapse);

(v) any requirement for the employee to present a fitness-for-duty certificate to be restored to employment (see Sec. 825.310);

(vi) the employee's status as a ``key employee'' and the potential consequence that restoration may be denied following FMLA leave, explaining the conditions required for such denial (see Sec. 825.218);

(vii) the employee's right to restoration to the same or an equivalent job upon return from leave (see Sec. Sec. 825.214 and 825.604); and,

(viii) the employee's potential liability for payment of health insurance premiums paid by the employer during the employee's unpaid FMLA leave if the employee fails to return to work after taking FMLA leave (see Sec. 825.213).

(2) The specific notice may include other information--e.g., whether the employer will require periodic reports of the employee's status and intent to return to work, but is not required to do so. A prototype notice is contained in Appendix D of this part, or may be obtained from local offices of the Department of Labor's Wage and Hour Division, which employers may adapt for their use to meet these specific notice requirements.

(c) Except as provided in this subparagraph, the written notice required by paragraph (b) (and by subparagraph (a)(2) where applicable) must be provided to the employee no less often than the first time in each six-month period that an employee gives notice of the need for FMLA leave (if FMLA leave is taken during the six-month period). The notice shall be given within a reasonable time after notice of the need for leave is given by the employee--within one or two business days if feasible. If leave has already begun, the notice should be mailed to the employee's address of record.

(1) If the specific information provided by the notice changes with respect to a subsequent period of FMLA leave during the six-month period, the employer shall, within one or two business days of receipt of the employee's notice of need for leave, provide written notice referencing the prior notice and setting forth any of the information in subparagraph (b) which has changed. For example, if the initial leave period were paid leave and the subsequent leave period would be unpaid leave, the employer may need to give notice of the arrangements for making premium payments.

(2)(i) Except as provided in subparagraph (ii), if the employer is requiring medical certification or a ``fitness-for-duty'' report, written notice of the requirement shall be given with respect to each employee notice of a need for leave.

(ii) Subsequent written notification shall not be required if the initial notice in the six-months period and the employer handbook or other written documents (if any) describing the employer's leave policies, clearly provided that certification or a ``fitness-for-duty'' report would be required (e.g., by stating that certification would be required in all cases, by stating that certification would be required in all cases in which leave of more than a specified number of days is taken, or by stating that a ``fitness-for-duty'' report would be required in all cases for back injuries for employees in a certain occupation). Where subsequent written notice is not required, at least oral notice shall be provided. (See Sec. 825.305(a).)

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(d) Employers are also expected to responsively answer questions

from employees concerning their rights and responsibilities under the FMLA.

(e) Employers furnishing FMLA-required notices to sensory impaired individuals must also comply with all applicable requirements under Federal or State law.

(f) If an employer fails to provide notice in accordance with the provisions of this section, the employer may not take action against an employee for failure to comply with any provision required to be set forth in the notice.

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TITLE 29--LABOR

CHAPTER V--WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 825_THE FAMILY AND MEDICAL LEAVE ACT OF 1993--Table of Contents

Subpart C_How do Employees Learn of Their FMLA Rights and Obligations, and What Can an Employer Require of an Employee?

Sec. 825.302 What notice does an employee have to give an employer when the need for FMLA leave is foreseeable?

(a) An employee must provide the employer at least 30 days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. If 30 days notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. For example, an employee's health condition may require leave to commence earlier than anticipated before the birth of a child. Similarly, little opportunity for notice may be given before placement for adoption. Whether the leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, notice need only be given one time, but the employee shall advise the employer as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown.

(b) ``As soon as practicable'' means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case. For foreseeable leave where it is not possible to give as much as 30 days notice, ``as soon as practicable'' ordinarily would mean at least verbal notification to the employer within one or two business days of when the need for leave becomes known to the employee.

(c) An employee shall provide at least verbal notice sufficient to make the employer aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave. The employee need not expressly assert rights under the FMLA or even mention the FMLA, but may only state that leave is needed for an expected birth or adoption, for example. The employer should inquire further of the employee if it is necessary to have more information about whether FMLA leave is being sought by the employee, and obtain the necessary details of the leave to be taken. In the case of medical conditions, the employer may find it necessary to inquire further to determine if the leave is because of a serious health condition and may request medical certification to support the need for such leave (see Sec. 825.305).

(d) An employer may also require an employee to comply with the employer's usual and customary notice and procedural requirements for requesting leave. For example, an employer may require that written notice set forth the reasons for the requested leave, the anticipated duration of the leave, and the anticipated start of the leave. However, failure to follow such internal employer procedures will not permit an employer to disallow or delay an employee's taking FMLA leave if the

employee gives timely verbal or other notice.

(e) When planning medical treatment, the employee must consult with the employer and make a reasonable effort to schedule the leave so as not to disrupt unduly the employer's operations, subject to the approval of the health care provider. Employees are ordinarily expected to consult with their employers prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both the employer and the employee. If an employee who provides notice of the need to take FMLA leave on an intermittent basis for planned medical treatment neglects to consult with the employer to make a reasonable attempt to arrange the schedule of treatments so as not to unduly disrupt

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the employer's operations, the employer may initiate discussions with the employee and require the employee to attempt to make such arrangements, subject to the approval of the health care provider.

(f) In the case of intermittent leave or leave on a reduced leave schedule which is medically necessary, an employee shall advise the employer, upon request, of the reasons why the intermittent/reduced leave schedule is necessary and of the schedule for treatment, if applicable. The employee and employer shall attempt to work out a schedule which meets the employee's needs without unduly disrupting the employer's operations, subject to the approval of the health care provider.

(g) An employer may waive employees' FMLA notice requirements. In addition, an employer may not require compliance with stricter FMLA notice requirements where the provisions of a collective bargaining agreement, State law, or applicable leave plan allow less advance notice to the employer. For example, if an employee (or employer) elects to substitute paid vacation leave for unpaid FMLA leave (see Sec. 825.207), and the employer's paid vacation leave plan imposes no prior notification requirements for taking such vacation leave, no advance notice may be required for the FMLA leave taken in these circumstances. On the other hand, FMLA notice requirements would apply to a period of unpaid FMLA leave, unless the employer imposes lesser notice requirements on employees taking leave without pay.

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TITLE 29--LABOR

CHAPTER V--WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 825_THE FAMILY AND MEDICAL LEAVE ACT OF 1993--Table of Contents

Subpart D_What Enforcement Mechanisms Does FMLA Provide?

Sec. 825.400 What can employees do who believe that their rights under FMLA have been violated?

(a) The employee has the choice of:

(1) Filing, or having another person file on his or her behalf, a complaint with the Secretary of Labor, or

(2) Filing a private lawsuit pursuant to section 107 of FMLA.

(b) If the employee files a private lawsuit, it must be filed within two years after the last action which the employee contends was in violation of the Act, or three years if the violation was willful.

(c) If an employer has violated one or more provisions of FMLA, and if justified by the facts of a particular case, an employee may receive one or more of the following: wages, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or, where no such tangible loss has occurred, such as when FMLA leave was unlawfully denied, any actual monetary loss sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to 12 weeks of wages for the employee. In addition, the employee may be entitled to interest on such sum, calculated at the prevailing rate. An amount equalling the preceding sums may also be awarded as liquidated damages unless such amount is reduced by the court because the violation was in good faith and the employer had reasonable grounds for believing the employer had not violated the Act. When appropriate, the employee may also obtain appropriate equitable relief, such as employment, reinstatement and promotion. When the employer is found in violation, the employee may recover a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action from the employer in addition to any judgment awarded by the court.

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TITLE 29--LABOR

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Subpart D_What Enforcement Mechanisms Does FMLA Provide?

Sec. 825.401 Where may an employee file a complaint of FMLA violations with the Federal government?

(a) A complaint may be filed in person, by mail or by telephone, with the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. A complaint may be filed at any local office of the Wage and Hour Division; the address and telephone number of local offices may be found in telephone directories.

(b) A complaint filed with the Secretary of Labor should be filed within a reasonable time of when the employee discovers that his or her FMLA rights have been violated. In no event may a complaint be filed more than two years after the action which is alleged to be a violation of FMLA occurred, or three years in the case of a willful violation.

(c) No particular form of complaint is required, except that a complaint must be reduced to writing and should include a full statement of the acts and/or omissions, with pertinent dates, which are believed to constitute the violation.

OFFICIAL UNITED STATES DEPARTMENT OF LABOR
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION and
OHIO CIVIL RIGHTS COMMISSION
CHARGE OF DISCRIMINATION OF AND AGAINST WOOD & LAMPING, LLP FILED THROUGH ITS CINCINNATI AREA OFFICE
ON JULY 7, 2009[1]

Charge Filed With:	United States Department of Labor U.S. Equal Employment Opportunity Commission ("EEOC") Cincinnati Area Office **ATTN: U.S. Secretary of Labor – Hilda L. Solis** **c/o Attn: Wilma L. Javey (Director)** 550 Main Street, 10th Floor Cincinnati, Ohio 45202 Ohio Civil Rights Commission ("OCRC") **ATTN: Jean Marshall-McEntire** 7162 Reading Road, Suite 1001 Cincinnati, Ohio 45237
Complainant/Employee:	V. Denise Newsome ("Newsome") Post Office Box 14731 Cincinnati, Ohio 45250 Phone: (513) 680-2922
Respondent/Employer:	Wood & Lamping, LLP **Attn: Andrea Griffith (Human Resources)** **Attn: C. J. Schmidt, III (Managing Partner)** 600 Vine Street – Suite 2500 Cincinnati, Ohio 45202 Phone: (513) 852-6006 County: Hamilton County, Ohio No. Employees: Approximately 60-65
Number of Employees:	15+
Discrimination Based On:	**(1)** Race; **(2)** Sex; **(3)** Retaliation; **(4)** Other – knowledge of engagement in protected activity (s); **(5)** System atic Discrimination; and **(6)** Disparate Treatment
Date of Hire:	**September 11, 2006** [**Note:** *Employed as cont ract employ ee prior to permanent employment offer*]
Date of Recent Discrimination:	Latest: **January 9, 2009** (Employment Terminated)
If Violations Are Found:	EEOC/Ohio Civil Rig hts Comm ission/Ohio Department on Human Rights is to enforce the applicable statutes/laws and seek

[1] Newsome relied upon legal re sources (i.e. such as **PREVIOUS** EEOC DECISIONS, **PREVIOUS** OHIO CI VIL RIGHTS COMMISSION DEC ISIONS, EEOC Comp liance Manual, United States Code Annotated, American Jurisprudence Pleading and P ractice F orms, F ederal P rocedural F orms – Law yers Edition, American Jurispr udence Proof of Facts, Code of Federal Regulations, Internet, etc.) in the preparation of this Complaint. Boldface, underline, italics added for emphasis.

EXHIBIT 106

to eliminate discriminatory practices, Title VII violations/employment violations/civil rights violations made known to it.

EEOC/Ohio Civil Rights Commission/Ohio Department on Human Rights shall prevent any person from engaging in unlawful discriminatory practices, provided that, before instituting formal hearing and/or authorized proceedings, it has attempted, by informal methods of conference, conciliation and persuasion, to induce compliance with this chapter. If necessary, *initiate a complaint and refer it to the attorney general with a recommendation to seek a temporary or permanent injunction or temporary restraining order*. If this action is required to be taken, the attorney general shall apply, as **expeditiously** *as possible* after receipt of the complaint, to the court of common pleas of the county in which the unlawful discriminatory practice allegedly occurred for the appropriate injunction or order, and the court shall hear and determine the application as **expeditiously** *as possible*. (ORC 4112.05)

Wood & Lamping Specializes in Employment Law:

Federal Laws You Need to Know - **EXHIBIT "20"** - *W&L's Employer's Guide* at page 5 attached hereto and incorporated by reference as if set forth in full herein.

State Laws You Need to Know - **EXHIBIT "20"** - *W&L's Employer's Guide* at page 6 attached hereto and incorporated by reference as if set forth in full herein.

COPY MAILED TO:

VIA PRIORITY MAIL: SIGNATURE CONFIRMATION
TRACKING NO. 2306 1570 0001 0442 8225
U.S. Department of Labor
ATTN: Secretary Hilda L. Solis
Frances Perkins Building
200 Constitution Ave., NW
Washington, DC 20210

VIA PRIORITY MAIL: SIGNATURE CONFIRMATION
TRACKING NO. 2306 1570 0001 0442 8256
The United States White House
ATTN: U.S. President Barack Obama
1600 Pennsylvania Ave NW
Washington, DC 20500

VIA PRIORITY MAIL: SIGNATURE CONFIRMATION
TRACKING NO. 2306 1570 0001 0442 8218
U.S. Department of Justice
ATTN: Attorney General Eric H. Holder, Jr.
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

COMES NOW Denise Newsom e ("Newsome"), an African-Am erican fe male, and files this her Of ficial **United Sta tes Eq ual E mployment Opportunity Co mmission** (hereinafter " EEOC") Complaint with the *United States Secretary of Lab or* in care of and through the EEOC 's Cincinnati Area Office of and again st Wood & Lamping, LLP ("W&L")[2] and/or its representatives under Title VII of the C ivil Rights Act of 1964 [42 U. S.C.A. § 2000e et seq.], 29 C.F. R. § 1601 .7, and an y/all applicable statutes/laws under which the jurisdiction of the EEOC is applicable.

This instant Charge is al so being filed with the **Ohio Civil Rights Commission** wit h the *Cincinnati Regional Dire ctor* in care of and throu gh its Cincinnati Regional Office of and against Wood & Lam ping, LLP ("W&L") a nd/or its representatives under 4112 and any /all applicable statutes/laws under whic h the jurisdiction of the Ohio Civil Rights Comm ission is applicable. Newsome's job performance was subjected to ***heightened scrutiny*** IMMEDIATEL Y AFTER she filed a lawsuit and Wood & Lam ping's knowledge of her engagem ent in protected activities. The temporal pr oximity between Ne wsome's filing of lawsuit notice of filing of charges and th e heightened scrutiny is en ough to esta blish the *causal connect ion* for pu rposes of prov ing a prima facie case of discriminatory and retaliatory practices. This instant Charge will provide circumstantial evidence which will include the proximity between the protected activities and changes in Wood & Lamping's relationship with Newsome and the terms of her employment. An investigation will yield how Wood & Lamping began to closely m onitor Newsom e and create conditions (i.e. taking awa y job duties to give to white e mployees, harassm ent and creatio n of hostile environm ent to interfere with perform ance of job duties, and m easures ta ken to f orce her to quit) which led to her unlawful/illegal discharge and/or term ination. Newsome believes said interference in which an investigation m ay y ield a causal connection between her filing of lawsuit s, EEOC Ch arge and/or engagement in protected activities – supporting prima facie criteria.

In support of this Complaint Newsome states the following:

[2] **Wood & Lam ping LLP in this Complaint will refer to it, its employees (not including Newsome in that she is identified) and/or representatives**.

JURISDICTION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION:

The jurisdiction of the *United States Equal Employment Opportunity Commission ("EEOC")* is invoked under the Title VII of the Civil Rights Act of 1964 [42 U.S.C. A. § 2000e et seq.], 29 C.F.R. § 16 01.7 and the applicable statutes/laws granting said agency jurisdiction. Newsome, through this instant Charge, is requesting the administration and enforcement of Title VII. The enforcement of Title VII rights begins with the filing of a charge of unlawful employment discrimination; moreover, to determine whether Title VII will need to be enforced. Therefore, Newsome through this instant documentation is filing a Charge of unlawful employment discrimination. The filing of this instant Charge of Discrimination is being submitted to the EEOC to provide it with an opportunity to investigate and attempt a resolution of the controversy. *Moreover, is also provided to determine whether or not Newsome is a victim of individual and/or* ***systematic*** *discrimination pursuant to 29 C.F.R. § 1601.6.*

> **Cut and pasted from:** http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=b9450571b015e008a05be196188cdc58&rgn=div8&view= text&node=29:4.1.4.1.2.2.17.1&idno=29
>
> **Title 29: Labor**
> PART 1601—PROCEDURAL REGULATIONS
> Subpart B—Procedure for the Prevention of Unlawful Employment Practices
>
> **§ 1601.6 Submission of information.**
>
> (a) The Commission shall receive information concerning alleged violations of Title VII . . . from any person. Where the information discloses that a person is entitled to file a charge with the Commission, the appropriate office shall render assistance in the filing of a charge. Any person or organization may request the issuance of a Commissioner charge for an inquiry into *individual* or ***systematic***[3] discrimination. Such request, with any pertinent information, should be submitted to the nearest District, Field, Area, or Local office.

[3] **EMPHASIS ADDED.**

This instant Charge of Discrimination has been timely filed pursuant to the guidelines and/or procedures of the EEOC. To preserve Newsome's rights, the most recent discriminatory act rendered Newsome by her employer, Wood & Lamping, LLP occurred on **January 9, 2009**, therefore giving Newsome ***until approximately July 8, 2009*** to file a Charge of Discrimination – See http://www.eeoc.gov/cincinnati/ timeliness.html which provide the following information:

> A charge must be filed with EEOC within **180** days from the date of the alleged violation, in order to protect the charging party's rights.
>
> This 180-day filing deadline may be extended to 300 days if the charge also is covered by a state or local anti-discrimination law. . .
>
> **Cincinnati Area Office Information**
> An individual has 300 days from the date of alleged harm to file a charge with this office against an employer with 15 or more employees for discrimination based on race, color, national origin, sex, religion, and/or disability in the State of Ohio. . .

OHIO CIVIL RIGHTS COMMISSION:

The jurisdiction of the *Ohio Civil Rights Commission* ("OCRC") is invoked under the provisions of Section 4112 of the Ohio Revised Code and the applicable statutes/laws granting said agency jurisdiction regarding unlawful discriminatory practices. Newsome through this instant Charge is requesting the administration and enforcement of the applicable laws under Section 4112. The filing of this instant Charge is to initiate a preliminary investigation to determine whether it is probable that an unlawful discriminatory practice has been and/or is being engaged in. The filing of this instant Charge is being submitted to the OCRC to determine if unlawful discriminatory practices occurred. Then if so, Newsome is requesting the OCRC *"to initiate a complaint and refer it to the Attorney General with a recommendation to seek a temporary or permanent injunction or a temporary restraining order. If this action is taken, the Attorney General shall apply, as* ***expeditiously*** *as possible after receipt of the complaint, to the court of common pleas of the county in which the unlawful discriminatory practice allegedly occurred for the appropriate injunction or order, and the court shall hear and determine the application as* ***expeditiously*** *as possible"* pursuant to Section 4112.05(3)(a)(iii).

Pursuant to Ohio Revised Code ("ORC") Section 4112.02(A)(I):

> It shall be an unlawful discriminatory practice:
>
> (A) For an em ployer, because of the rac e, color, reli gion, sex, military status, national origin, disability , age, or ancestry of any person, to discharge **without just cause**, to refuse to hire, or otherwi se to discrim inate against that person with respec t to hire, t enure, term s, conditions, or pri vileges of employment, or an y m atter directly or indirectly related to employment.
>
> (I) For any person to discriminate in a ny m anner against any other person because tha t person ha s opposed any unlawful discriminatory practice defined in this section or be cause that person has made a charge, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing. . .

<u>Ohio Civil Rights Commission Sources Used</u>:

OCRC Complaint No. 9569 (*Hatem* matter) - See **EXHIBIT "1"** attached hereto and incorporated by reference.

> **19.** In order to create a hostile work environment, the conduct must be "sufficiently severe or pervasive to alter t he conditions of the victim's em ployment and create an abusive wo rking environ ment." *Harris v. Forklift Systems, Inc.,* 510 U.S. 1 7, 21 (1993), *quoting Meritor, sup ra* at 67. The conduct must be unwelcom e. *Meritor, supra* at 68. The victim must perceiv e the work environm ent to be hostile or abusive, and the work environm ent m ust be one that a reasonable person would find hostile or abusive. *Harris* at 21-22. If the victim does not su bjectively p erceive the environm ent to be abusive, the conduct has not actually altered the conditions of the victim's employment, and there is no Title VII violation. *Id.*
>
> **20.** In exam ining the wo rk environment from both subjective and objective viewpoint s, the fact-finder m ust exam ine " all the circumstances", includin g the em ployee's psych ological harm and other relevant factors, such as:
> . . .the frequency of the discriminatory conduct; it s severity; whether it is phy sically threatening or hum iliating, or a mere of fensive utterance; and whether it unreasonabl y interferes with an em ployee's work performance. *Id.,* at 23.
>
> *Rabidue v. Osceola Refining Div.,* 42 FEP Cases 631 (6th Cir. 1986) (plaintiffs m ust sho w that a host ile work env ironment resulted not from a single or isolated offensive incident, comment, or conduct, but from incidents, comm ents, or conduct that occurred with som e frequency). "A hostile work environm ent is usually 'characterized by multiple an d varied com binations and frequencies of offensive exposures.'" *Rose v. Fig gie International,* 56 FEP Cases 41, 44 (8 th Cir. 1990).

Supervisor Harassment:

23. An employer is vicariously liable for a hostile work environment created by a supervisor with immediate or higher authority over the employee. *Faragher, supra at* 2275 (1998). If not tangible employment action is taken against the employee, then the employer may raise an affirmative defense to liability or damages.[4] *Ellerth, supra* at 2270; *Faragher,* at 2293.

Retaliation:

32. In order to establish a *prima facie* case of retaliation under R.C. 4112.02(I), the Commission must prove the following elements:

a. Complainant engaged in protected activity;
b. Respondent knew of Complainant's participation in the protected activity;
c. Respondent engaged in retaliatory conduct; and
d. a causal link exists between the protected activity and the adverse action.

Hollins v. Atlantic Co., Inc., 80 FEP Cases 835 (6th Cir. 1999), *aff'd in part and rev'd in part,* 76 FEP Cases 533 (N.D. Ohio 1997)(quotation marks omitted).

36. The test for determining whether an employee was constructively discharged is whether the employer's actions made working conditions so intolerable that a reasonable person under the circumstances would have felt compelled to resign. *Mauzy v. Kelly Services, Inc.,* (1996), 75 Ohio St.3d 578, 1996 Ohio 265, 664 N.E. 2d 1272.

37. Whether the discriminatory conduct unreasonably interfered with Complainant's work performance is one factor to be considered. The Commission, however, is not required to show the Complainant's "tangible productivity . . . declined as a result of harassment." *Harris,* 63 FEP Cases at 229 (Justice Ginsburg's concurrence) *quoting Davis v. Monsanto Chemical Co.,* 47 FEP Cases 1825, 1828 (6th Cir. 1988). Instead the Commission must demonstrate that a reasonable person subjected to the discriminatory conduct would find that the harassment so altered working conditions as to "ma[k]e it more difficult to do the job." *Id.*

38. To support a retaliation claim, the Commission must show that the change in Complainant's employment conditions was more disruptive than a mere inconvenience or an alteration of job responsibilities. *Bowers v. Hamilton City Sch. Dist. Bd. Of Educ.,*

[4] In *Ellerth,* the Supreme Court described a tangible employment action as:

> . . . a significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits. *Id.* at 2268.

12th Dist. No. CA2001-07-160, 2002 Ohio 1343, citing *Kocis,* 97 F.3d at 886.

FACTS OF THIS COMPLAINT

Newsome believe it is important to note that the Title VII/Civil Rights/Employment violations, etc. addressed in this instant Charge may be as a direct and proximate result of the EEOC's failure in the past to perform ministerial duties mandated by statutes/laws. Moreover, as a direct and proximate result of said failure that she has repeatedly been subjected to such unlawful employment discrimination/practices, systematic discriminatory practices and criminal acts by Wood & Lamping, LLP ("W&L") its representatives and others. An investigation **will** yield that the very policies and practices that the EEOC acknowledges as discriminatory – i.e. *contacting employers and notifying of employee's past participation and/or filing of EEOC Charge is the very practice that has been repeatedly allowed to be used and transferred from one employer to another regarding Newsome. Moreover, the posting of such protected activity on the INTERNET was deliberately done for purposes of depriving Newsome equal employment opportunities, equal protection of the laws, due process of laws, life, liberties and the pursuit of happiness, etc*. ***All because Newsome exposed what is known for a long time to be systematic discrimination leveled against African-Americans and/or people of color who challenge employers for discriminatory practices and the government's handling of such claims*** . *An investigation into this instant Charge will support systematic discrimination and violation under Title VII of the Civil Rights Act and other governing statutes/laws have been implemented to prevent and/or preclude Newsome from obtaining gainful employment – i.e. equal employment opportunities.*

I. VIOLATION OF STATUTE:

1. Wood & Lamping, LLP ("W&L"), Newsome's former employer, is a private sector employer who employs approximately 15 or more employees for at least 20 work weeks in the current or preceding calendar year and is engaged in an activity affecting commerce.

2. Andrea Griffith (Human Resources Manager/Representative) and C. J. Schmidt (Attorney and Managing Partner) at Wood & Lamping, LLP are people who act, directly, in the interest of their employer (Wood & Lamping, LLP) to the employees of said employer.

3. Newsome worked for a covered employer – Wood & Lamping, LLP. Newsome's hire date being effective September 11, 2006. Newsome was employed as ***Estate Planning Coordinator.*** *At the time of Newsome's termination on January 9, 2009, W&L still had a need for the job duties performed by Newsome as Estate Planning Coordinator*.

4. During Newsome's employment at W&L she was subjected to ***systematic*** *discriminatory practices* based on W&L's knowledge of her participation and engagement in protected activities.

5. During Newsome's employment at W&L, she was subjected to *discriminatory treatment* based on her race and sex. Newsome is an African-American. Newsome is a female. Therefore, a member of the protected group.

6. During Newsome's employment at W&L, she was subjected to *unlawful discriminatory practices* based on her race and sex. Newsome is an African-American. Newsome is a female. Therefore, a member of the protected group.

7. During Newsome's employment at W&L, she was subjected to *retaliatory treatment* for reporting unlawful employment practices and/or for participating/engaging in protected activities.

8. During Newsome's employment at W&L, she was subjected to *disparate treatment* because of her race.

9. W&L changed Newsome's terms and conditions of employment, and terminated her, in retaliation for having engaged in activity protected by R.C. 4112.

10. Newsome believes she was discriminated in employment on the basis of race, sex, retaliation, her participation in protected activities and disparate treatment. Said discrimination is in violation of Title VII of the Civil Rights Act of 1964, 29 CFR 1601 (.7, .6), fair employment practices, and/or the applicable statutes/laws governing said matters.

II. PURPOSE OF TITLE VII:

11. Newsome believes an investigation into this instant Charge will support the facts, evidence and legal conclusions set forth herein as well as that obtained through an investigation. Federal case law generally applies to alleged violations of R.C. 4112. *Columbus Civ. Serv. Comm. v. McGlone* (1998), 82 Ohio St.3d 569. Therefore, reliable, probative, and substantive evidence means evidence sufficient to support a finding of unlawful retaliation under Title VII of the Civil Rights Act of 1964. - OCRC Complaint No. 9496 (*Glaser v. HLS Bonding* matter)

12. This instant Charge has been filed seeking the EEOC's/OCRC's intervention; moreover: **(a)** for the ***prohibition*** of employment discrimination;

> *Czupih v. Card Pak Inc.,* 916 F.Supp. 687 (N.D.**Ohio**.E.Div.,1996) -
> Purpose of Title VII is to prohibit employer discrimination. Civil

Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C.A. § 2000e et seq.

(b) deter and protect Newsome from *prejudicial* and ***systematic*** *discriminatory* treatment rendered her while employed at W&L; **(c)** achieve *employment* ***equality*** by preventing discrimination and to *make Newsome whole* due to the unlawful employment practices/unlawful discriminatory practices as well as *restoring her to the position she would have been entitled absent the unlawful discrimination*; and **(d)** *achieve* ***equality*** *and* ***remove the long-standing racial barriers*** *that in the past have been known to* ***favor*** *whites over African-Americans and/or people of color*.

Johnson v. University Surgical Group Associates of Cincinnati, 871 F.Supp. 979 (S.D.**Ohio**. W.Div., 1994) - Purpose of Title VII is to protect workers from certain kinds of prejudicial treatment on the job and not to federalize common-law torts. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq.

Adler v. John Carroll University, 549 F.Supp. 652 (N.D.**Ohio**.E.Div., 1982) - Twin statutory purposes of Title VII of Civil Rights Act of 1964 are to achieve employment equality by preventing discrimination and to make persons whole for injuries suffered due to unlawful employment discrimination; scope of relief is intended to restore victim of unlawful employment practices to position he would have been in were it not for unlawful discrimination. Civil Rights Act of 1964, § 701 et seq. as amended 42 U.S.C.A. § 2000e et seq.

Asad v. Continental Airlines, Inc., 328 F.Supp.2d 772 (N.D.**Ohio**.E.Div., 2004) -The purpose of Title VII, . . . is to achieve equality of employment opportunities and remove barriers that have operated in the past to favor an identifiable group of employees over other employees. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq.

13. **Ohio's *Anti*-Discrimination** law prohibits such conduct as that under Title VII and is constructed identically as Title VII; wherein Title VII is designed to address, expose and rid the world of such ***evil*** acts as discrimination because of a person's race, sex, etc. Therefore, this instant Charge targets the discriminatory practices of W&L and will demonstrate that its hostility and/or abuse towards Newsome was itself discriminatory and how W&L attempted to cover-up such discriminatory employment violations – ***i.e. by removing and destroying evidence for purposes of obstructing the administration of justice and pretext***.

Shoemaker-Stephen v. Montgomery County Bd. of Comm'rs, 262 F.Supp.2d 866 (S.D.**Ohio.** W.Div., 2003) - Ohio anti-discrimination law prohibits same conduct as Title VII, and is generally construed in identical fashion to Title VII. Civil Rights Act of 1964, § 703(a)(1), as amended, 42 U.S.C.A. § 2000e-2(a)(1); Ohio R.C. § 4112.02(A).

Eperesi v. Envirotest Systems Corp., 999 F. Supp. 1026 (N.D.**Ohio.**E.Div., 1998) - The state statute prohibiting discrimination based on race is interpreted under the same standards applied to Title VII. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq.; Ohio R.C. § 4112.02(A).

Neff v. Civ il Air Patrol, 916 F.Supp. 710 (S.D. **Ohio.**E.Div., 1996) - Title VII is designed **to rid the world of *work of the* <u>*evil*</u> of discrimination** because of individual's race, color, religion, sex, or national origin. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq.

Walk v. Rubbermaid Inc., 913 F.Supp. 1023 (N.D.**Ohio.**E.Div., 1994) - Purpose of Title VII is to create equality in workplace by targeting discrimination based on race, color, religion, sex, or national origin, and thus employee must demonstrate that employer's hostility or abuse was itself discriminatory. Civil Rights Act of 1964, § 703(a)(1), as amended, 42 U.S.C.A. § 2000e-2(a)(1).

14. Through this instant Charge, Newsome seeks the EEOC's/OCRC's intervention and request that it report violations found to the proper authorities and file the applicable lawsuit(s) of and against Wood & Lamping seeking the applicable agency and/or courts to impose the proper statutes/laws prohibiting such acts and governing injunctive relief and/or applicable relief to correct the alleged unlawful employment practices addressed herein because of Newsome's race/sex, engagement in protected activities, etc. and provide a remedy for said violators and continuing efforts of the ***systematic*** *discriminatory* practices made known herein and past discrimination.

Watson v. Limbach Co., 333 F.Supp. 754 (S.D.**Ohio**.E.Div., 1971) - Civil Rights Act of 1964 gives courts jurisdiction to correct alleged unlawful employment practices because of race and color, and to provide a remedy for present and continuing efforts of past discrimination. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq.

III. PATTERN-OF-DISCRIMINATION:

15. The direct evidence contained in this instant Charge will support a conclusion that challenged employment actions of Wood & Lamping was motivated at least in part by *prejudice* and ***systematic*** *discrimination* against Newsome who is a member of the protected group. Moreover, that said prejudice and discrimination is based on W&L's personal knowledge or observation, that if true (when it is), reveals a fact without inference or presumption.

Kline v. Tennessee Valley Authority, 128 F.3d 337 (C.A.6., 1997) - Direct evidence and circumstantial evidence paths for proving employment discrimination are mutually exclusive, and employee need only prove one or the other, not both; if employee can produce direct evidence of discrimination McDonnell Douglas burden shifting paradigm is of **no** consequence, and if employee attempts to prove its case using that paradigm, employee **is <u>not</u>** required to introduce direct evidence of discrimination.

Johnson v. Kroger Co., 319 F.3d 858 (C.A.6.**Ohio**, 2003) - Direct evidence of discrimination does not require a factfinder in a Title VII action to draw any inferences in order to conclude that the challenged employment action was motivated at least in part by prejudice against members of the protected group. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq.

16. W&L consi dered ***impermissible*** *factors* when i t m ade the adverse e mployment decision to term inate Newsom e's employ ment. W&L knew and/or shoul d have known that it was providing Newsome with false inform ation for the reason resulting in her term ination of employment. *In an effort to cover-up its employment violations, W&L went through Newsome's desk (**Newsome k ept her desk locked**), r emoved and destroyed documentati on that it felt would b e incriminating to it* . (**EMPHASIS A DDED**) Such acts whic h were d one with ***malicious intent*** to *cover-up* and *obstruct t he admini stration of just ice* should Newsome file charges wi th the prope r authorities. *W&L's assertion of the need for reduction-in-force ("RIF") for finan cial and/or economic reasons will also prove to be false because **shortly** **AFTER** Newsome's termin ation, W&L employed se veral white employees **AFTER** Newsome's termination in its efforts to create an **ALL** white work force. More over, W&L's removal an d destruction of evidence containing evidence o f violation of its own policies and p rocedures **discredits** any suc h proffered reasons W&L may offer*. **(EMPHASIS ADDED)**.

> *Wexler v. White' s Fine Furniture, Inc.,* 317 F.3 d 564 (C.A. 6.**Ohio**, 2003) -Und er m ixed-motive analy sis for reviewing em ployment discrimination claim , the plaintiff m ust produce di rect evidence that the em ployer considered im permissible factors when it m ade the adverse em ployment decision at issue ; once the plaintiff has shown that the unfa vorable em ployment decision wa s m ade at least in part on a discrim inatory basis, the burden shifts to the employer to prove by a preponderance of the evidence that it would have taken the same adverse acti on even if i mpermissible factors had not entered into its decision.

17. The laws are clear that W&L cannot d iscriminate against Newsom e because she has engaged in protected activities and/or its knowledge of her int ent to engage in protected activities – therefore, term inating e mployment to interfere w ith protected rights. W&L discrim inated against Newsome b ased on its knowledge of her engagem ent in p rotected activities. Moreover, W&L terminated Newsome's employment for:

a) Knowledge of Newsom e's filing of p ast EEOC C harges and/or civil lawsuits brought b y Newsom e against other em ployers. Said knowle dge m otivated *W&L to go into Newsome's desk (**Newsome kept her desk locked**) to remove and destroy any evidence that would be incriminating in charges filed against it.* **(EMPHASIS ADDED)** . *W&L's criminal/civil acts wer e deliberatel y done for purposes of obstructing the administration of justice and impede any investigation that may be initiated as a direct result of the filing of a Charge against it.* W&L **repeatedly** requesting that Newsome waive protected rights and not bring legal action against it in exchan ge for obtaining m edical benefits to which she is entitled an d it is both civil/crimin ally wrong t o attempt to bribe Newsom e to waive such rights in the providing of **entitled** benefits in exchange of n ot bringing l egal action with appro priate authorities. **(EMPHASIS ADDED)**.

b) Knowledge of Newsome's engagement in protected activities;

c) Knowledge of Newsome's filing and participation in an FBI investigation;

d) Efforts in ai ding Thom as J. Breed 's form er law firm (Schwartz, Manes & Ruby – a/k/a Schwartz Manes Ruby & Slovin) ("SMR&S") - See **EXHIBIT**

"2" – *August 28, 1997 Letter on SM& R Letterhead Bearing Breed' Name* attached hereto and incorporated by reference - in a lawsuit W&L obtained knowledge would be brought against Newsome. Therefore, W&L aware of the CONFLICT OF INTEREST[5] that would arise should Newsome remain in its employment terminated her employment to provide SM&S with an undue/unlawful/illegal advantage over her. Newsome addressing such concerns in her January 30, 2009 correspondence to Andrea M. Griffith (W&L's Human Resources Representative) and C. J. Schmidt (W&L's Managing Partner and an Attorney). See **EXHIBIT "3"** – *January 30, 2009 Letter of Newsome to Griffith and Schmidt* attached hereto and incorporated by reference as if set forth in full herein.

Said employment violations which clearly violates information set forth in *Wood & Lamping LLP Policies and Procedures Manual* (*also referred to herein as* ***"Employee Handbook"***). See **EXHBIT "4 "** - *Wood & Lamping LLP Policies and Procedures Manual* attached hereto and incorporated by reference as if set forth in full herein

> **EQUAL OPPORTUNITY**
> The firm is an equal opportunity employer, and as such, is firmly committed to treating **all** employees and applicants **equally** without regard to race, color, sex, religion, national origin, age, disability, marital status, veteran status, or other protected classes. We will endeavor to make reasonable accommodations for known physical or mental limitations of otherwise qualified employees and applicants with disabilities unless the accommodation would impose an undue hardship on the operation of or business. Our employment decisions, including, but not limited to, hiring, compensation, benefits, training, and promotions are based on the principles of **equal** employment opportunity. *Discrimination by any member of the firm* ***will not*** *be tolerated*. Suspected violations of this policy must be reported promptly to a member of management or to a partner. Violators will receive discipline appropriate to the offense, up to an including termination. *This policy also* ***prohibits retaliation*** *against anyone who has filed a complaint of* ***discrimination*** *or* ***harassment***.
> (Wood & Lamping LLP Policies and Procedures Manual @ p. 11) – **EXHIBIT "4"** attached hereto and incorporated by reference as if set forth in full herein.

18. Newsome believes that she was first subjected to discrimination and retaliation in **November 2006** by W&L and/or its employees/representatives as a direct and proximate result of advising of exercising rights secured to her U.S. Constitution, Civil Rights Act, Fair Housing Act and/or the applicable laws governing a dispute she was having with her landlord. Thus, *the beginning of the* ***systematic*** *discriminatory Newsome was subjected to during her employment with W&L*. **(EMPHASIS ADDED)**. Newsome brought the matter to W&L through an attorney,

[5] See **EXHIBIT "4"** – "CONFLICT OF INTEREST" of the *Wood & Lamping LLP Policies and Procedures Manual* at page 9 attached hereto and incorporated by reference as if set forth in full herein.

Elizabeth Horwitz ("Horwitz"), that she was assigned. Horwitz is a *white* female. Horwitz was authorized and/or given approval to work with Newsome in resolving this matter.

19. Horwitz engaged in conversations with Newsome's landlords' attorney, Gailen Bridges ("Bridges") – *white* male. From their conversation(s), Horwitz set out to attempt to get Newsome give up her apartment. *Newsome aware of her* ***rights under the Fair Housing Act*** *refused to waive any such rights.* Newsome's refusal to give up rights secured under the Fair Housing Act *upset and frustrated* Horwitz. ***In RETALIATION*** *to Newsome's refusal to forego protected rights, Horwitz,* ***without notice*** *to Newsome, requested that she be assigned another Secretary/Legal Assistant*. Newsome believes such act by Horwitz was in ***retaliation*** of Newsome's refusal to waive rights secured and/or guaranteed to her under the Fair Housing Act. **(EMPHASIS ADDED)**. Moreover, W&L obliged Horwitz in such matters. Those making such decisions all being *white*. ***As a direct and proximate result of Newsome's refusal to waive protected rights, the relationship between Horwitz and Newsome changed; moreover, the relationship between Newsome and W&L changed***. Horwitz stopped speaking to Newsome when seeing her. It being apparent that Horwitz retaliated against Newsome because she refused to give up her apartment and insisted on remaining where she lived – as allowed under the Fair Housing Act. Newsome believes Horwitz's conduct and/or attitude not only affected their working relationship, but influenced Newsome's working relationship with W&L and/or its representatives. **IT IS IMPORTANT TO NOTE,** that some of the correspondence between Horwitz and Newsome is memorialized in W&L's e-mails between the two. Moreover, the removal of Horwitz (approximately **December 2006**) coming shortly after Newsome's refusal to waive rights under the Fair Housing Act and her inability to convince Newsome of doing so. *During a conversation with Horwitz, she advised Newsome that she was not an attorney – such statement being made to Newsome with resentment and hostile intent because Newsome refused to waive protected rights*. **Newsome under the governing statutes/laws is entitled to live where she chose to live free of discrimination in housing based on race, sex, etc. Moreover, free of harassment, intimidation. . .**

20. It was Horwitz' duty to convenience Newsome to forego rights secured to her under the Fair Housing Act and other statutes/laws governing said matters. Those engaging and requesting that Newsome forego and/or waive her rights were ALL white. **(EMPHASIS ADDED)**.

21. W&L offer representation to its employees. However, its decision process to represent an employee, may be discriminatory as well – i.e as it was in its handling of Newsome's request for representation.

> **REPRESENTATION OF EMPLOYEES**
> Assistance, guidance, advice, or suggestions offered to employees by an attorney of Wood & Lamping shall be deemed informal personal assistance and not official fir m advise until such time that file is opened in the employee's name. . .

22. As a direct and proximate result of Horwitz' retaliation, protest, resentment, and anger because Newsome refused to waive protected rights, W&L obliged Horwitz and removed her from working with Newsome. Leaving Newsome to have to proceed on her own without legal representation. Newsome proceeded to handle the matter herself and proceeded to bring legal action against her landlords as well as file the applicable charge for continued violations under the Fair Housing Act – matters which Newsome has since elected to take to Washington D.C. **(EMPHASIS ADDED)**. W&L was aware of the legal actions brought by Newsome. **IT IS IMPORTANT TO NOTE,** that in W&L 's Employee Handbook provided employees, which it states that it **will not** discriminate against an employee who elects to engage in lawsuits and/or such protected activity.

23. To clarify how W&L employee(s) feel about filing complaints without fear of reprimand, discrimination or retaliation, Newsome recalls incident where a co-worker, Mary J. Lewis (***white*** female) sent an e-mail out to the entire firm ("Everyone") advising of a complaint she was intending to bring. Such e-mail which stated:

> I recently had a very negative experience with our insurance coverage when attempting to refill a prescription ordered by my doctor. I was obliged to pay for the prescription myself, or go without for approximately 6 days while the pharmacist waited for approval of an insurance-generated change in the manner of dispensing the medication and contrary to my doctor's instructions.
>
> *I have **heard** from a few* people in the office who have had other delays with prescriptions.
>
> *If you have had problems I would like to hear from you.* I am *getting ready to **voice a complaint*** with the Ohio Department of Insurance over this incident.

(See **EXHIBIT "5"** attached hereto and incorporated by reference). Newsome is not aware of Lewis being subjected to discrimination or retaliation in her pursuit and/or notification of bringing a complaint. However, as a direct and proximate result of Newsome's refusal to waive protected rights, she was subjected to discrimination and retaliation. Moreover, *W&L's willful decision to engage in **systematic** discriminatory practices against Newsome*.

24. After Horwitz' request for removal from working with Newsome, W&L elected to assign an attorney by the name of Brian P. Gillan ("Gillan"). Brian P. Gillan is a ***white*** male. Brian P. Gillan was "of counsel" for W&L. Which from Newsome's conversation with him was due to the fact that [while he is an attorney licensed to practice law] he **had not** been practicing law and/or had been ***absent*** from the practice of law and was returning. - - - *Warranting an investigation into what the **TRUE** reasons may have been for Gillan's absence and not practicing law* . **(EMPHASIS ADDED)**.

25. When W&L assigned Gillan to Newsome, W&L ***failed*** to advise Newsome of the employment problems (***pattern-of discriminatory*** *practices*) they were having with Gillan . **(EMPHASIS ADDED)**. It was brought to Newsome's attention that Gillan had only been with W&L for a few months prior to her employment. That Newsome was approximately the third (3rd) Secretary/Legal Assistant Gillan had been assigned to in his *short* tenure. W&L 's assignment of Gillan to Newsome was with discriminatory intent and harassment purposes. W&L was timely, properly and adequately placed on notice of Gillan's hostile and harassing behavior; however, allowed Gillan to continue such unlawful/illegal acts with its approval. See **EXHIBIT "6"** – *January 15, 2007 E-mail of Newsome to Griffith to Support Such Hostile/Harassing Practices and PRETEXT to cover-up/mask discriminatory practices* attached hereto and incorporated by reference as if set forth in full herein:

Excerpt of January 15, 2007 E-mail of Newsome to Andrea Griffith:

> Gillan: I will also ignore the fact that in nearly 25 years of working with secretaries and executive assistants, I have **never** had one send as insubordinate a communication as the one you sent below.

Newsome: I do not beli eve I wa s insubordinate in my e-mail. I sim ply shared my co ncerns. I believe it is wron g for Brian to rep eatedly attack m e and my performance and not expect a response. While he is m y subordinate, it does not give him the r ight to be rude, hostile, etc. towards m e. Nor create and/or generate e-mails such as this in an effort to destroy my character and/or re putation. From my understanding, he has been here about a y ear (or li ttle over) and I am his **third** (3rd) a ssistant/secretary. He appears to not be able to work with anyone. I have some concerns here.

Gillan: This e-mail will address some of my issues, and my expectations of your performance. ***Do not waste my time giving me anothe r long-winded explanation of how I am wrong, or how your way is the better way to do it , because I will not read it.*** I want your performance to m eet my reasonable expectations; I want your insubordinate and passive/aggressive behav ior to change; and I wa nt y ou to ad dress the issues And rea raises with you, or *else* ***your tenure here will be short-lived***.

Newsome: Again, I simply share m y concern s with Brian. Something is definitely wrong when such concerns are twisted and/or manipulated in a way to try and m ake it look as though I was insubordinate. His use of "insubordinate," "passive/aggressive behavior" is apparent to m e he is fluffing the pa d to find reasons to have me terminated. Since such assertions are made by Brian, ***I need for him to provide and/or demonstrate when such "passi ve/aggressive behavior" has been d isplayed.*** Also, when I have been insubordinate – if re sponding to an e-mail sharing m y conc erns in his *behavior*, is insubordinate while he is allowed to vent his hostility towards m e, then I have some concerns. Why, because no such "insubordination," "passive/aggressive behavior" was ever brought to my attention by any of the other attorneys or people I have worked here with. So , I would que stion why would Brian be making such assertions if they were not ***ill*** motivated. . . .

Gillan: But your reaction Friday to my request to merely format a letter I had drafted on th e system – rather than dictating it to you, since that would have taken more of your time, and I was trying to make it easier for you – was rea lly beyond the pale. The issue with the client came up Thursday night, and the letter had to get to Washington asap Friday. You gave me another long-winded e-mail explanation why you could not give my work the priority it needed. If you had just formatted my letter, it would have taken less time than the e-mail you sent in its place. I had to go aks Juanita for help, which she gladly provided. It took her all of 5 minutes.

Newsome: *Brian presented me with a task* ***which was completed in the a.m. the day before***. *He* ***failed*** *to check his box*. ***I placed it in his chair***. *When he sent me an e-mail regarding it, I advised him that* ***the task was completed the day before in the a.m. and placed in his chair***. ***Any delay in responding was not due to me. The task was completed and returned***.

Gillan: And then I asked you to m erely print off some long e-mail attachments which Ray had sent me to g et up to speed on the new case I' ve been asked to take over – the largest case in the o ffice, and one that could be very lucrative for the firm. Instead of taking the few m inutes to hit "print" several tim es, you again sent me a long explanation of why my request was unreasonable and you could not get to it for a while. I wanted to read those attachments then, not later. When som e time had passed, and it was getting past 4:00, I decided to do it myself. That seemed to prompt you to finally get to it.

Newsome: I have the e-m ail and others. I m entioned to you, your job wa s next. You just didn't

want to wait. In an eff ort to make m e look bad or to shape the "insub ordinate," "passive/aggressive behavior" opinion y ou created of m e, you proceeded to print the m yourself. ***My e-mail advised you that <u>the last one was printing</u>***.

Gillan: Here is m y expectation: not all of my work is urgent, and that work which is not c an wait a reasonable amount of time to be done. But t he work that is truly urgent needs to be given imm ediate attention. If y ou have a project for another attorney that is also urgent, let me know and I will work it out with that attorney.

Newsome: I have som e concerns to this e-mail presented by Brian in that I believ e it is **il l** motivated. Why? Becaus e it has be en brought t o my attention that Bria n apparentl y had a relatio nship with a legal assistant (who is no longer) here at the fir m who was upset with t he fact I wa s hired and she wa s not. I have con cerns that Brian m ay be bitter towards me and such bitterness is displayed through his ***elaborately*** *generated* e-mails to m ake it appear that I am insubordinate and/or h ave exhibited passive/aggressive behavior towards him. This being false. While it is now apparent that Brian may have been trying to pull such behavior out of me through his attacks and criticism via e-mail, I was not going to stoop to such antics by him. I consider m yself professional and strive to carry myself in a re spectful and pro per m anner. Ho wever, when questioned, as here, I am going to respond.

In Brian's e-mail on Friday, he states, "*<u>The last few days have not worked for me</u>*." *He has attacked my charact er* ***when in <u>previous</u> e-mail <u>comme nds</u> <u>me for</u> <u>doing</u> <u>a good job</u>.*** So I question his motive behind his recent behavior. I find his recent behavior to unfair, unjust and **ill** motivated. Believing that he may blame me for the reason why the legal assistant he was such good friends with i s not here. Realizing that others appreciated my work and performance, I believe Brian may have set out to just try and find something in an effort to make me look bad. It is not clear to m e, why he would send such e-m ails and no t expect a re sponse and/or believe that I am not su pposed to respond but just take suc h without fe edback. I h ave som e se rious concerns and just wanted to share.

Thanks for your time.

A. Newsome sure hopes that through this instant Charge the EEOC/OCR C require W& L produce t he docum entation Gillan assert was sent by Newsome to support such attacks leveled against her as being "insubordinate," "passive /aggressive behavior." Moreover, inquire into Gillan's sexual relationship with contract e mployee (in that h e may *have a* ***history*** of such behavior). If so, W&L knew and/or should have known of the liabili ty that woul d be incurred in allowing Gillan engage in such unlawful/illegal practice s – i.e. practices that violates W&L' s own policies and procedures.

B. SW&L m aking good on Gillan' s threats that m y "tenure here will be **short-lived**."

26. **IT IS IMPOR TANT TO NOTE** that upon Newsome's hiring it was bro ught to her attention that a Paralegal (contractor and white) was upset at Newsom e being hired in that the Paralegal had been there before Newsome and wanted to be hi red on as well. It wa s also brought to Newsome's attention that this Paralegal (*married*) <u>was having a **sexual** relationship and/or affair with one of the attorneys (Bria n P. Gillan – of counsel and white) which m ay have been exposed by the</u>

Paralegal's husband.[6] From Newsome's understanding, the Paralegal was let go and of course Gillan denied having any such relationship with the Paralegal *although there was evidence on W&L's computer to this relationship, in that* ***both spent a great deal of time using W&L's e-mail*** *to correspond with each other*. **Gillan specializes in employment law; therefore, he knew and/or should have known of the liability such acts would cost W&L. Nevertheless, he was allowed to remain in the employment of W&L with W&L knowledge of such conduct. Such acts which are characterized as "UNWISE."**

POLICY AGAINST UNLAWFUL HARASSMENT[7]

General:

Wood & Lamping is committed to maintaining a professional and collegial work environment in which all individuals are treated with respect and dignity. The firm prohibits discrimination because of race, color, religion, sex, national origin, age, veteran's status, disability, or any other protected status in accordance with applicable laws. *Harassment is a form of discrimination and* ***will not*** *be tolerated.*

Wood & Lamping encourages individuals who believe they are subject to harassing behavior to clearly and promptly notify the offender that his or her behavior is unwelcomed, but one is not required to do so. However, any individual who believes he or she has been subject to harassment of any kind must notify a partner of the firm or a member of management in order for the matter to be resolved. (Wood & Lamping LLP Policies and Procedures Manual @ p. 20)

Policy Against Sexual Harassment:

A. Sexual Harassment Defined
. . .While mutually consenting relationships between members of the firm are not sexual harassment, these relationships *are considered* ***unwise*** because of the potential denial of mutual consent.

B. Procedures for Reporting Sexual Harassment
Wood & Lamping encourages individuals who believe they are subject to sexual harassment to clearly and promptly notify the offender that his or her behavior is unwelcomed. However, one is not required to do so. Any individual who believes he or she has been subject to harassment **of any kind** must notify a partner of the firm or a member of management. The partner or manager will initiate an investigation of the matter….

C. Investigations
Investigations will be prompt, thorough, accurate, consistent, and conducted as discreetly as possible. Confidentiality will be maintained to the extent practical, but a few members of the firm will have to know about the situation due to the employer's **obligation** to investigate. Effective enforcement of this policy

[6] See **OCRC Complaint No. 9569** (*Hatem* matter): Federal case law generally applies to alleged violations of R.C. 4112. *Columbus Civ. Serv. Comm. V. McGlone* (1998), 82 Ohio St.3d 569. . . .Sexual harassment is sex discrimination and prohibited by R.C. Chapter 4112. Ohio Adm. Code (O.A.C.) 4112-5-05(J)(1); *Cf. Meritor Savings Bank v. Vinson,* 477 U.s. 57 (1986). . . . Hostile work environment sexual harassment, the Commission must establish that: (1) Complainant is a member of a protected class; (2) Complainant was subjected to unwelcomed harassment; (3) the harassment complained of was based on sex;; (4) the harassment had the purpose or effect of unreasonably interfering with the employee's work performance or creating an intimidating, hostile, or offensive work environment; and (5) the existence of respondeat superior liability. *Burlington Industries, Inc. v. Ellerth,* 118 S.Ct. 2257 (1998). - See OCRC Complaint No. 9569 at pp. 8-10.

[7] Also see " ANTI-HARASSMENT POLICIES" - **EXHIBIT "20"** - *W&L's Employer's Guide* at page 19 attached hereto and incorporated by reference as if set forth in full herein.

requires that the offende r be m ade aware of the alleged conduct at som e point, and fairness dem ands that an accused be afforde d an opport unity to m ake a defense. The reporting individual will be noti fied before the offender is questioned about or told of the charge.

Once the investigation i s com plete, findings and decisions will be made and communicated to the reporting ind ividual and the offender. If there is no evidence to support the allegation s, the m atter will be dropped and the investigation closed. If the investigation confirm s that harassm ent occurred, the harasser will be subject to resolution procedures and/or appropriate disciplinary [8] penalties, which m ay include one or m ore of the following: referral to counseling, withholding of a promotion, reassi gnment, mediation, temporary suspension without pay, a written warning, and *discharge* from the firm.

Non-Retaliation Policy:
No *one* will be subject to ***any*** *form* of discipline or *retaliation* for repo rting incidents of unlawful harassment, ***pursuing*** *any such claim,* or ***cooperating*** *in the investigation of such rep orts*. Any form of retaliation will result in appropriate disciplinary procedures, up to and including discharge from the firm. Ho wever, individuals who falsel y and m aliciously accuse another will be subject to the disciplinary procedures described above.
(Wood & Lamping LLP Policies and Procedures Manual @ pp. 20-22)

27. Those having knowledge of Gillan' s affair with the white fem ale Paralegal m ay include: **(a)** W&L, its Partners, Associates and Executive Comm ittee; and **(b)** W& L em ployees (past and present): Christina Burke-Tillman, Ami Arm bruster, Jennifer Brue, Beverly Bowling, Sue Crable, Rebecca Daniels, Sharon Fl ood, Juanita Hamilton, Angie Hart, Rose Heidkamp, Sherry Kellison, Ja net Kem per-Hall, Judy Knarr, Hope Kortanek, Mary Lewis, Mary Milliken, Sandy Milner, Marianne My ers, Patricia Perkins, Kathy Richey , La ura Shafer, Marcia Sherm an, Stacey Vogelsang, and Diane Werner.

29 CFR § 1604.11 – Sexual Harassment

(a) Harassm ent on the b asis of sex is a violation of section 703 of Title VII. **[FN1]** Un welcome sexual adv ances, reque sts for sexual favors, and other verbal or ph ysical conduct of a sexua l nature constitute sexual harassm ent when (1) subm ission to such conduct is made either explicitly or im plicitly a term or condition of an individual's em ployment, (2) su bmission to or rejection of suc h conduct b y an individ ual is u sed as the basis for em ployment decisions affecting such individual, or (3) such conduct h as the purpose or effect of unreasonabl y interfering with an individual 's work perform ance or creating an intimidating, hostile, or offensive working environment.
[F N1] **The principles involved her e *continue to apply* to race, color, religion or national origin.**

[8] See "DISCIPLINARY STEPS" - **EXHIBIT "20"** - *W&L's Employer's Guide* at page 21 attached hereto and incorporated by reference as if set forth in full herein

(b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circum stances, such as the nature of the sexual advances an d the contex t in which t he alleged incidents occ urred. The determination of the legality of a particular a ction will be made from the facts, on a case by case basis…

(d) *With re spect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agent s or supe rvisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action…*

(f) *Prevention is the be st tool for the elimination of sexual harassment. An employe r should ta ke all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapp roval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned….*

(g) Other related practices: Where employment opportunities or benefits a re granted because of a n individual's subm ission to the employer's sexual advances or requests for sexual favors, the employer may be held liable for u nlawful sex discrim ination against other person s who we re qualified for but denied that em ployment opportunity or benefit.

See "ANTI-HARASSMENT POLICIES" - **EXHIBIT "20"** - *W&L's Employer's Guide* at page 19 attached hereto and incorporated by reference as if set forth in full h erein. Also "DISCRIMINATION""

"DISCRIMINATION:" . . . The ***best way to avoid creating a discriminatory inference*** is to m ake and docum ent em ployment decisions ba sed on con sistent company practices and obje ctive criteria. **Employment decisions or practices based on protected sta**tus, . . .sex,. . . ***or involvement in a legal process are presumptively unlawful*** . . . Em ployment policies and practices having a "di sparate impact" on protected groups i n employment are presumptively unlawful even if the impact is unintended. . .

Sexual Hara ssment: Sexual harassm ent is a f orm of sex discrimination and is unlawful. Sexua l harassment may be found in implied and explicit verbal or phy sical conduct of a sexual nature if the purpose or effect of the conduct is one of the two type:

- *Quid pro quo,* or the conditioning of em ployment, job benefits, or opportunities upon se xual favors; or
- **the creation of a hostile, intimi dating, or offensive work environment**. . . .

Employers can and shoul d take proactive measures to avoid sexual harassment lawsuits. These include:

- Developing and implementing an anti-harassment policy;
- Having employees sign a statement that they have read and understand the policy;
- Identifying possible harassment situations;
- Investigating any harassment complaint;
- Interviewing the complainant, the alleged harasser and any witnesses;
- Assuring non-retaliation for complaints;
- Making decisions only after reviewing all reliable information;
- Issuing appropriate disciplinary action; and
- Communicating conclusions to the affected employees.

An employer can be liable for sexual harassment committed by its employees, even if such acts are against stated company policy. It is prudent for an employer to tactfully and immediately investigate all situations that may involve or lead to sexual harassment, including any apparent "romances" between an employee and his or her supervisor. Any such investigation must be conducted carefully to guard against claims of discrimination, wrongful termination, defamation, or invasion of privacy. Early consultation with counsel is strongly recommended.

EXHIBIT "20" - *W&L's Employer's Guide* at pages 37-38 attached hereto and incorporated by reference as if set forth in full herein.

28. ***Newsome timely, properly and adequately notified W&L of concerns that Gillan's retaliation and subjecting her to hostile, harassing and discriminatory practices may have been a direct result of W&L's ending the contract assignment of his lover and/or mistress***. See EXHIBIT "6" attached hereto and incorporated by reference as if set forth in full herein. **(EMPHASIS ADDED)**.

29. **IT IS IMPORTANT TO NOTE**, that upon Horwitz being removed from Newsome's desk, W&L decided to assign Newsome to Brian P. Gillan ("Gillan"). Gillan being with W&L for only a ***few months*** however, having been assigned approximately two or three Secretaries/Legal Assistants prior to Newsome (with Newsome being the third or fourth) because of his ***pattern-of-harassment*** *of female employees*. While Gillan *complimented* Newsome on her work (as evidenced in e-mail – i.e advising "advising "You're the best!")" see **EXHIBIT "7"** – *December 21, 2006 E-mail From Gillan* to Newsome attached hereto and incorporated by reference) for some reason, he decided to begin to subject her to *harassment, hostile treatment threats, and discriminatory practices* **to which Newsome objected**. Newsome being confident in her work abilities and capabilities to perform duties assigned her. *Newsome working in a contract employee position* ***prior*** *to obtaining permanent employment with Wood & Lamping*. **(EMPHASIS ADDED)**. Wood & Lamping having sufficient time and opportunity to review and observe Newsome's work habits/work ethics and after doing so, offered her employment.

30. Newsome was qualified for the job she was hired for and the additional assignments given. Newsome possess sufficient computer skills and computer knowledge to perform the job duties assigned her. See **EXHIBIT "8"** – *Test Results of Newsome's Computer Skills* attached

hereto and incorporated by reference as if set forth in full herein. Newsome's professional attitude and work ethics can be sustained as provided in Letters of References attached hereto at **EXHIBIT "9"** and incorporated herein by reference.

References obtained from those who have had an opportunity to work with Newsome:

> This letter is to confirm and recommend Ms. Vogel Newsome to a position of Executive Assistant, Administrative Assistant or greater. While working with Lash Marine, she performed the duties of Executive Assistant with skill and energy. Her spirit and motivation acted as a beacon of light to others. Her leadership and training of others was a great service. Always willing to share; she possess a unique ability to teach complex skills to the beginner and bring them quickly up to speed. In addition, being a caring and concerned citizen she put aside her time to train and work with Training, Inc. employees to develop their office skills for a better future.
>
> She is an asset and will be sorely missed at Lash Marine. - - ROBERT K. LANSDEN (**VICE PRESIDENT**)

> I have been very, very pleased with Vogel, not only in terms of her work product, but also in terms of her attitude and personality. I would rate her as one of the best legal secretaries with whom I have ever worked. I would highly recommend her to any one who is looking for a full-time legal secretary. If my previous secretary were not rejoining me, I would want Vogel to be my new permanent secretary.
>
> If any one would care to discuss Vogel with me, please do not hesitate to give them my name and number. I will be more than happy to talk with them.
>
> I am not certain of the exact day when my previous secretary will rejoin me. It could be immediately, or, it could be a couple of weeks. In light of that, we would like to request that we be allowed to continue to work with Vogel until further notice. However, the last thing I want to do is have Vogel miss another good opportunity that might lead to permanent employment. Therefore, if she must be reassigned, I will understand, but grudgingly so.. . . . - - RALPH B. GERMANY, JR. (**ATTORNEY**)

> I was first introduced to Ms. Newsome over five (5) years ago. Since that time, she has been a Woman of integrity and intelligence. Ms. Newsome always has presented herself in a professional manner and has always addressed me and others with the utterm ost of respect. Ms. Newsome outgoing personality and personal strengths would make her an excellent additional to any one's staff. I have had the opportunity to work with Ms. Newsome and she has demonstrated flexibility in working outside of her field of endeavor and doing an excellent job is a strong indicator of how well she will do in her chosen field of endeavor. Ms. Newsome demonstrated a willingness to perform any task assigned to her promptly and

> correctly with little supervision. Ms. Newsom e is a very pleasant person to associate with, works as a team play er, and would truly be an ASSET to y our organization because she is the best one for the job. - - L ISA J. WASHINGTON (**COORDINATOR**)

A copy of Newsome's Resume is a ttached hereto at **EXHIBIT "1 0"** and is incorporated herein by reference.

31. Newsome was *shocked* to receive the **VICIOUS** and **HOSTILE** e-mail from Gillan – **an e-mail craftily drafte d over the WEEKEND** (Saturday, January 13, 2007) and a great deal o f time put in it as W&L's continuing the systematic discriminatory practices leveled against Newsome. (See EXHIBIT "6" – *January 13, 2007 E-mail From Gillan to Newsome and Newsome's Response of January 15, 2007*, attached hereto and incorporated by reference as if set forth in full herein.) An e-mail to which Gillan ***did not*** *want Newsome to respond because he and W&L were attempting to set the stage in creating documents to place in her e mployment file*. However, to W&L' s and Gillan's disappointment, Newsome's concerns of such employment violations required her to respond and are addressed and/or memorialized in response to e-mail. See EXHIBIT "6" attached hereto. Moreover, the W&L' s record's will evidence and support do cuments provided by Newsome to mem orialize concerns of employment violations. Gillan specializes in e mployment law; therefore, a reasonable mind may conclude that his e-m ail to Newsom e was create d with m alicious intent and pretext purposes – i.e. to cover-up/mask an illegal animus/employment discrimination and retaliation.

A reasona ble mind may conclude that **AFTER** obtaining inform ation on Newso me's engagement in protecte d activities, W&L hatc hed a plan to create a hostile, r etaliatory and discriminatory work en vironment in efforts o f forcing her to qu it and/or to l ay the gro undwork for the unlawful/illegal termination of Newsome's employment. W&L's harassment was being done by Gillan's use of e-mails as well as verbal confrontat ions, ***over Newsome's objections***. Gillan *heavily* relies on e-m ails to launch his **attacks** and to c arry on em ployment violations (i.e as that *with the paralegal he* ***had an affair with***).

> **WORKPLACE VIOLENCE**
> **Threats**, **intimidation**, fl ashing of we apons, **stalking** or an y ***acts of aggression*** or **violence** m ade toward or b y anyone ***will not*** be tolerated. An y potenti ally dangero us situations, including threats, should be reported imm ediately to a manager or partner. All reports will be prom ptly investigated. . . . ***No*** *employee will be subject to* ***retaliation***, ***intimidation*** *or* ***discipline*** *as a result of reporting a situation.* If an investigation confirm s that a threat of a violent act or violence itself has occurred, corrective action will be taken against the offender.
> (Wood & Lam ping LLP Policies and Procedures Manual @ p . 29) – **EXHIBIT "4"** attached hereto and incorporated by reference a s if set forth in full herein.

Although Gillan w as advised by Griffith (H uman Resources Representative) to cease such behavior and correspondence via e-mail; ***Gillan continued to do so***. Such unlawful/illegal actions by Gillan had becom e more hostil e, brutal, unrelenting and vicious that Newsom e beca me emotionally affected (*reducing her to tears/crying*) by such and was witnessed by Griffith who called Newsome into her office to discuss the matter. **(EMPHASIS ADDED)**. In that Newsome had put in for Vacation Leave, Griffith advised the m atter would be looked into while she was out on vacation and Griffith would let her know h ow W&L intends to handle when she returned. Whe n Newsom e

returned from vacation, W&L had not done any thing and advised Newsome that *Gillan wanted to continue to work with her*. Newsome ***voiced her objections*** and advised that she could not understand W&L's decision in that Gillan made it clear it was not working out (evidenced in e-mail). **Nevertheless, W&L required Newsome to continue to work with Gillan; however, did not require *white* employees assigned him prior to Newsome's employment to continue under such hostile and harassing conditions when they complained**. Newsome again complained and advised that she would take the matter to William Ellis (attorney /Partner at W&L) of what was going on. Ellis being a litigation attorney and advising Newsome during her employment that if there were any problems that she could come talk to him. Only after notifying of doing this, was Gillan pulled. **Leaving Newsome to believe that W&L's refusal to remove Gillan in the beginning, left the appearance and/or impression that certain ones at W&L may have agreed with Gillan's harassment, discriminatory treatment and the hostile environment he created; moreover, was behind his acts in that they knew how it was affecting Newsome (*emotionally and physically*) and interference with performance of job duties**. More over, that certain ones at W&L allowed Gillan to proceed in such a manner they knew were clearly in violation of Title VII and their Policies and Procedures; however, allowed him to proceed. Gillan is an attorney who was known to be engaging in such acts that may present a liability to W&L; however, W&L allowed him to remain in its employment and continue such discriminatory practices. *Again, Gillan is an attorney who specializes in employment law; therefore, a reasonable mind may conclude he was aware of his conduct and the liability thereof. Moreover, W&L knew as well and supported such behavior and conduct of Gillan – as evidenced in its retaining his employment and paying the fees he charged W&L for hours used to commit such discriminatory practices*.

32. **IT IS IMPORTANT TO NOTE** that during Newsome's employment, W&L terminated another attorney (Peter K. Newman). From Newsome's understanding, Newman was painted as an attorney with behavior that was hostile, aggressive, harassing, etc.; however, W&L terminated his employment. More over, **after the incident gave his assistant,** Kathy Richey ("Richey") **some time off after the ordeal**. Nevertheless, W&L allowed Gillan to continue on knowing his history, reputation, pattern-of-discriminatory practices; moreover, potential liability to W&L. **(EMPHASIS ADDED)**.

33. W&L allowed Gillan to remain in its employment over the **REPEAT** objection of SENIOR PARTNERS (i.e. Eric C. Holzapfel and William R. Ellis) of the law firm. Holzapfel having **over** approximately 30 years with W&L. Both Holzapfel and Ellis deciding to leave W&L and not please with the administration and/or handling of matters. **(EMPHASIS ADDED)**.

34. The actions of Gillan clearly violated W&L's policies/procedures regarding "Discrimination" and "Sexual Harassment." Nevertheless, W&L **continued to employ** Gillan **and pay** him for services he billed W&L for. **(EMPHASIS ADDED)**. Gillan violating policies and procedures outlined in W&L's Employee Handbook through such discriminatory practices. IT IS IMPORTANT TO NOTE **PRETEXT,** *that while Newsome retained a copy of W&L's Employee Handbook at her desk, upon cleaning out her desk after being terminated, she noticed that W&L had a representative remove Newsome's Employee Handbook from her desk (**Newsome kept her desk locked**). Newsome believes a reasonable mind may conclude that such act by W&L was done with willful and malicious intent. Moreover, was **PRETEXT -** done to shield and/or cover-up an illegal animus. The Employee handbook containing pertinent information regarding nondiscrimination for the filing of complaints, its discrimination policy and sexual harassment policies along with other policies and/or procedures of W&L.*

35. **IT IS IMPORTANT TO NOTE**, that certain *Senior* Partners made it known as to their concerns regarding Brian Gillan (i.e. what is it that he does at the firm /his purpose); however, Gillan was allowed to remain in the employment of W&L. Gillan being employed at the time of

Newsome's termination. Concerns being made known of Gillan's employment in that he does not bring in a great deal of business to the practice; moreover, during the time Newsome worked with Gillan, *a **great deal of his time** was being billed directly to W&L (not hours for work on client matters)*. Not only that, during his employment, he received increases in the hourly rate he was charging for his services – hours used to draft e-mails as that submitted to Newsome and time used to subject her to hostile, harassing and discriminatory practices. From Newsome's understanding, it appears ***objections** from PARTNERS OF THE FIRM over Gillan's behavior and employment came into question*; however, as with Newsome's concerns, W&L clearly ignored. *Resulting in attorneys with a great amount of longevity and seniority leaving W&L*. **(EMPHASIS ADDED)**. *Attorneys who questioned the employment and unethical practices of Gillan*. Neither was Gillan bringing in much business for the firm. Nevertheless, **W&L was CONTINUING to INCREASE the HOURLY RATE INCREASES for Gillan**. *While W&L would want one to think that it had to subject me to **frivolous** reduction-in-force for economic reasons; however, then W&L **turns around and hire SEVERAL white employees shortly AFTER Newsome's termination**.*

A reasonable mind may conclude given the facts and evidence any argument that W&L may attempt to assert for the elimination of Newsome's position is *pretext* to shield/mask an illegal animus. Moreover, ***that the keeping of an attorney who an investigation may yield repeatedly violated the laws under Title VII and other governing statutes/laws, is W&L condoning of such unlawful/illegal discriminatory practices***. That Newsome's termination was in retaliation of her reporting of unlawful employment violations during her employment. **As well as W&L's knowledge of Newsome's engagement in protected activities**. *Therefore, any assertion that reduction in eliminating Newsome's position is merely pretext and an investigation into this matter may yield evidence to support that W&L provided Gillan as well as other white employees with additional salary increases and promotions; **while it deprived African-Americans such salary increases and promotions.** Clearly no financial problems there if they were able to extend special promotions and salary increases. Then SHORTLY **after** Newsome's termination, W&L **employed SEVERAL white** employees in its efforts to create an ALL-white work force. Thus, supporting that any proffered reason by W&L is pretext to mask/shield an illegal animus – Newsome's complaining of employment violations and W&L's knowledge of Newsome's participation in protected activities*.

36. **IT IS IMPORTANT TO NOTE** that an investigation will yield that W&L hired white employees shortly AFTER Newsome's unlawful/illegal termination. Moreover, that the salaries offered these newly hired white employees may have exceeded that of Newsome and/or that *Newsome was **replaced by a white** person*. Rebutting any frivolous claims W&L may attempt to assert was for financial and/or economic reasons.

37. **IT IS IMPORTANT TO NOTE** that *should W&L assert any such claim as to the need for Newsome's termination may have been for financial/economic purposes, she believes a reasonable mind may conclude that she was making way less in salary than Gillan and other whites that were repeatedly given salary increases*. Moreover, ***over the advice** of seasoned lawyers and PARTNERS, W&L elected to keep on Gillan who **barely** brought in any business or **money** for the firm and paid Gillan a **substantial** salary compared to that of Newsome*. Moreover, **during his employment provided him with rapid increase(s) in hourly rates with knowledge that a great deal of his hours was being billed to W&L**. W&L made a willful, deliberate and conscious decision to keep Gillan employed and to pay him an extremely high salary at the expense of Newsome and others who objected to his work ethics, discriminatory practices as well as employment violations.

38. **IT IS IMPORTANT TO NOTE** that during Newsome's employment she was required to perform duties of that of paralegals; however, did not obtain the title or pay associated with it. However, **whites** *similarly* situated that were performing such duties were either promoted to

such a title and may have obtained *additional* pay to compensate them for the additional duties (if any) obtained while Newsome (African-American) just obtained additional duties and was required to remain at her annual salary and only obtained annual salary increase. *While Newsome questioned such practices with Human Resources; she was still* ***denied*** *salary increases as that given to white employees.*

39. **IT IS IMPORTANT TO NOTE** that on October 9, 2008, Newsome was unlawfully/illegally evicted from her apartment (***due to the ongoing landlord matter Horwitz was assigned to assist with***). Such actions coming although there was a binding Injunction and Restraining Order issued by the Court and Newsome was required to pay rent into escrow which was current at the time of such actions – See **EXHIBIT "11"** – *Injunction and Restraining Order* attached hereto and incorporated by reference. As a direct and proximate result, Newsome filed a Complaint of criminal charges with the Federal Bureau of Investigations ("FBI") – a matter that Newsome believes is still pending at the time of the filing of this instant Charge. *It is important to note that W&L was made aware of this situation as well as the fact that Newsome had filed a formal charge with the FBI*. Said notification was made known verbally and via written correspondence. (See **EXHIBIT "12"** – *October 15, 2008 E-mail & Interoffice Memorandum of Newsome to Griffith* attached hereto and incorporated by reference). **IT IS IMPORTANT TO NOTE,** *that while W&L states in its Employee Handbook, that it will not discriminate against employees who engage in protected activities*, Newsome's termination of employment on January 9, 2009, was illegally motivated because she exercised rights secured to her under the Civil Rights Act, United States Constitution and/or the applicable statutes/laws governing said matters. **Moreover, W&L's representative's taking of Newsome's Employee Handbook prior to her termination may leave a reasonable mind to conclude the January 9, 2009 reasons provided for her termination was PRETEXT to mask/shield an illegal animus. Moreover, to shield/ mask the fact that their Employee Handbook addresses it will not discriminate against employee who engages in protected activities (i.e filed law suit). Furthermore, the acts of W&L will support *premeditation* and *forethought* in its knowledge that it was acting in violation of the laws governing said matters – resulting in its theft, removal and destruction of evidence from Newsome's desk *(Newsome kept her desk locked)* that it knew was incrementing.** HOWEVER, W&L IS DISAPPOINTED TO FIND THAT NEWSOME RETAINED COPIES ELSEWHERE.

While **discussing the October 9, 2009** incident with Thomas Breed (attorney Newsome worked with at W&L), he asked Newsome whether or not she needed representation. Newsome advised Breed that she had sought W&L's assistance and was assigned Elizabeth Horwitz; however, Horwitz developed an attitude because Newsome refused to waive rights secured under the Fair Housing Act and/or applicable statutes/laws governing such matters. *Newsome advised Breed she was in no hurry and that she had filed a complaint with the appropriate agency (FBI) to investigate the matter*.

Documentation in W&L's possession will support its knowledge that it was first advised of medical concerns of Newsome as early as October 2008. Moreover, how Newsome had been affected mentally, emotionally, and physically and had to obtain a doctor's excuse for time off from work. See EXHIBIT "12" attached hereto and incorporated by reference.

40. W&L aware of the criminal acts rendered me of October 9, 2008, attempted to use such information to subject me to discriminatory practices and retaliation. Moreover, use this situation against me and attempt to make it appear as though there was a problem with my attendance – **ALTHOUGH I was not in violation of any of its policies and procedures and had the time to use** (See **EXHIBIT "4"** – *"ATTENDENCE POLICY"* and *"SICK LEAVE"* of *Wood & Lamping LLP Policies and Procedures Manual* at pages 2 and 26-27 attached hereto and incorporated by reference as if set forth in full herein). **In an effort to add SALT to the wound and horrific ordeal**

Newsome had just encountered, W&L was attempting to use this matter for PRETEXT purposes - i.e. efforts to cover-up/mask its discriminatory practices. W&L was fully aware that the October 9, 2008 matter resulted from the legal matters that I brought to its attention in 2007. Griffith in an e-mail to me of October 15, 2008 stated:

> Denise. We do need to meet this after noon to discuss your being out of the office so much over the last couple of days. Also, you need to inform me in advance on doctor's appointments. 45 minutes before an appointment is not sufficient time. Please see me when you return. Andrea.

See EXHBIBIT "12" - *October 15, 2008 Correspondence Between Newsome and Griffith* attached hereto and incorporated by reference.

Newsome responding to Griffith's October 15, 2008 E-mail via Interoffice Memorandum which states in part:

> As you are aware, per my voicemail messages of October 9, 2008, my apartment was burglarized, etc. I had to leave work not realizing the magnitude of this crime; however, I was devastated and seriously affected by this crime.
>
> On October 11, 2008, I was admitted to the Emergency Room and test were run out of concerns from symptoms I was having. The doctor recommended that I return to work on 10/14/08, in which I did. (See Document Attached).
>
> My doctor's appointment for 10/10/08 was scheduled way in advance and prior to the October 9, 2008, criminal actions. The appointment that I set for 10/13/08 was made on 10/10/08; however, had to be cancelled and rescheduled for today in that my doctor wanted this test done right away.
>
> Without going into details where things are at, as a direct and proximate result of the 10/09/08 criminal acts rendered me, a Criminal Complaint has been filed with the FBI (Federal Bureau of Investigations) . . .

Moreover, provided Griffith with a copy of the "Return to Work" provided by Physician to support Newsome was required to take time off from work. This was TIME in which Newsome had available to her to use under W&L's policies and procedures. This was TIME in which Newsome was required to use prior to year end or be compensated for it. See EXHBIBIT "12" - *October 15, 2008 Correspondence Between Newsome and Griffith* attached hereto and incorporated by reference.

41. In **December 2008 (well over 30 days)**, Newsome ***again*** notified W&L through its representative Andrea Griffith ("Griffith"), Human Resource Manager/Representative, of her moving forward and inquired into how W&L handled medical leave to begin the medical procedure doctors recommended. While Griffith was made aware of medical issue Newsome was dealing with (as early as October 2008), it was in December 2008 - *after medical staff finally got back with Newsome to advise of opening to begin the medical process recommended*, that Newsome went to Griffith to determine how W&L handles such medical requests and was advised that she would be okay under the FMLA. Moreover, that W&L would provide a percentage of her salary during the time taken.

Newsome advised Griffith of the approximate date (January 29, 2009) on which she was to begin the procedure. Griffith advised Newsome she could use either her sick time, vacation time and/or both, but would wait to see how much time would be required. Thus supporting W&L's knowledge of Newsome being availed FMLA protection. Newsome kept her January 29, 2009 appointment and advised W&L of such as well as concerns of discrimination under the FMLA. See **EXHIBIT "28"** – *January 30, 2009 Letter to Andrea Griffith and C.J. Schmidt* attached hereto and incorporated by reference as if set forth in full herein.

> When requesting unpaid leave, employee need not mention Family and Medical Leave Act (FMLA) and can be completely ignorant of benefits conferred by Act, and **notice** ***is sufficient if employee provides employer with enough information to put employer on notice that FMLA-qualifying leave is needed*** **.** *Stoops v. One Call Communications, Inc.,* 141 F.3d 309 (7th Cir.).

42. W&L's record will reflect that Newsome timely, properly and adequately provided it with notification of concerns of violations. W&L **cannot** say that Newsome did not report these violations **PROMPTLY** to them – as Newsome did with the January 9, 2009 termination. See **EXHIBIT "13"** – *January 11, 2009 Letter of Newsome to Andrea M. Griffith and C. J. Schmidt* attached hereto and incorporated by reference as if set forth in full herein. W&L retaliated as a direct and proximate result of Newsome's request for medical leave and retaliated because of its knowledge of her engagement in protected activities. CONTINUING THE ***SYSTEMATIC*** DISCRIMINATORY PRACTICES LEVELED AGAINST NEWSOME. *Newsome guess she needs to wait and see whether those who commit such discrimination remained employed – leaving a reasonable mind to conclude that W&L indeed* ***tolerates*** *and* ***supports*** *such* ***discriminatory PRACTICES***. Newsome is entitled to know whether or not W&L was entitled to deny her the benefits (i.e. – medical insurance, etc.) she was entitled to and that it afforded to other employees (whites). From the information contained in W&L Policies and Procedures Manual, medical coverage is to be continued and/or Newsome is entitled to medical benefits with W&L as that *which she had before* it violated the Act. From Newsome's understanding of the W&L Policies and Procedures, she is to be "**retained** on the firm's health plan(s) *under the* ***same*** conditions that applied **before** leave commenced if employees make their contributions to the plan(s)…. (Wood & Lamping LLP Policies and Proceduures Manual @ pp. 12-14)" – See **EXHIBIT "4"** – "FAMILY AND MEDICAL LEAVE ACT" attached hereto and incorporated by reference as if set forth in full herein. *Remember Newsome* ***was covered*** *under the FMLA* ***once verbal notification was provided*** *to Andrea of her medical condition and intent for medical treatment and W&L's handling of such matters*. See **EXHIBIT "4"** of *Wood & Lamping LLP Policies and Procedures Manual*:

> **FAMILY AND MEDICAL LEAVE ACT (FMLA)**
> **Eligibility:**
> **On October 16, 2000**, the firm became subject to the Family and Medical Leave Act ("FMLA"). (Should the firm ever drop below 50 employees, it will remain covered by the Act until the future point when it has no longer employed 50 or more employees for 20 or more weeks in the current or preceding calendar year.) Family and Medical Leave is unpaid unless the employee has paid leave available. (Wood & Lamping LLP Policies and Procedures Manual @ p. 12)
>
> **Reasons for Requesting Leave:**
> . . .The firm will need to carefully analyze each situation to determine if the leave qualifies as FMLA leave. In general, the intent of FMLA is to provide leave for medical conditions that require ongoing, continuous care and treatment. The Act is

not intended to cover short-term conditions where treatment and recovery are brief. (Wood & Lamping LLP Policies and Procedures Manual @ p. 13)

Procedure for Requesting Leave:
An employee intending to take family or medical leave because of . . .a planned medical treatment, must submit a request a least 30 days before the leave is to begin. If leave is to begin within 30 days, an employee must give notice to the firm as soon as the necessity for leave arises….

…The firm's notice **may be given orally**, but will be confirmed in writing. (Wood & Lamping LLP Policies and Procedures Manual @ p. 14)

Pay During Leave:
The employee must use all available paid leave (e.g. paid vacation or sick time, short-term disability, worker's comp., etc.) concurrent with FMLA leave… (Wood & Lamping LLP Policies and Procedures Manual @ p. 14)

Benefits during Leave:
Employees **will be retained** on the firm's health plan(s) under the same conditions that applied before leave commenced if employees make their contributions to the plan(s)…. (Wood & Lamping LLP Policies and Procedures Manual @ p. 14)

*Employees who take family and medical leave **will not lose** any earned…employment benefits*....(Wood & Lamping LLP Policies and Procedures Manual @ p. 15)

43. Andrea Griffith advising Newsome that she would be entitled to medical leave. According to W&L, its Policies and Procedures Manual states what Newsome was entitled to under said policies as well as the FMLA – establishing W&L's FAR DEPARTURE from its own policies and procedures to deprive Newsome protected rights and benefits secured to her under the applicable statutes/laws governing said matters:

SHORT-TERM DISABILITY LEAVE
Definitions:

(a) For purposes of this short-term disability leave provision, a "disability" means a personal condition of an employee which causes the employee to be unable to perform the essential functions of the employee's job for an extended and/or indefinite period of time due to personal illness, injury, hospitalization, post surgical recovery, childbirth, complications due to pregnancy or childbirth, or psychological or mental impairment. A "disability" must be established by medical certification as being of an extended or indefinite duration. Common illness and minor injuries are not disabilities. (Wood & Lamping LLP Policies and Procedures Manual @ p. 23)

(b) Short-term disability leave will commence after an absence of seven (7) working days or 52.50 working hours (the waiting period) in a fourteen calendar-day period.

(c) Short-term disability begins on the eighth working day or 52.50 hours of absence.

Length of Leave and Compensation:

> (a) Employees may use earned sick time (or earned vacation time if sick time is unavailable) during the seven-day waiting period or take it unpaid.
>
> (c) A full-time employee who has completed one year of continuous employment shall be entitled to fifty (50) days (or 375 hours) of paid disability leave at the rate of eighty percent (80%) of the employee's hourly rate of pay, plus his or her longevity rate (if applicable), in effect on the first day of unpaid absence prior to the commencement of the disability leave. Salaried employees shall be compensated at the rate of eighty percent (80%) of the employee's weekly salary.

(*Wood & Lamping LLP Policies and Procedures Manual* @ pp. 23 & 24)

44. On **January 8, 2009**, *Newsome submitted her* ***Request for Medical Leave*** on January 29, 2009 for the medical procedure recommended by her doctors. (See attached hereto as **EXHIBIT "14"** and incorporated herein by reference as if set forth in full). Form clearly states reason as "**MEDICAL LEAVE**." Newsome's Request for this leave was approved by the attorneys (Sharon S. Parsley and Thomas J. Breed) she assisted and then submitted to Griffith for handling. **Newsome followed the procedures of W&L to obtain this leave**. *This document further evidences Newsome's protection under the FMLA. While Newsome was terminated, she still attended said appointment*.

45. On **January 9, 2009,** Newsome was taken by ***surprise*** when Griffith approached her and asked to see her. Newsome followed Griffith to her office where C. J. Schmidt (an attorney and Managing Partner at W&L) was awaiting their arrival. During this meeting Newsome was advised that her employment with W&L was being terminated. Newsome being advised her position having to be eliminated due to reduction in force necessitated by the conditions/matters the firm was encountering. Newsome was advised that she would be compensated for that week and given two additional weeks of pay. Newsome was advised that her medical insurance would lapse **at the end of January 2009** (*approximately **two** days after beginning of the medical process Newsome advised Griffith of **first in** October 2008 and after being contacted by doctor's medical staff, **submitting** request for medical leave on January 8, 2009*) and that any additional medical coverage could be maintained through COBRA if she desired. Thus supporting W&L's termination of Newsome was illegally motivated and to deprive her protection under the FMLA; moreover to deprive her benefits afforded to other **white** employees similarly situated.

> Employer ***may not use*** **reduction-in-force** (RIF),[9] reorganization, or improved-efficiency rationale *as pretext* **to mask actual** ***discrimination*** **or** ***retaliation*** for employee's exercise of FMLA rights; the mere incantation of the mantra of "efficiency" is not a talisman insulating an employer from liability for invidious discrimination. *Hodgens v. General Dynamics Corp.,* 144 F.3d 151 (1998). Moreover, *Hodgens* goes on to find "an employer may not use its RIF/reorganization/improved-efficiency rationale as a **pretext** to *mask* **actual** *discrimination* or *retaliation*; the mere incantation of

[9] See "REDUCTION IN FORCE" - **EXHIBIT "20"** - *W&L's Employer's Guide* at page 25 attached hereto and incorporated by reference as if set forth in full herein.

> the mantra of "efficiency" is not a talism an insulating an employ er from liability for invidio us discrim ination. See *McDonnell Do uglas,* 411 U.S. at 804, 93 S.Ct. 1817 (employer may not use an ostensibly legitimate reason for an adverse action as a pretext for discrim ination that is proh ibited by statute); 29 U.S.C. § 26 15(a); 29 C .F.R. § 825.220; cf. *INS v. Chadha,* 462 U.S. 919, 944, 1 03 S.Ct. 276 4, 77 L.Ed.2d 317 (1983): "Convenience and efficiency are not the pri mary objectives-or the hallm arks-of democratic government." Nor are the y the objectives of public policy underl ying statutes like the FMLA or the ADA."

Ohio law is clear that an employer **may <u>not</u>** retaliate against an employee who exercises rights under the FMLA –

PRIMA FACIE: (a) Newsome fa ced an adverse em ployment action as a direct and proximate result of W&L's knowledge of her engagem ent in protected activ ities [(i) her engagem ent in legal lawsuits – past, present, and future intent; (ii) filing of Title VII Charges; (iii) filing of Fair Housing Charge; (iv) filin g of FBI Com plaint, etc.] **(b)** An investigation and evidence will y ield that Elizabeth Horwitz (attorney at W&L) wa s upset when Newsome would not waive protected rights and give up her residence that Newsom e's landlords and their attorney wanted her to do . Newsom e advised Horwitz (as she did with her landlords and their counsel) of her rig ht under the laws to live there. **(c)** An investigation will yield as a direct and proximate result of Newsome's refusal to waive protected rights, W&L began to engage in **SYSTEMATIC** discrimination practices against Newsome. **(d)** An investigation will support that W&L's **SYSTEMATIC** discriminatory practices included the engagement of Gillan and others. **(e)** An investigation and evi dence will support W&L retaliated ag ainst Newsom e under the FMLA and unlawfully/illegally ter minated her employment ***<u>one</u>*** *<u>day</u>* ***<u>AFTER</u>*** *<u>granting her medical leave</u>*. Newsome's medical leave was approved on January 8, 2009, and h er term ination of em ployment occurred on January 9, 20 09. **(f)** An investigation wil l support that W&L's termination of Newsom e's employment was to aid a Thomas J. B reed's former law firm (SMR&S) in a legal action made known to it that would be brought against Newsom e. **(g)** *An investigation and evidence will support that W &L prior to Newsome 's terminati on removed documentation for the purposes of covering up its unlawful/illegal employment practices; moreover, for purposes of interfering with the adm inistration of justice – ill motive:* ***W&L's re moving and destroying evidence taken from Newsome's desk*** *(****<u>Newsome kept her desk locked</u>*** *)(<u>without Newsome's knowledge</u>)* ***that it knew would be incr<u>iminating</u> in a ny l egal action brought by Newsome****. W&L committed such civil/criminal wrongs* ***so that it could fal sify and/or lie during a federal investigation*** *for the purpose s of obstruct ing justice*. **(h)** <u>W&L is attempting to violate the statutes/laws governing said m atters and ***is attempting to get Newsome to waive protected right s in exchange medical benefits***; as well as refusing to allow her to return to work by **DEMANDING** that Newsome not bring any legal action/lawsuit against it. Said Dem and which Ne wsome *has* ***repeatedly d enied*** and a dvised W& L is **PROHIBITED BY S TATUTES/LAWS** go verning said matters</u>. See **EXHIBITS "15"** – *February 4, 2009 Letter of Berninger to Newsome* attached hereto and incorporated by reference as if set forth in full herein:

> W&L 2/4/09 Letter From Paul R. Berninger to Newsome:
>
> . . . I had previousl y told y ou that I believed th at the fir m would accept m y recommendation to extend your health insurance at the firm's cost for a period of ti me to allow you to attend to a medical matter which was pending
>
> In our telephone conversa tion, and in the nine page docum ent you sent to me, y ou add ressed a nu mber of perceived wron gs you

suffered while employed by the firm as well as your perception of an unlawful termination. You did not respond to the issue of resolution based on an extension of health insurance coverage.

I have been assured by the firm that we would extend your health insurance coverage for a reasonable period, *but **only** on the condition that you sign a release of all your perceived claims*. *As you know, that means that if you accept our offer of health insurance coverage for a period of time, yet to be determined, **you could not file any charges, lawsuits or other complaints against the firm regarding your employment and separation of employment***.

(i) An investigation and evidence will support a ***pattern-of-discrimination*** by W&L against African-Americans. One of W&L's attorney (Paul Berninger) advised Newsome of another African-American (Angie Hart) bringing of action and not being successful. Newsome advising lack of knowledge of action by Angie Hart and circumstances surrounding her. (See **EXHIBIT "16"** – *February 2, 2009 Letter of Newsome to Berninger* attached hereto and incorporated by reference as if set forth in full herein); however, *Newsome's interest is in W&L's actions regarding the handling of her termination*.

2/2/09 Letter From Newsome to Paul R. Berninger:

. . . From my understanding of the conversation, Wood & Lamping (Andrea) acknowledges that I advised of my request regarding medical procedure I discussed with her. At this time, Wood & Lamping is willing to extend me medical coverage under COBRA where they will make the payments. However, in exchange for such agreement, I would be required to sign a Release relinquishing all rights that I may have to bring charges and/or lawsuit against Wood & Lamping for any injury/harm I sustained from violation s – i.e. wrongful discharge, retaliation, racial discrimination, etc. As I shared with you, **my main focus right now is getting the medical procedure done that I was advised of** any other relief I seek will be done in the applicable time permitted by statute/laws.

HOWEVER, PLEASE LET ME REITERATE, it is Wood & Lamping's duty and responsibility to **mitigate** damages – that includes continuing medical coverage and/or benefits – in the showing of good faith (not in continuance of bad faith or malicious behavior, etc. to cause me additional injury/harm).

You mentioned that an employee, Angie, brought charges against Wood & Lamping which was unsuccessful. ***While I am not aware of any charges by Angie, I would think that any comparison of my treatment and handling would be left up to the appropriate agency to handle****; moreover, up to a jury to decide*. I believe that the liability in my situation is clear and that Wood & Lamping retaliated against me in interfering with my rights under the Family and Medical Leave Act; moreover, may be in retaliation of its knowledge of my engagement in protected activities.

Being brief:

EQUAL OPPORTUNITY
The firm is an equal opportunity employer, and as such, is firmly committed to treating **all** employees

> and applicants **equally** without regard to race, color, sex, religion, national origin, age, disability , m arital status, veteran status, or other protected classes. We will endeavor to make reasonable accommodations for known ph ysical or m ental lim itations of otherwise qualified employ ees and applicants with disabilities unless the a ccommodation wo uld im pose an undue hardship on the operation of or business. Our employment decisions, i ncluding, but not limited to, hiring, co mpensation, benefits, training, and promotions are based o n the principles of **equal** employment opportunity . *Discrimination by any member of t he firm* ***will not*** *be tolerated* . Su spected violations of this polic y must be repo rted promptly to a m ember of m anagement or to a par tner. Violators will receive discipline appropriate to the offense, up to an including ter mination. *This polic y also* ***prohibits retaliation*** *a gainst anyon e who h as fi led a co mplaint of* ***discrimination*** *or* ***harassment****.*
> (Wood & Lam ping LLP Policies and Proce dures Manual @ p. 11) – **EXHIBIT "4"** attached hereto and incorporated by reference as if set forth in full herein.

Nevertheless, based o n a dditional inform ation pr oved b y Berninger regarding Angie Hart, it no w raises VALID and SERIOUS concerns as to whether W&L committed s imilar cri minal acts and removed docum entation/evidence from Angie Hart's desk that it kn ew would prove to be incriminating. Blindsiding Hart as it did Newsom e. However, to W&L's disappointment, Newsome maintained additional copies.

> *Campbell v. Washington County Publ ic Library,* 241 Fed. Appx. 271 (C.A.6.**Ohio,**2007) - Co unty pu blic library employ ee esta blished prima facie case that her discharge was discriminatory in violation of FMLA; employ ee face d adverse em ployment action shortly after taking FML A leave and filing a co mplaint to Departm ent of Labor, and there was eviden ce that library director was up set about employee's complaint. Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C.A. § 2601 et seq.
>
> *Nocella v. Basement Experts of America,* 499 F.Supp.2 d 935 (N.D.**Ohio.**W.Div.,2007) - There was sufficient evidence to establish a prima facie case of retaliation under the Family and Medical Leave Act (FMLA) in connection with the ter mination of an employ ee approximately one week after she ret urned from her leave; the time lapse from t he beginning of her lea ve until the eli mination of her position was nine weeks at m ost, only ab out fi ve weeks elapsed between the elim ination of her position and her p ermanent firing, and there were atte mpts to keep her from returning to work. Family and Medical Leave Act of 1993, § 1 05(a)(2), (b), 29 U.S.C.A. § 2615(a)(2), (b).
>
> *Chester v. Quadco R ehabilitation Center,* 4 84 F.Supp. 2d 735 (N.D.**Ohio**.W.Div.,2007) - There was sufficient tem poral proxim ity

between employee's FMLA leave request and his termination to establish the **causal connection** needed for prima facie case of retaliation under FMLA, where employee was terminated less than one month after he made his FMLA request. Family and Medical Leave Act of 1993, § 105(a)(2), 29 U.S.C.A. § 2615(a)(2).

46. Ohio Civil Rights Commission Sources Used:
OCRC Complaint No. 9496 (*Glaser v. HLS Bonding* matter) - See **EXHIBIT "17"** attached hereto and incorporated by reference.

Causal Connection:

23. In determining whether a **causal connection** exists, the proximity between the protected activity and the adverse employment action is often "telling." *Holland v. Jefferson Natl. Life Ins. Co.,* 50 FEP Cases 1215, 1221 (7th Cir. 1989), *quoting Reeder-Baker v. Lincoln Nat'l Corp.,* 42 FEP Cases 1567 (N.D. Ind. 1986). The closer the proximity between the protected activity and the adverse employment action, the stronger the inference of a causal connection becomes. *See Johnson v. Sullivan*, 57 FEP Cases 124 (7th Cir. 1991) (court held that plaintiff showed causal connection and established *prima facie* case of retaliation where plaintiff was discharged within days of filing a . . . race discrimination lawsuit); *Waddell v. Small Tube Prods., Inc.,* 41 FEP Cases 988 (3d Cir. 1986) (court properly inferred retaliatory motive from evidence that defendant's decision to rehire plaintiff was rescinded one day after the defendant received notice that state FEP agency had dismissed plaintiff's charges of discrimination).

24. A causal connection may be established with evidence that the adverse employment action closely followed the protected activity. *Holland v. Jefferson National Life Ins. Co.,* 50 FEP Cases 1215 (7th Cir. 1989).

> . . . a court may look to the temporal proximity of the adverse action to the protected activity to determine where there is a causal connection. *EEOC v. Avery Dennison Corp.*, 72 FEP Cases 1602, 1609 (6th Cir. 1997)(citation and quote within quote omitted).
>
> Temporal relationship between a plaintiff's participation in protected activities and a defendant's alleged retaliatory conduct is an important factor in establishing a causal connection. *Gonzales v. State of Ohio, Dept. of Taxation,* 78 FEP Cases 1561, 1564 (S.D. Ohio 1998).

30. The Commission having established a *prima facie* case, the burden of production shifted to Respondent to "articulate some legitimate, nondiscriminatory reason" for the employment action. *McDonnell Douglas, supra* at 802, 5 FEP Cases at 969. To meet this burden of production, Respondent **must**:

> . . . "clearly set forth, through th e introduction of admissible evidence," reasons for its actions which, *if believed by the trier of f act*, would support a fin ding that unlawful discrim ination was n ot the cause of the employment action. *St. Mary's Honor Center v. Hicks,* 509 U.S. 502 , 507, 62 FEP Cases 96, 103 (1993), *quoting Burdine, supra* at 254-55, 25 FEP Cases at 116., n.8.

> **32.** Re spondent having m et its burden of p roduction, the Commission m ust pro ve that R espondent retaliated against Complainant because he engaged in protected activity . *Hicks, supra* at 511, 62 FEP Cases at 100. Th e Commission m ust show by a preponderance of the evidence that Respondent 's articulated r easons for Com plainant's disch arge were n ot its true r easons, but were a "pretext for . . . [unlawful retaliation]." *Id.,* at 515, 62 FEP Cases at 102, *quoting Burdine*, 450 U.S. at 253, 25 FEP Cases at 115.

> [A] reason c annot be p roved to be a "pretext for . . . [unlawful retaliation]" unless it is shown *both* that the reason wa s false, *and* th at. . . [unlawful retaliation] was the real reason. *Hicks, su pra* at 515, 6 2 FEP Cases at 102.

47. **PRIMA FACIE - <u>CAUSAL CONNECTION</u>: (a)** W&L's termination of Newsome occurred on January 9, 2009. **(b)** SMR&S' client 's (Stor-All 's) Amnesty Weekend was set for January 9th thru January 11th. Stor-All advising Newsome of Amnesty Weekend via facsimile at the number assigned Ne wsome by W &L. See **EXHIBIT "18"** – *12/19/08 Fax From Lori Whiteside/Stor-All* attached hereto and incorporat ed by re ference. **(c)** On January 9, 2009, Stor-All provided Newsome with "NOTICE TO LEAVE T HE PREMISES." See **EXHIBIT " 19"** attached hereto and i ncorporated by reference . **(d)** *<u>While Stor-All provided Newsome with faxes at W &L during her employment, **on the date of Newsome's termination** Stor-All did not provide her with th e "Notice to Leave the Premises" via facsimile (as it did with th e 12/19/08 fax and others) **because it knew that W&L was terminating Ne wsome's employment on said date**</u>*. **(e)** On Janua ry 20, 2009, SMR&S on behalf of Stor-All filed a lawsuit against Newsome.

48. On **January 9, 2009**, W&L waited until the end of the day and had Griffith approach Newsome, taking Ne wsome by ***surprise*,**[10] and asked Ne wsome to com e to her offic e where C.J. Schmidt (attorney and Managing Partner of W&L) was waiting for both of them to return. It was at this time, that Newsom e was advised that her e mployment with W&L was being ter minated due to the need to elim inate her position. Ne wsome was t aken by surprise with this news in that she was not aware o r given n otice of W&L 's intent to do so. ***<u>Neither was Newsome a ware of a ny employment violations a nd/or p roblems W&L was having wit h her wo rk (if any)</u>***. Newsome was advised that she would be receiving pay for that week as well as two weeks pay and that she would have m edical coverage t hrough the e nd of the m onth (Janua ry 2009); however, an y other m edical

[10] See *Wood & Lamping, LLP The Emplo yer's Guide to Employment Law in Oh io, Kentucky, and Indiana* at p. 22 – Employee Term ination: **"A termination conversation should no<u>t</u> occu r s uddenly or a<u>s</u> a s<u>urprise</u>."** . . . *Always tr eat employees equally and consistently under similar circumstances. You may create the appearance of unlawfu l discrimination if you allow some employees to engage in prohibited conduct and then claim good cause for firing others for the same reason.* See **EXHIBIT "20"** attached hereto and incorporated by reference as if set forth in full herein.

coverage she desired, would have to be obtained through COBRA which would kick in immediately and would have to be paid by her.

Newsome believe the actions by W&L and/or its representatives were willful, malicious and wanton and done to deprive Newsome r ights secured/guaranteed under the FMLA, and/or the applicable statutes/laws governing said matters. Newsome believe such acts by W&L and/or its representatives are discriminatory and may be based on race as well as retaliatory for her complaining of violations and discriminatory treatment during her employment – continuation of **SYSTEMATIC** discriminatory practices. W&L used the **SURPRISE**-Approach to terminate Newsome. An approach **discouraged** in W&L as addressed in its Employer's Guide. However, this was an approach used because W&L was fully aware that it had created criminal/civil violations in the handling of Newsome's termination and was attempting to cover-up such practices. Newsome believes that her employment with W&L was terminated as a direct and proximate result of its knowledge of Newsome's engagement in protected activities. In support thereof, Newsome states:[11]

a) During Newsome's employment **white** employees and/or those similarly situated provided notice of medical procedures that they needed and *said **white employees*** were allowed to proceed with such medical procedures without losing their jobs; moreover, some had to obtain medical procedures on a last-minute basis which did not afford them the opportunity to notify W&L prior to seeking such attention, however, they were not terminated and they were allowed to return to their employment with W&L. *When **white** employees did not have time for sick leave and/or medical leave W&L took extra steps to accommodate them with the time and allowed them to return to employment*. Therefore, Newsome believes her termination with W&L may have been a direct and proximate result to deprive Newsome rights secured/guaranteed under the FMLA and was racially motivated based on her race. Furthermore, in retaliation of Newsome's participation in protected activities known to W&L and/or its representatives.

W&L ***failed*** *to provide Newsome with the entitlements set forth in the FMLA based on her race and as a direct and proximate result of its knowledge of her engagement in protected activity*. W&L's knowledge of Newsome's engagement in protected activity resulted in its removal and destruction of evidence it having knowledge would be incriminating and reveal employment violations by it against Newsome.

> Employer may not defend its interference with FMLA's substantive rights on the ground that it treats all employees equally poorly without discriminating; employer's subjective intent is not relevant, and the issue

[11] ***Prima Facie Tort:*** A prima facie tort is the intentional infliction of harm without an excuse or justification that is legally recognizable as such. . . The elements of a malicious discharge claim premised on a prima facie tort are:

(i) Intentional lawful act by the defendant.

(ii) Intent to cause injury to the plaintiff.

(iii) Injury to the plaintiff; and

(iv) Insufficiency or absence of justification for the defendant act.

82 Am Jur 2d Wrongful Discharge §84.

is simply whether the employer provided its employee the entitlements set forth in FMLA. *Hodgens v. General Dynamics Corp.,* 144 F.3d 151 (1st Cir. 1998).

b) **IT IS IMPORTANT TO NOTE**, Newsome kept a copy of the ***Wood & Lamping LLP Policies and Procedures Manual*** in her desk. However, upon cleaning out her desk after being terminated, Newsome noticed this Manual had been removed by a representative of W&L. ***Newsome kept her desk locked***. Newsome believes the removal of the Manual was done with willful and malicious intent by W&L and/or its representatives to cover-up its employment violations - **PRETEXT**. Moreover, supports W&L and/or its representatives having knowledge that they were acting in violation of FMLA, Title VII and/or any other applicable laws governing said matters. Furthermore, such acts may support ill motive and the actual/underlying reasons for Newsome's termination. W&L ***specializes in employment laws***, *so it knew and/or should have known that its actions were unlawful and/or illegal*. Moreover, a reasonable mind may conclude that the taking Newsome's Employee Handbook from her desk may have been acts done by W&L to shield the fact it knew the Employee Handbook contained information pertaining to the handling of FMLA requests, termination, etc. that W&L knew and/or should have known it was violating on January 9, 2009, and it did not want Newsome to be able to use this information in any legal action she may decide to bring. *However, to their disappointment, Newsome had obtained a copy of the Employee Handbook in that it was brought to her attention that W&L's representatives were known to practice in such an illegal/unlawful manner* ***to avoid liability***. Thus making it difficult for an employee to bring legal action against W&L. *A reasonable mind may conclude this is why W&L uses the surprise approach that it advises against in W&L's Employer's Guide in its termination of employees*. While W&L took steps to commit civil/criminal wrongs to remove and destroy **INCRIMINATING** evidence that it knew and/or should have known would be used against it during an investigation (state/federal); it **FAILED** in such efforts because Newsome also retained a copy of Employee Handbook as well as Employer's Guide.

49. **IMPORTANT TO NOTE:** During Newsome's meeting where she was advised of termination, Griffith advised that Newsome would have medical insurance coverage through the end of January (2009). Newsome's request for medical leave beginning the medical procedure was for January 29, 2009. Griffith advised Newsome that if she was interested in continuing medical insurance coverage, she could do so under COBRA. *Newsome* ***is not*** *aware of any other employee being terminated* ***prior*** *to the medical attention they advised Wood & Lamping they would be having and that such other white and/or similarly situated employee was required to cover their medical expenses under COBRA*. In Newsome's case, Wood & Lamping LLP terminated her employment and terminated her medical insurance effective January 31, 2009, and thereafter, Newsome was required to pay for any other medical expenses for the medical services she advised Griffith of in December 2008 directly out of pocket – extremely high premium under the COBRA option (Newsome would be requested to pay 100% of the premium cost) – to secure the medical attention Newsome sought and advised Wood & Lamping/Griffith of. Pursuant to the Wood & Lamping LLP Employer's Guide, it states:

> COBRA gives an employee covered by an employer's group health plan the right to stay covered when coverage is lost due to certain qualifying events, and the employee pays for 100% of the premium cost. COBRA coverage must be elected within 60 days after coverage would otherwise end or from the date the election form was sent, whichever is later. *The employer is required to continue the same coverage available to* ***similarly situated*** *employees.* The cost can be up to the entire cost of coverage, plus a small (2%) additional charge for administration, as decided by the employer. Employers must maintain records pertaining to compliance with COBRA.

(See **EXHIBIT "20"** at p. 26 of the *Wood & Lamping LLP's Employer's Guide* attached hereto and incorporated herein by reference). Given such facts and evidence, Newsome believes a reasonable mind may conclude that Wood & Lamping LLP and/or its representatives are in violation of COBRA. Moreover, acts may be willful, malicious and wanton. *These were acts knowingly and deliberately done to deprive Newsome of medical services under the FMLA as well as benefits W &L extended to employees similarly situated. Moreover, that W &L's removal and destruction of Newsome's Employee Handbook were acts done by W&L to shield an illegal animus -* ***PRETEXT***. However, to W&L's disappointment, Newsome had obtained a copy of the *Wood & Lamping LLP's Employer's Guide* handed out at a ***public*** seminar hosted by an attorney (Julie R. Pugh) she assisted and Heather Walsh. Newsome being advised during her employment of the corrupt practices of W&L retained a copy of the Employee Handbook and W&L's Employer's Guide.

50. **IMPORANT TO NOTE:** Newsome believes Wood & Lamping LLP and/or its representative(s) was timely, properly and adequately placed on notice of her intent to have a medical procedure done which would require absence from employment. Looking in "*The Employer's Guide to Employment Law in Ohio, Kentucky and Indiana*" of W &L that Newsome obtained from the ***public*** seminar that Julie Pugh and Heather Walsh conducted it states (boldface, underline, italics added for emphasis):

> If the condition for which leave is granted is **foreseeable**, employees **must** provide the employer with **30** ***days notice*** **to be entitled to the protection of the FMLA**. . .
>
> Upon return from leave granted under the FMLA, employees are entitled to reinstatement to the position of employment previously held, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment . . . Employer's **may not** interfere with any employee's attempt to exercise his/her rights under the FMLA. It is also **illegal** *for employers to* ***discriminate*** *against or discharge an employee because he/she has attempted to exercise his/her rights. . .granted by the FMLA.*

See **EXHIBIT "20"** at p. 32 of *Wood & Lamping's Employer's Guide* attached hereto and incorporated by reference as if set forth in full herein. Therefore a reasonable mind may conclude that W&L's and/or its representative's removal of Newsome's Employee Handbook ***(Newsome kept her desk locked)*** was a willful and malicious act and ***PRETEXT*** to shield its knowledge that it was committing legal wrongs against Newsome.

51. On or about **January 16, 2009,** Newsome filed an Official Complaint with the Secretary of Labor/Department of Labor (Wage & Hour Division) under the statutes/laws governing rights protected under the Family and Medical Leave Act ("FMLA"). IMPORTANT TO NOTE, that while Newsome has filed a FMLA Complaint, ***through this INSTANT*** *Charge of Discrimination,* ***she seek relief protecting rights secured under Title VII and/or statutes/laws governing unlawful employment practices*** *– prohibiting discrimination and retaliation based on race, sex and participation in protected activities*.

52. Newsome is not aware of any male employees at W&L having to endure such racial, discriminatory, prejudicial, hostile, retaliatory and harassing treatment.

53. W&L, through its duly authorized agents and employees who acted on behalf of W&L and within the scope of their employment, intentionally discriminated against Newsome based on her race, sex and engagement/participation in protected activities.

54. As a direct and proximate result of the intentional discriminatory acts and practices of W&L, its agents and employees, including the taking away of job duties to give to white employees to provide them with job security,[12] and terminating Newsome's employment **AFTER** she requested medical leave and due to her reporting and/or objecting to discriminatory practices; *Newsome has suffered and continues to suffer injury, including past and future loss of income and other employment benefits, severe emotional pain and suffering, mental anguish, humiliation, loss of enjoyment of life, costs associated with obtaining reemployment, embarrassment, damage to her reputation, and other past and future pecuniary losses*.

55. **IT IS IMPORTANT TO NOTE** that through this instant Charge of Discrimination, Newsome seeks the EEOC's/OCRC's jurisdiction to determine whether or not the unlawful employment practices rendered her *is individual and/or* ***systematic*** *discrimination pursuant to 29 C.F.R. § 1601.6.*

56. W&L's acts described above and/or throughout this instant Complaint were intentional, willful, and performed with malice or reckless indifference to Newsome's federally protected rights, within the meaning of the FMLA (29 USC § 2654, 29 CFR 825.401) and/or the applicable statutes/laws governing such matters. W&L's violation of the FMLA and denial of benefits to Newsome (to which she was entitled) was a direct and proximate result of her race and participation in protected activities. Moreover, in keeping with the ***SYSTEMATIC*** *discrimination* practices leveled against Newsome.

57. The termination of Newsome's employment by W&L constituted a wrongful discharge and violated public policy of the State of Ohio, as articulated in the ***Ohio Human Rights Act.*** Moreover, ***Ohio Anti-Discrimination*** laws.

58. *As a direct and proximate result of the acts and practices of W&L, its agents and employees, in the wrongful discharge of Newsome from employment, Newsome has suffered and continues to suffer injury/harm, including loss of employment, past and future loss of income and*

[12] See **EXHIBIT "20"** *Wood & Lamping, LLP The Employer's Guide to Employment Law in Ohio, Kentucky, and Indiana* at p. 25 – **Reduction in Force:** Sometimes it becomes necessary for a company to reduce its work force to cope with economic conditions. Care should be taken to be sure that the determination of which employees are to be laid off is done in a nondiscriminatory way. Appropriate factors to consider include the need for a particular job function, seniority, and objectively determined by job performance. . . . **Final Paycheck and Paperwork:** Pay, including any benefits and unused vacation, **should be delivered at the termination meeting**. This is not only good policy, frequently it's the law. . . . In addition, ***the employee should be given the termination paperwork while still on the premises, and sign a receipt form***. If the employee refuses to sign, the fact should be noted on the paperwork in the employee's presence.

other employment benefits, severe emotional pain and suffering, mental anguish, humiliation, loss of enjoyment of life, costs associated with obtaining reemployment, embarrassment, damage to her reputation and other past and future pecuniary losses.

59. **IT IS IMPORTANT TO NOTE** that **W&L specializes in *employment* law (i.e. which includes DISCRIMINATION in employment)**; therefore, it knew and/or should have known that its acts rendered Newsome was discriminatory and unlawful/illegal. In fact, in its *Wood & Lamping, LLP The Employer's Guide to Employment Law in Ohio, Kentucky, and Indiana* at p. 24 – **Informing the Employee**, it states: *Obtain Legal Advice. Every situation is different; therefore **employers should consult** with their attorney **before** disciplining or **discharging an employee**. Wood & Lamping **regularly** consults with clients regarding problems with employees and/or the discharge of employees, advising them **as to the best way** to handle a particular situation **in order to AVOID potential litigation***. (See EXHIBIT "20" attached hereto and incorporated herein by reference as if set forth in full). Moreover, a reasonable mind may conclude W&L and/or its representative's taking of Newsome's Employee Handbook was ***clear** and **convincing*** knowledge it was aware civil/criminal wrongs were being committed. Furthermore, that such act was done to shield/mask an illegal animus. ***A reasonable mind may conclude based on information in W&L's Employer's Guide whether such examples as the theft of Newsome's property is the advice W&L provide to client's to AVOID potential litigation***.

60. **IT IS IMPORTANT TO NOTE** that *Newsome was hired on with W&L on September 11, 2006, **AFTER** working briefly as a contract worker*. **It was made known by certain attorneys at W&L that they were pleased with Newsome's work *and wanted to hire her on for a position with them***. Newsome was contacted by a representative at an employment agency and advised of W&L's request for the employment of her services which Newsome accepted. Newsome was **hired on as an *Estate Planning Coordinator***. ***During the course of her employment and at the termination of her employment the duties of an Estate Planning Coordinator were still needed***. To assure that other white employees had a job and/or employment W&L took the job duties of the *Estate Planning Coordinator* from Newsome and gave them to white employees to perform. Newsome ***timely* objected** to the taking away of the job duties of the Estate Planning Coordinator. Newsome shared her disappointment with Griffith about this change and/or decision of W&L in that she enjoyed what she was doing and the people she worked with. ***Griffith advised Newsome that there were no complaints in her job performance as the Estate Planning Coordinator; however, the decision to take away job duties was that of those who make such decisions at W&L***. Nevertheless, W&L and/or its representatives had made a decision that Newsome would lose these duties and they would be given to **white** employees. *While Newsome lost the job duties of Estate Planning Coordinator to white employee(s), she continued to work **throughout her course** of employment with at least one attorney **at ALL** times* in the *Estate Planning* group – at the beginning and during her employment she was assigned Jan M. Frankel (Partner) and during her employment W&L removed Frankel and provided her with Thomas J. Breed ("Breed") (Partner and **Department Head** *of the Estate Planning Group – Group to which Newsome was hired as the Estate Planning Coordinator*). *During Newsome's employment Breed also became a member of the Executive Committee – **group known for making the hiring and termination** of employee decisions*.[13] **(EMPHASIS ADDED).** Newsome was working with Breed at the time of her termination. ***Breed's performance of his work required the job duties Newsome provided as Estate Planning Coordinator that were taken away and given to white employees.***

[13] INTERVIEWING AND HIRING. . . *Failure to adhere to consistent procedures may encourage claims of discrimination, misrepresentation, or breach of oral employment agreement*. – **EXHIBIT "20"** - *W&L's Employer's Guide* at page 3.

It is important to note whenever such changes were made, Newsome was advised it was because of her work ethics, ability to perform the duties being assigned her and ***W&L needing to keep attorneys assigned to her happy*** – thus, providing the confidence W&L and/or its representatives had in Newsome's ability to perform her duties and the tasks assigned her. **Attorneys W&L assigned Newsome that they wanted to keep happy were**: (a) V. Brandon McGrath, Sharon S. Parsley and Thomas J. Breed.

61. W&L's termination of Newsome's employment *was* ***WITHOUT*** *good cause.* Moreover, W&L ***failed to follow its own*** policies and procedures for terminating Newsome's employment. **(EMPHASIS ADDED).**[14] Newsome's termination was in retaliation to W&L's knowledge of her engagement in protected activity as well as its knowledge that one of its attorneys (Thomas J. Breed's) former law firm, Schwartz Manes & Ruby ("SMR&S") – now known as Schwartz Manes Ruby & Slovin, on behalf of SMR&S' client (Stor-All), was in the process of bringing a lawsuit against Newsome regarding a personal matter. Therefore, SMR&S' representation of its client (Stor-All) and Newsome's employment at W&L would create a CONFLICT OF INTEREST!! **(EMPHASIS ADDED).** Encompassed with such information, W&L's obtaining knowledge of such information was determined to deprive Newsome rights secured under the FMLA, Civil Rights Act, Constitution and other governing statutes/laws, moved swiftly to terminate Newsome's employment. *As a result, W&L deprived Newsome medical benefits/fringe benefits afforded to white employees and/or those similarly situated*. See:

> "COMPENSATION AND BENEFITS:" Vacations, holidays, paid sick leave, other leaves, and benefits are not required by law, but once established by company policy, must be available to all employees on a nondiscriminatory basis. Statutory holidays need not be observed by private employers, except that company observation of holidays must be made available to all employees of similar position.

EXHIBIT "20" - *W&L's Employer's Guide* at page 28 and "FMLA" - *W&L's Employer's Guide* at pages 31-32 attached hereto and incorporated by reference as if set forth in full herein.

IV. UNLAWFUL EMPLOYMENT TERMINATION/WRONGFUL DISCHARGE:

62. Courts have ruled on specific factual grounds as to whether an employer has acted in bad faith in the termination of an at-will employee. In the majority of cases, ***the existence of an employee booklet*** *or self-imposed policies for terminations have given rise to the application of the implied covenant and limited the common-law employment rule* ***by restricting*** *the employer's right to* ***discharge employees without cause***. *In these cases, the implied covenant is* ***breached*** *when the discharge is without good cause or when the employer fails to follow the prescribed procedures for terminating employees. The implied covenant may also be* ***violated*** *by conduct that falls into other categories such as* ***retaliatory firings,*** *. . .* ***discharges*** *motivated by the employer's desire to deprive an employee of future compensation for past services.* 48 Am Jut Proof of Facts 2d 217-218.

[14] See "EMPLOYEE TERMINATION," "EMPLOYEE TERMINATION PAPER WORK" and "INFORMING THE EMPLOYEE" - **EXHIBIT "20"** - *W&L's Employer's Guide* at pages 22-24 attached hereto and incorporated by reference as if set forth in full herein.

63. Retaliatory firings have been traditionally the ground for invoking the public policy exception to the common-law at-will employment doctrine. In these cases, the retaliatory act has been held to violate the public interest if the employee has been discharged for performing an act that public policy encourages, or for refusing to engage in conduct that public policy condemns. 48 Am Jur Proof of Facts 2d 224. *Newsome's discharge/termination was a direct and proximate result of her engagement in protected activity and exercising of Constitutional/Civil Rights, Title VII, FMLA, acts that public policy encourages, as well as her refusal to waive protected rights secured to her under the laws that public policy condemns.*

64. Most courts recognize an exception to the common-law at-will employment doctrine where the termination of the employee is based upon a violation of a principle of public policy. Thus, where an employee is ***discharged for exercising a right*** or performing a duty that public policy encourages or requires, the employer may be subject to liability in tort for wrongful discharge. 48 Am Jut Proof of Facts 2d 192. *Sabine Pilot Service, Inc. v. Hauck* (1985) 687 SW2d 733, *Brockmeyer v. Dun & Bradstreet* (1983) 335 NW2d 834

65. **PRIMA FACIE:** There was a ***bad-faith*** *breach* of the implied covenant by W&L in terminating Newsome's employment:[15]

a) Termination was without notice or warning;

b) ***Termination was without following established personnel practices and policies as that set forth in the Employee Handbook***;**

c) Termination was without cause;

d) Termination of employment is in breach of promises provided and/or outlined in the Employee Handbook and inconsistent with the common-law at-will doctrine;

e) Termination was abusive, capricious, arbitrary, unreasonable, vindictive, retaliatory and/or malicious;

f) Termination was an unjustified denial of Newsome's rights under the statutes/laws governing protected activities;

g) Termination clearly evidences lack of good faith on the part of W&L

See "EMPLOYEE HANDBOOK" - **EXHIBIT "20" - *W&L's Employer's Guide* at page 17.

PRIMA FACIE: [**(i)** Newsome's termination was without notice or warning; **(ii)** Newsome's termination was done without W&L following its established personnel policies and procedures – as set forth in its *Wood & Lamping LLP Policies and Procedures Manual*; **(iii)** Newsome's termination was without just cause; **(iv)** Newsome's termination was a breach of promises provided and/or outlined in *Wood & Lamping LLP Policies and Procedures Manual* as with as the *Employer's Guide* created and made available to the public by W&L and is inconsistent with the common-law at-will doctrine; **(v)** *W&L's termination of Newsome was retaliatory, abusive, capricious, arbitrary, unreasonable, vindictive, and malicious to cause her substantial injury/harm*; **(vi)** W&L's termination of Newsome's employment was an unjustified denial of her rights under the statutes/laws governing protected activities – moreover, was done to interfere with Newsome's

[15] 48 Am Jur Proof of Facts 2d 235 - 240.

engagement and/or participation in p rotected acti vities; **(vii)** W&L's term ination of Newsom e's employment is clear evidence that it lacked good faith .]

66. An investigation and research will yield that Newsome is entitled to the relief sought herein. Newsom e's term ination was m aliciously m otivated. *W&L i s* ***depending on the EEOC t o continue its own SYSTEMATIC discriminatory*** *practices and failure to perform ministerial duties mandated by law – i.e. acts in furtherance of our government system to oppress people of color and seek ways to break them down and de stroy their li ves as the government has done with Newsome . Targeting th ose who a re strong a nd proud of the ir heritage (African-Ame rican) and exposure of corrupt p ractices of our government . W&L* ***is depending on the EEOC to RETALIATE*** *against Newsome for her bringi ng and exposing of civil/constitutional violations* . **THE REASON WHY AFRICAN-AMERICANS an d/or PEOPLE OF COLOR are having so many pr oblems w ith discriminatory employment practices, is because the EEOC cover up such unlaw ful/illegal practices of the employer** . ***EMPLOYERS rely upon insiders (relationship to EEOC representatives, lobbyist, etc.) to aid in obtaining rulings in their favor*** . However, the EEOC and government officials (with the support of others) – in past matters brought to its attention - have gone to great len gths to deprive Newsom e relief to which she is entitled – in keeping with our own GOVERNMENT's ***systematic discriminatory*** practices and its targeting African-Americans and/or people of color:

> [DAMAGES ENTITLED TO: Back pay , wages, bonuses, l oss of fringe bene fits, cost o f securing other em ployment, difference between uninsurance benefits and salary earned]
>
> ***Newsome h as no duty t o seek infe rior employment*** – *Flanigan v. Prudential Federal Sav. & Loan Asso.* (1986) 720 P2d 257, CCH LC ¶ 55589, 93 L. Ed 2d 570, 107 S.Ct. 564.
>
> It has been held that the employer m ay be estop ped from raising the issue of the employee's duty to m itigate dam ages if the em ployee's dismissal was m aliciously m otivated. *Wehr v. Burrough s Corp.* (1980) 619 F2d 276. *Mason Co unty Bd. Of Education v. State Superintendent of Schools* (1982) 295 SE2d 719.
>
> Damages for conseque ntial losses an d em otional distress when the unlawful e mployment practice is so und i n tort allows for compensatory dam ages. *Cancellier v. Federated Dept. Stores* (1982) 672 F2d 1312. Punitive damages are recoverable in an action for a bad faith wrongful discharge wh en the em ployer's con duct is sufficiently culpable. 44 ALR 4th 1131, § 13.
>
> **Case Illustr ation:** Plai ntiff was discharged on t he ground o f poor work perform ance, after the e mployer's incom plete and insufficient investigation of the charg es that had b een brought against plaintiff b y co-employees. *Plaintiff experienced substantial difficu lty f inding subsequent e mployment, and she ultimately had to leave the state. She had lived and worked in a small community where a dismissal for poor work performance would necessarily have an adverse consequence on her reputation and ability to earn a livelihood* . On e of the charg es against he r had been fabricated, and her person nel file had been altered to support the allegation. An a ward of punitive damages against her form er em ployer was affirm ed on the basis of

this evidence. *Crenshaw v. Bozeman Deaconess Hospital* (1984) 693 P2d 487; 104 CCH LC ¶ 55590. (Compensatory damages of $125,000 and punitive damages of $25,000)

Plaintiff had a . . .record of faithful performance until she was *fired by* ***a vindictive*** *supervisor* and as part of a company policy of removing older workers and replacing them with younger workers in order to reduce pension costs. At the trial of plaintiff's wrongful discharge case, expert witnesses testified that the employer had violated its own personnel practices and policies in thirteen separate instances; and the employer's evidence at trial was often inconsistent and even contradictory as to whether plaintiff was fired because of her alleged poor performance or as part of a reduction-in-force program.. . . *Flanigan v. Prudential Federal Sav. & Loan Asso.* (1986) 720 P2d 257 (verdict of $95, 000 economic damage, $100,000 compensatory damages for mental distress, and $1,300,000 punitive damages).

An investigation will support the government's posting of protected activity regarding Newsome on the INTERNET. The posting of such protected information is our government's violation of Title VII/Civil Rights/Constitutional protection – equal protection of the laws *. Said information has been posted by our government for purposes of depriving Newsome equal employment opportunities, equal protection of the laws, due process of laws, life, liberties and the pursuit of happiness. Moreover,* ***deliberate acts to destroy and ruin the life of Newsome and to make it difficult for her to obtain employment****. While Newsome is entitled to the relief from damages sustained, our government and others have gone to great lengths to see that Newsome is not financially compensated for damages/injuries sustained. It is because of our own government's actions and systematic discrimination leveled against African-Americans and/or people of color, that W&L felt a liberty and very comfortable in committing criminal/civil acts against Newsome*.

67. Reduction-in-force is inapplicable and a defense that cannot be used by W& L. Moreover, that any such defense is **PRETEXT** and asserted to cover-up/mask an illegal animus. *An investigation into this Charge will support that W&L hired* ***several*** *white employees* ***AFTER*** *Newsome's unlawful/illegal termination* . Supporting W&L's termination of Newsome's employment was discriminatory.

68. *An investigation and research into this instant Charge as well as prior handling of charges filed with the EEOC and other organizations in the past, will support efforts taken to ruin Newsome's life (****as evidenced on the INTERNET****) and retaliation by government officials against Newsome for reporting civil violations and/or challenging the EEOC's failure to perform ministerial duties mandated by statutes/laws. Moreover, an investigation will support how* ***government officials posting of INTERNET information violates the very policies and procedures of the EEOC and decisions rendered by it****. Nevertheless, Newsome has had to endure such civil/criminal wrongs for exercising said rights from this country's government*.

69. *An investigation and research into this instant Charge may support that* ***W&L engaged in such illegal/unlawful acts because of its knowledge that government entities and others have been allowed to get away with such civil/criminal wrongs leveled against Newsome*** *. Therefore,* ***W&L engaging in such civil/criminal wrongs is in hopes that the EEOC and others will extend to it the same favors given to others that sought to destroy Newsome's life***.

70. In W&L 's termination of Newsome it violated several of its own *Policies and Procedures*; moreover, violated those provided in its "*Employer's Guide*" that is provided to

employers and/or the public. W&L doing so because it knew that it was in violation of Title VII, Civil Rights Act, etc. – thus, a reasonable mind may conclude that W&L's taking of Newsome's *Wood & Lamping LLP Policies and Procedures Manual* was its knowledge that it was committing criminal/civil wrongs against Newsome and, therefore, sought to cover-up and/or mask such illegal animus.[16]

V. HARASSMENT:

71. An investigation and research into this Charge will support that during Newsome's employment with W&L she was repeatedly subjected to harassment and retaliation as a direct and proximate result of W&L's knowledge of her filing of EEOC charges, engagement in protected activities, ***systematic*** *discrimination,* etc. Moreover, *W&L terminated Newsome's employment with intention to bring said information (filing of past charges/engagement in civil lawsuits) to the attention of the EEOC/OCRC and/or government entity*. ***W&L will do so thinking that the revealing of such information will allow it to get away with practices that have been used by former employers of Newsome and the EEOC has condoned***. W&L set out to create a hostile, discriminatory and harassing environment for the purposes of interfering with Newsome's performance of job duties, efforts of forcing her out of the workplace and efforts of creating situations to mask its unlawful/illegal termination of Newsome's employment because of her participation on protected activities; moreover, *W&L is **relying upon the EEOC** to allow such systematic discriminatory practices to continue against Newsome*:

> African-American . . . suffered harassment because of his race, which was severe and pervasive, as required to support Title VII racial harassment and retaliatory harassment claims against city employer; firefighter was subjected to a plethora of racially offensive jokes, racist graffiti, and derogatory comments, *he experienced social isolation and racial segregation*, *one supervisor engaged in a **pattern of confrontational** and **caustic behavior*** toward group . . . who were almost exclusively African-American, including plaintiff, the supervisor repeatedly forced . . . to perform extra and demeaning duties, and . . . took early retirement on the basis of stress. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. §2000e et seq., *Jordan v. City of Cleveland,* 464 F.3d 584 (6th Cir. **Ohio**, 2006)
>
> To establish that an employer's conduct constitutes severe or pervasive retaliatory harassment, the plaintiff must show that the workplace is **permeated** with discrimination, intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment. *Ceckitti v. City of Columbus, Dept. of Public Safety, Div. of Police,* 14 Fed. Appx. 512 (6th Cir. **Ohio**, 2001)
>
> Evidence of whether the conduct at issue is so severe and pervasive as to create a hostile work environment, as element of claim

[16] The court noted that in the present case an expert on personnel management had testified that the hospital administrator had failed to make a proper investigation before affirming the plaintiff's discharge. In this case expert testimony also revealed that the employer had *committed **thirteen** different **violations** of its firing policies*. The court therefore found the precedent of *Crenshaw* compelling and held that the negligence theory had been proper. *Flanigan v. Prudential Federal Savings & Loan Association,* 720 p2d 257, 107 S.Ct. 564.

> of retaliatory harassment under Title VII, may include the ***frequency*** *of the discriminatory conduct*, its **severity,** whether it is ***physically*** *threatening or* ***humiliating*** *or instead a mere offensive utterance, and whether it reasonably interferes with employee's work performance. Ceckitti.*
>
> Female . . . was not required to establish adverse employment action in order to establish prima facie case of retaliation in Title VII action . . ., where she established that she was subjected to severe or pervasive retaliatory harassment by her supervisor. *Dunnom v. Bennett,* 290 F.Supp.2d 860 (S.D. **Ohio**. W.Div. 2003).

PRIMA FACIE: An investigation into this Complaint will support that the relationship between W&L and Newsome changed as a direct and proximate result of: **(a)** its knowledge of Newsome's engagement in protected activities; **(b)** Horwitz' (an attorney and Partner at W&L) ***retaliation*** against Newsome and advising W&L of not wanting to work with Newsome after Horwitz's and other whites' efforts into getting Newsome to give up rights secured under the Fair Housing Act and other governing statutes/laws failed; **(c)** Gillan was assigned to develop and create a hostile, intimidating, discriminatory, harassing, etc. environment – being assigned Newsome shortly AFTER Horwitz' refusal to work with her and Horwitz' disappointment when Newsome would not waive protected rights. Newsome was repeatedly placed in situations she felt (and a reasonable mind may find) discriminatory, prejudicial, physically threatening, humiliating, offensive, hostile, frequently occurring and interfering with the performance of job duties; **(d)** W&L having its representatives *tamper with Newsome's computer* and began to *subject her to close monitoring/supervision* and depriving her benefits afforded to other employees similarly situated; **(e)** W&L removed and destroyed evidence Newsome kept in her desk ***(Newsome kept her desk locked)*** that it knew would be incriminating in an investigation for employment violations – removing said documents with ill intent and PRETEXT; **(f)** W&L condoned such severe and pervasive retaliatory harassment by attorneys/supervisors with the intent to force Newsome out of the workplace and/or cover-up the unlawful/illegal termination Newsome was subjected to; **(g)** *W&L taking away of Newsome's job duties and giving them to* ***WHITE*** *employees was deliberately done to set the stage for her unlawful/illegal termination; moreover, to see that Newsome had nothing to do in hopes of forcing her out of the workplace. W&L's taking away of Newsome's job duties and giving to* ***white*** *employees* ***over Newsome's OBJECTIONS****. When such efforts failed, W&L created false/frivolous reasons to unlawfully/illegally terminate Newsome's employment* . **SITUATIONS created and directed by W&L**. **(h)** W&L's termination was done to provide Breed's former employer/law firm (SMR&S) with an undue/unlawful/illegal advantage over Newsome in a lawsuit to be filed against her on behalf of Stor-All. For Newsome to remain in the employment of W&L would have created a CONFLICT OF INTEREST in SMR&S representation of Stor-All and W&L representation of Newsome.

> Under Title VII, existence of retaliatory hostile work environment is based upon frequency of retaliatory conduct, its severity, whether it is physically threatening or humiliating, or mere offensive utterance, and whether it unreasonably interferes with an employee's work performance. *Donahoo v. Ohio Dept. of Youth Services,* 237 F.Supp.2d 844 (N.D. **Ohio**.E.Div. 2002).

W&L failed to exercise reasonable care to prevent and correct promptly the discriminatory and harassing behavior. Instead, W&L elected to go forward and continue such practices thinking that it would be successful in masking such behavior. However, to W&L disappointment and its pattern-of-practices it simply continued to change its plans of operation for such discriminatory employment

practices. Practices which resulted in W&L goin g into Newsom e's desk *(**Newsome kept her de sk locked)***, rem oving and destroy ing docum entation that it knew would be incriminating an EEOC/OCRC and/or g overnment agency investi gation for e mployment violations. *Now W &L is disappointed to find that Newsome maintained other copies and refuses to forego protected rights in the recovery of damages for the discriminatory termination/discharge.*

72. An investigation into this instant Charge will support that Newsom e timely, properly and adequately took advantage of any preventive or corrective opportunity and reported employment violations to W&L. Moreover, based on W&L's area of specialty in the law (Employment), it knew and/or should have known that it was acting in vi olations of e mployment/labor laws go verning said matters. Ne wsome placed W&L on notice of concerns of its em ployment violations. Rather than correct such violations, W&L m ade a conscious decision to proceed. Doing so in that it saw the impact and affect such unlawful/illegal em ployment practic es were havi ng on Newsome mentally, physically, emotionally, etc.

> Employer's affirm ative d efense to retaliatory harassm ent claim s under Title VII i s com prised of the following elements: (1) that em ployer exercised reasonable care to prevent and correct prom ptly any harassing behavior, and (2) that plaintiff em ployee unreason ably failed to take adva ntage of a ny preventative or corrective opportunities provided by employer to avoid harm otherwise. *Donahoo*.

73. **PRIMA FACIE: (a)** Newsome is an African-American female and a member of the protected group; **(b)** Newsom e was subjected t o unwelcomed harassm ent and discrimination to which she ***repeatedly*** *objected*; **(c)** The discrimination/harassment complained of is based on race in that Newso me is African-Am erican and m ay be based on her sex (fem ale); **(d)** The discrimination/harassment complained of had the purpose and effect of unreasonably interfering with Newsome's work and pe rformance of her duties. Moreover, a work environment to be ***retaliatory, hostile, prejudicial, discriminatory, intimidating, hostile, harassing, threatening***, etc; **(e)** W&L was timely, adequately and properl y placed on notice of supervisors' violations (including January 9, 2009 termination) – see EXHIBIT "13" attached hereto. Nev ertheless, W&L did nothing to correc t or deter suc h em ployment violations; **(f)** W&L fam iliar with the liability it incurred through the unlawful/illegal termination of Newsom e's employment attempted to cover-up or m ask employment violations by removing and destro ying e vidence it knew and/or shoul d have kno wn would b e incriminating in legal actions brought against it. W&L is now disappoint ed to find that Newsom e had retained another copy of her *Wood & Lamping LLP Policies and Proced ures Manual*; **(g)** Since Newsome's termination, W&L has ***repeatedly*** attem pted to get Newsom e to waive prot ected rights and agree no t to bring legal action ag ainst it in ex change for e mployment benefits to which she is AUTOMATICALLY entitled to. *Said demand by W&L is **clearly in violation** of Newso me's rights and neither is it lawful for W &L to demand suc h relief that is prohibited by statutes/laws*. See EXHIBIT "15" attached hereto and incorporated by reference as if set forth in full herein.

> To establish a claim against em ployer under state civil rights law for hostile-work-environment sexual or racial harassment, a plaintiff must establish (1) that the em ployee was a member of the protected class, (2) that the employee was subjected to unwelcom e harassment, (3) that the harassm ent co mplained of was based up on sex or ra ce, (4) that the harassm ent had the purpose or effect of unreasonably interfering with the em ployee's work perform ance or creat ing an intimidating, hostile, or offensive work environm ent, and (5) the existence of respondeat superior li ability. R.C. §§4112.02(A),

4112.99. *Bell v. Cuyahoga Commu nity College,* 717 N.E.2d 1189 (**Ohio**.App.8.Dist. Cuyahoga.Co., 1998)

Courts em ploy the **same criteria** use d for analy zing hostile-work-environment sexual harassm ent *when consi dering claims for* **racial harassment** broug ht under state civil rights statute. R.C. §§ 4112.02(A), 4112.99. *Bell v. Cuyahoga.*

To prevail on claim of hostile work environment racial harassm ent under state antidiscrim ination statute, the harassm ent com plained of must be sufficiently severe or pervasive to alter th e conditions of the victim's em ployment and create an abusive wo rking environ ment. R.C. §4112. 01 et seq. *Tarver v. Calex Corp.,* 708 N.E.2 d 1041 (**Ohio**.App.7. Dist.Mahoning.Co., 1998)

*To establish a clai m against an em ployer for hostile work environment created by sexual or rac ial harassm ent, a plaintiff m ust establish: (1) the e mployee was a m ember of the protected class, (2) the em ployee was subjected to unwelcom e harassm ent, (3) the harassment com plained of wa s ba sed upon se x or race, (4) the harassment had the purpo se or effect o f unreasonably interfering with the employee's work performance or creating an intimidating, hostile, or offensive work environm ent, and (5) the exis tence of respondeat superior liability. R.C. § 4112.02(A) (2001); *Courie v. ALCOA ,* 832 N.E.2d 1230 (**Ohio**.App.8. Dist.Cuyahoga.Co., 2005)

74. Because W&L 's racial com position is m ajority white, African-Americans were subjected to discriminatory practices a nd treatm ent that W&L did not subject white em ployees to. Therefore, a reasonable mind may conclude W&L's workplace was permeated with di scrimination, ridicule and practices severe enough to alter Newsome's employment - to which it adversely affected and resulted in her termination. Moreover, W&L repeatedly allowing such unlawful/illegal practices and abusive working environment.

*Title VII is violated when the workplace is perm eated with discriminatory intim idation, ridicule and insult sufficiently severe or pervasive to alter the conditions of the victim 's em ployment and create an ab usive worki ng environment. *Peterson v. Buckeye Steel Casings,* 729 N.E.2d 813 (**Ohio**.App.10 Dis.Franklin.Co., 1999)

75. Because of the severe and pervasive racial discrim ination, harassm ent, retaliation, systematic d iscrimination, etc., Newsom e has brought this instant Charge. A Charge necessary to address and expose the continued systematic discriminatory practices; moreover, the *unlawful/illegal* ***STALKING*** of Newsom e from em ployer-to-employer and state-to-state to preclude/deprive her of employment opportunities. W&L creating situations to force Ne wsome out of the workpl ace/to quit. When such efforts failed, W&L unlawfull y/illegally term inated Newsom e's em ployment. Newsome's termination coming ***without*** *just cause*.

*Under state statute governing unlawful discriminatory pract ices, a plaintiff m ay bring a cl aim in which he can sh ow that severe and pervasive ha rassment on the basis of race altered the conditio ns of employment by creating a hostile work environm ent. R.C. § 4112.02. *Rice v. Cuyahoga Cty. Dept. of Justice,* 2005-**Ohio**-5337.

> To constitute a hostile work environment, conduct must be severe or pervasive enough to create an environment that a reasonable person would find hostile or abusive and that the victim must subjectively regard as abusive. R.C. § 4112.02. *Rice v. Cuyahoga.*

VI. HOSTILE:

76. PRIMA FACIE: Newsome believes an investigation will yield **(a)** she is an African-American female and, therefore, a member of the protected class; **(b)** she was subjected to unwelcomed repeat harassment and discriminatory practices – ***systematic*** *discrimination*; **(c)** said harassment was based on race and/or sex – no males were subjected and/or required to endure the harassment/ discriminatory treatment that Newsome had to endure during her employment; **(d)** the harassment unreasonably interfered with Newsome's work performance and affected her physically, mentally and emotionally; moreover, created a very hostile, offensive and intimidating work environment to which Newsome repeatedly objected to; **(e)** there is a basis for W&L's liability – *W&L engaged and/or allowed its employees to engage in such unlawful/illegal employment practices based on Newsome's engagement in protected activity and her refusal to abandon rights secured to her under the applicable statutes/laws, its knowledge of Newsome's filing of EEOC charges; its knowledge of Newsome's engagement in investigations and/or lawsuits*. W&L's knowledge that it violated the laws attempted to cover-up and/or mask such unlawful/illegal employment practices by removing and destroying evidence that it knew would be incriminating. Moreover, attempted to get Newsome to agree to not bring legal action to obtain recovery of liability sustained as a direct and proximate result of civil/criminal wrongs leveled against her – See EXHIBIT " 15" attached hereto and incorporated by reference.

> To prove claim of hostile work environment harassment based upon sexual harassment, plaintiff-employee must show by preponderance of evidence that (1) she was member of protected class, (2) she was subjected to unwelcome. . . harassment, (3) the harassment was based on sex, (4) harassment unreasonably interfered with her work performance by creating hostile, offensive, or intimidating work environment, and (5) there is basis for employer liability; same prima facie analysis is applicable to claim of hostile work environment based upon race with third prong requiring plaintiff to establish that she was subjected to unwelcome racial harassment. Civil Rights Acct of 1964, § 703(a)(1), 42 U.S.C.A. § 2000e-2(a)(1). *Rogers v. DaimlerChrysler Corp.,* 2008 WL 5061636 (N.D. **Ohio**.W.Div., 2008).

W&L's Partners, Executive Committee, Supervisors having full knowledge and/or should have known it was acting in violation of Newsome's protected rights, Title VII, Civil Rights Act, employment laws, etc. Moreover, that it initiated a plan to cover-up such violations in hopes that Newsome would not have evidence to expose such employment violations. *Therefore, a reasonable mind may conclude that W &L's methods of covering up their civil/criminal wrongs is a* ***common pattern-of-practice*** *with it and its knowledge of* ***willful*** *and* ***blatant*** *employment violations*.

77. **PRIMA FACIE: (a)** the harassment W&L subjected Newsome to was unwelcomed. **(b)** W&L's harassment of Newsome was based on her race and sex. **(c)** W&L's harassment of Newsome was sufficiently severe or pervasive to affect the terms, conditions, or privileges of her employment, or any matter directly or indirectly related to Newsome's employment. **(d)** The harassment W&L subjected Newsome to was committed by supervisor(s) and W&L, through its

supervisory personnel, knew and/or should have known of the harassment because Newsome complained and W&L was allowing supervisory personnel to engage in the harassment leveled against Newsome. W&L failed to take immediate and appropriate corrective action – instead went to great lengths (*i.e. breaking into Newsome's desk that she kept locked for purposes of removing and destroying documents incriminating and supporting W&L discriminatory practices; moreover* ***failure*** *to implement polices/procedures*) to cover-up/mask employment violations.

> In order to establish a claim of hostile-environment sexual harassment, the plaintiff must show (1) that the harassment was unwelcome, (2) that the harassment was based on sex, (3) that the harassing conduct was sufficiently severe or pervasive to affect the terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, and (4) that either (a) the harassment was committed by a supervisor, or (b) the employer, through its agents or supervisory personnel, knew or should have known of the harassment and failed to take immediate and appropriate corrective action. R.C. §4112.02 (A). *Stachura v. Toledo,* 2008-**Ohio**-3581 (**Ohio**.App.6. Dist.Lucas.Co., 2008)
>
> Harassment because of sex need not be explicitly sexual; if sufficiently patterned or pervasive, any harassment or unequal treatment of an employee that would not occur but for the sex of the employee is unlawful. R.C. § 4112.02(A). *Stachura.*
>
> In order to determine whether the harassing conduct was severe or pervasive enough to affect the conditions of the plaintiff's employment, the trier of fact, or the reviewing court, must view the work environment as a whole and consider the totality of all the facts and surrounding circumstances, including the cumulative effect of all episodes of sexual or other abusive treatment. R.C. § 4112.02(A). *Stachura.*

VII. RETALIATION:[17]

78. **PRIMA FACIE: (a)** Newsome engaged in protected activities. **(b)** At the time of Newsome's termination, W&L had knowledge of her engagement in protected activities. **(c)** W&L took an adverse employment action against Newsome in retaliation to her engagement in protected activities. **(d)** There is a **causal connection** between Newsome's engagement and protected activities, W&L's knowledge of said engagement and W&L's termination of Newsome's employment.

79. **PRIMA FACIE: (a)** W&L had actual and imputed knowledge that Newsome participated in protected activities. Based on said knowledge, W&L retaliated against Newsome for

*Schwartz, Manes, Ruby & Slovin.

[17] *Mack v. B.F. Goodrich Co.,* 699 N.E.2d 97 (Ohio.App.8.Dist.Cuyahoga.Co., 1997) - To establish a prima facie case of retaliatory discharge, an employee must produce the following evidence: (1) that she engaged in protected activity; (2) that her protected activities were known to employer; (3) that employer took adverse employment action against her and stated reasons that were not the true retaliatory reason; and (4) that there is a **causal connection** between the protected activity and the adverse employment action. *White v. Mt. Carmel Med. Ctr.,* 780 N.E.2d 1054 (Ohio.App.10.Dist.Franklin.Co., 2002) - To support a claim for retaliatory discharge, an employee must show that: (1) she engaged in a protected activity; (2) she was the subject of an adverse employment action; and (3) a causal link existed between the protected activity and the adverse action.

her engage ment in protected activities and for her exercising rights secured to her under the applicable statutes/laws governing said m atters. **(b)** W&L's termination of Newsome's employment was in retaliation and in efforts of providing thos e involved in matters involving protected activities she engaged in with an u ndue/unlawful advantage over Newsome. W&L 's discriminatory practices were deliberately done to cause Newsome financial devastation and ruin to preclude/prevent her from exercising p rotected rights and pu rsuing justic e**. (c)** W&L aware that it was comm itting civil/criminal wrongs re moved and destroyed evidence from Newsome's desk ***(Newsome kept her desk locked)*** that would be incrim inating in any legal action brought b y Newsom e ag ainst it. **(d)** W&L's unlawful/illegal acts were done so that it could provide EEOC/OCRC and/or government agency with information regarding Newsome's engagement in p rotected activity (**as a de fense**) and the taking of Newsom e's *Wood & Lamping LLP Policies and Procedure s Manual* wa s done with malicious intent to cover-up such employment violations and e fforts to prevent government officials from obtaining inform ation which would yield ev idence of violation of its own p olicies and procedures**. (e)** *W&L ter mination of Newsome's employment was also do ne with mali cious intent to aid Thoma s J. Breed's (attorney Newsome a ssisted at W& L) former law f irm (Schwartz, Manes & Ruby [**"SMR&S"**]) with an undue/illegal advantage over Newsome in a lawsuit W &L was advise d would be filed against her on behalf of SMR& S' client .* W&L 's term ination of Newsom e's employment occurred on January 9, 2009 – the sam e date that SMR&S' client's (Stor-All) Amnesty Weekend began. See EXHBIT " 18" attached her eto and inco rporated herein as if set forth in full herein. **(f)** SMR&S' client providing Newsome with a fax at he r place of employment to place W&L on notice of the matter and problems it was having with Newsome. See **EXHIBIT "21"** – *December 9, 2008 Fax of Lori Whiteside/Stor-All to Newsome* attached hereto and incorporated by reference.

PLEASE T AKE NOTICE: *That while W &L provided its employees with individual fax numbers* – See **EXHIBIT "22"** – W&L Phon e/***Individual*** Fax Directory attached hereto and incorporated herein, *SMR&S' client (**without Newsome's k nowledge a fax was being sent – Newsome obtained seeing it laying a round**) elected to send its Decembe r 19, 2008 fax to W &L's main number for ill purposes and in furtherance of the **systematic** discrimination W& L was subjecting Newsome to. Newsome di d not provide Stor-All's representativ e with W &L's main fax number. Stor-All's repre sentative submitted fax addressing matter it was having with Newsome to place W &L on notice in that it would be seeking W &L's assistance in terminating Newsome's employment – due to CONFLICT OF INTEREST that existed because Stor-All's attorney worked with Breed's former law firm. The acts of Stor -All and W &L were willful a nd malicious with inten t to bring about the ter mination of Newsome's em ployment. W &L's termination of Newsome 's employment was to p rovide SMR&S' client with an undue/unla wful advantage over New some in the lawsuit W &L was advised would be filed against her. W &L having knowledge that under its "REPRESENTATION" policy, Newsome could request representation in legal matter SMR &S brought on behalf of Stor-All. Thus, would crea te a CONFLICT OF INTEREST due to Breed's former employment and relationship to SMR&S.* ***It is important to note that ALL of those engaging in such unlawful/illegal activities being WHITE. It is important to note, decision makers at W& L reaching a decision to terminate Newsome's em ployment were ALL WHITE. Decision makers were aware of Newsom e's engage ment in pro tected activities. There is a caus al connection between Ne wsome's engagement i n protected activities, W&L's termination of Newsome's employment and SMR&S' filing of lawsuit against Newsome.*** – See **EXHIBIT "23"** – *February 6, 2009 Correspondence of Newsome to David Meranu*s attached hereto and incorporated by reference as if set forth in full herein.

> Employer violated § 2000e-(3)(a) b y discharging an em ployee after learning he had filed charges of discrimination against a form er employer. **EEOC Deci sion No** . 71-4 60, 1973, **EEOC Deci sions ¶** 6175.

> To establish a violation of § 2000e-3(a), it must be shown that the employer had actual or imputed knowledge that the plaintiff participated in a protected activity; and, further that based on such knowledge the discharge was in fact retaliatory – that is, motivated by the employee's participation in protected activity with the intent to retaliate against the employee for such participation, and not by unrelated legitimate business reasons. However, while retaliation must be the principal reason for the discharge it need not be the sole reason; and an employment action based in part on an unlawful consideration is not rendered lawful by the coexistence of a nondiscriminatory reason. If any element of retaliation or reprisal played any part in the discharge, no matter how remote or slight or tangential, it is in violation of the law. The trier of fact determines the reasons for the employee's discharge based on reasonable inferences drawn from the totality of facts, the conglomerate of activities, and the entire web of circumstances presented by the evidence. In examining the evidence, the trier of fact may consider such factors as the timing of the discharge; departures from customary dismissal notice or procedures afforded other employees; harassment, surveillance, or other disparate treatment or special conditions of employment in comparison to similarly situated employees or to prior treatment of the plaintiff immediately following the protected activity and leading up to the discharge; threats or retaliation against other employees for engaging in similar conduct; absence of a reasonable alternative reason for the discharge. . . 7 Am Jur POF 2d 38, 39. (*Tidwell v. American Oil Co.,* 332 F.Supp. 424)

SMR&S' attorney, David Meranus (a white male), disappointed that he had lost legal argument before the Hamilton County Municipal Court regarding transfer of case to higher court filed by Newsome in a motion to transfer matter to higher court, at the signing of Magistrate's Order, advised of his knowledge of Newsome's engagement in protected activity. See **EXHIBIT "24"** – February 6, 2009 correspondence to Meranus *with **a copy** being sent to W&L's representatives* attached hereto and incorporated by reference. Therefore, a reasonable mind may conclude that W&L had knowledge also of Newsome's engagement in protected activities and agreed to termination of her employment to provide SMR&S and its client with an undue/unlawful/illegal advantage over Newsome in the lawsuit filed against her; moreover, to financially devastate Newsome to preclude her from defending against the lawsuit W&L knew SMR&S would be filing on behalf of its client. *SMR&S' counsel supporting concerns of Newsome that she was **being STALKED** from **employer-to-employer/job-to-job** and **state-to-state** IN **RETALIATION** of her engagement in protected activities – filing of EEOC Charge*. **UNLAWFUL/ILLEGAL PRACTICES** *being done **to deprive** Newsome **equal employment opportunities** for exposing and/or reporting employment violations*.

80. *The unlawful/illegal practices of SMR&S, its clients and others STALKING Newsome from job-to-job/state-to-state to contact her employer (s) of her engagement in protected activities was of serious concerns to Newsome, that in December 2008, Newsome went to Washington, D.C. (as mentioned in February 6, 2009 correspondence to Meranus) to address such CRIMINAL acts. Moreover, the conversation with Meranus confirmed Title VII violations in which W&L engaged in with SMR&S.*

81. To establish a violation of ~2000e-3(a), it must be shown that employer had actual or imputed knowledge that the plaintiff participated in a protected activity (7 Am. Jur. Proof of Facts 2d

38, 39; EEOC Decision No. 71-100 0, 1973 CCH EEOC Decisions ¶6194; EEOC Decision No. 70-840, 1973 C CH EEOC Decisions ¶6155), and fu rther, that based on such knowledge t he discharge was in fact retaliatory - that is, m otivated by the em ployee's participation in protected activity with the intent to retaliate ag ainst the employ ee for su ch participation, and not by unrelated legitim ate business reasons.

82. **PRIMA FACIE:** W&L term inated Ne wsome's em ployment because of: **(a)** its knowledge t hat Newsom e had filed and/or would be filing EEOC c harge(s) aga inst another employer; and **(b)** its knowledge that Newsome was engaged in protected activities (past, present and knowledge of future intent). While W&L knew that its termination and retaliation against Newsom e for her engagem ent in exercising her rights and/ or engaging in protected activities were acts prohibited by statutes/laws and infri nged upon her rights, it nevertheless, proceeded t o comm it said illegal/unlawful acts agai nst Newsom e. Therefore, *Newsome is entitled to an injunction of and against W &L restraining it from ref using to employ her bec ause she has filed EEOC complaint s against empl oyers in the past and its knowledge of he r intent to do so in the future as well as knowledge of Newsome's engagement in protected activities (under the applicable statutes/laws*).

> *Barela v. United Nuclear Corp.,* 3 17 F. Supp. 1217 (1 970) - **(n. 1)**Refusal to process pla intiff's application for e mployment simply because he had filed with Equal Em ployment Opportunity Commission a charge against another em ployer violated Civil Rights Act. **(n.2)** Filing of charge against employ er with Equal Employment Opportunity Comm ission is protecte d right unde r Civil Righ ts Act and conduct infringing upon that ri ght cannot be perm itted. Civil Rights Act of 1964, § 704(a), 42 U.S.C.A. § 2000e-3(a).
>
> . . .(N.2) - T he evidence will support no other infe rence than that United . . . did not want the plaintiff only because of the charge against Kerr. . . The filing of such a charge **is a <u>protected</u> right** under the Civil Rights Act, and conduct infringing upon that right **<u>cannot</u>** be permitted. See *Pettway v. American Cast Iron Pipe Co.,* 411 F.2d 998 (5th Cir. 1969): *Equal Employme nt Opportun ity Commission v. United Ass'n . of Journeymen and Ap prentices of the Plumbing and Pipefitting Indus. of the United States and Canada, Local Union No. 189,* 311 F.Supp. 464 (S.D.**Ohio**, 1970).
>
> (n.3) Plaintiff was entitled to injunction restraining defendant from refusing to process his application for em ployment simply because he had a com plaint pending before E qual Em ployment Opportunity Commission against another em ployer. Civil Righ ts Act of 1964, § 704(a), 42 U.S.C.A. § 2000e-3(a).

> ***Equal Empl oyment Opportunity Commission*** *v. United Ass'n of Journeymen,* 311 F.Supp. 464 (D. C.**Ohio** 1970) - **(n.2)** By utilizin g statutorily established m achinery of the equal em ployment opportunity commission an employee **<u>is exercising a protected right</u>** and federal court cannot permit conduct which would tend to infringe on that right to be practiced with im punity. Civil Rights Act o f 1964, § 704(a), 42 U.S.C.A. § 2000e-3(a).

> *Christopher v. Stouder Memorial Hosp.,* 936 F.2d 870 (C. A.6.**Ohio**, 1991) - Fact that Congress used words "any individual" in provision making it unlawful e mployment practice to refuse to hire or

> discriminate against person, while it used term "employees or applicants for employment" in retaliation provision of Title VII, did not limit class of persons entitled to sue for retaliation; rather, **Congress intended to prohibit** discrimination on basis of race or sex and *to **prohibit** discrimination against person who engages in protected activity under Title VII*. Civil Rights Act of 1964, §§ 703, 704, as amended, 42 U.S.C.A. §§ 2000e-2, 2000e-3.

83. **PRIMA FACIE:** An investigation into this instant Complaint will support a prima facie case[18] wherein W&L retaliated under Title VII against Newsome in that: **(a)** Newsome engaged in activity protected under Title VII – W&L having knowledge of Newsome's filing of past EEOC charges, filing of lawsuits addressing said violations, and engagement in other protected activities, etc.; **(b)** Newsome's exercise of her civil rights as well as her intentions to bring additional legal actions for civil rights violations were known by W&L; **(c)** thereafter, W&L made a willful, conscious and deliberate decision which adversely affected Newsome's employment – terminating employment; and **(d)** there was a **causal connection** between Newsome's engagement in the protected activities made known to W&L and its adverse action in the retaliating, harassing, and terminating employment, etc. of Newsome. Moreover, W&L engaged with others (by conspiring) to deprive Newsome of protected rights and infringe upon said rights.

> ***E.E.O.C.** v. Avery Dennison Corp.,* 104 F.3d 858 (C.A.6. **Ohio**,1997) - To establish prima facie case of retaliation under Title VII, employee must prove by preponderance of evidence that: (1) employee engaged in activity protected by Title VII; (2) employee's exercise of his or her civil rights was known by employer; (3) thereafter, employer took employment action adverse to employee; and (4) there was causal connection between protected activity and adverse action. Civil Rights Act of 1964, § 704(a), 42 U.S.C.A. § 2000e-3(a).

> *Wille v. Hunkar Lab., Inc.,* 724 N.E.2d 492 (**Ohio**.App.1.Dist. **Hamilton.**Co.,1998) - To state a claim of retaliation, an employee must demonstrate that: (1) she engaged in a protected activity; (2) employer knew of her participation in the protected activity; (3) *employer engaged in retaliatory conduct;* and (4) *the alleged retaliatory action followed employee's protected activity sufficiently close in time to warrant the inference of retaliatory motivation.*

84. **PRIMA FACIE:** An investigation will yield evidence that W&L knew that: **(a)** Newsome during her employment had filed a complaint with the applicable agency regarding rights secured/protected under the Fair Housing Act; filed the appropriate complaint with the applicable agencies addressing civil rights violations, filed a complaint with the Federal Bureau of Investigations ("FBI"), Newsome's engagement in protected activities (filing of past EEOC charges and intent to bring future legal lawsuits) – engagement in pending lawsuits involving

[18] *DiPietro v. Morgan Stanley DW Inc.,* 517 F.Supp.2d 1016 (S.D.Ohio.W.Div., 2007) - To establish a prima facie case of retaliation, employee must show that (1) he engaged in a protected activity; (2) employer was aware of such activity; (3) employer thereafter took adverse employment action against employee; and (4) there was a **causal connection** between the protected activity and the adverse employment action. *Spengler v. Worthington Cylinders,* 514 F.Supp.2d 1011 (S.D.Ohio.E.Div., 2007) - Under McDonnell Douglas burden-shifting framework, employee must make out prima facie case of retaliation by showing that (1) he or she engaged in a protected activity, (2) employer had knowledge of employee's protected conduct, (3) employer took an adverse employment action towards employee, and (4) there was a **causal connection** between the protected activity and the adverse employment action.

Constitutional/Civil Rights violations, etc.; **(b)** W&L having knowledge of Newsome's participation and her opposition to said civil rights violations; **(c)** W&L terminated Newsome's employment for purposes of: unlawfully/illegally aiding others, providing others to which Newsome brought actions and would be bringing legal actions with an undue advantage – terminating Newsome's employment to financially devastate her, prevent her from seeking legal recourse (i.e. for lack of financial income would provide those Newsome opposed with an undue and/or unlawful/illegal advantage). W&L having knowledge and/or should have known that one of its attorneys, Thomas J. Breed 's, former law firm (SMR&S]) was about to bring a lawsuit against Newsome. **W&L <u>assigning</u> <u>Newsome</u> to Breed to provide him with legal support**. Therefore, in an effort to provide SMR&S with an undue advantage (i.e. LEGAL and financial advantage, etc.) over Newsome, W&L terminated Newsome's employment in efforts of aiding SMR&S. W&L having knowledge of SMR&S' client's legal issues with Newsome because SMR&S client (Stor-All) sent Newsome a fax at her place of employment for W&L to review and notification of the legal issues going on [See EXHIBIT "21" - fax from Stor-All's representative]; moreover, SMR&S' knowledge of Newsome's engagement in protected activities – see correspondence to Meranus of February 6, 2009 at EXHIBIT "_" attached hereto. Said knowledge of SMR&S knowledge of Newsome's engagement in protected activity was confirmed on February 6, 2009, at a hearing in which SMR&S lost its argument regarding transfer of a lawsuit to a higher court 's jurisdiction – Newsome filing the appropriate Motion to Transfer and court granting her request for transfer. Disappointed with this loss Stor-All's attorney, David Meranus, made it known to Newsome of his knowledge of her engagement in protected activity . Therefore, a reasonable mind may conclude that if Meranus had knowledge of such information, that W&L had knowledge of Newsome's engagement in protected activities and reached an agreement to terminate her employment to provide SMR&S and its client (Stor-All) with an undue advantage in the lawsuit W&L knew and/or may have known was going to be filed against Newsome; moreover, effort taken by W&L and SMR&S to eliminate the CONFLICT OF INTEREST both knew would arise if Newsome were to remain in the employment of W&L because of the support Newsome provided Breed.

85. W&L using such information for unlawful/illegal purposes – to deprive Newsome of employment and rights to engage in protected activities. Evidence further establishing a **<u>causal connection</u>** between Newsome's opposition to employment violations, her participation or in protected activities, SMR&S' knowledge of Newsome's engagement in protected activity and employment with W&L, and W&L's adverse action taken against Newsome to terminate her employment.

> *Zanders v. National R.R. Passenger Corp.,* 898 F.2d 1127 (C.A.6.**Ohio**,1990) - Plaintiff claiming retaliatory discrimination must show protected participation or opposition under Title VII, alleged retaliator's knowledge of that participation or opposition, employment action or actions disadvantaging persons engaged in protected activities, and **<u>causal connection</u>** between protected participation or opposition and employment action, that is, retaliatory motive playing part in adverse employment action. Civil Rights Act of 1964, § § 704, 704(a), 42 U.S.C.A. §§ 2000e-3, 2000e-3(a).

PRIMA FACIE - <u>CAUSAL CONNECTION</u>: (a) W&L's termination of Newsome occurred on January 9, 2009. **(b)** SMR&S' client's (Stor-All's) Amnesty Weekend was set for January 9th thru January 11th. Stor-All advising Newsome of Amnesty Weekend via facsimile at the number assigned Newsome by W&L. See **EXHIBIT "18"** – *12/19/08 Fax From Lori Whiteside/Stor-All* attached hereto and incorporated by reference. **(c)** On January 9, 2009, Stor-All provided Newsome with "NOTICE TO LEAVE THE PREMISES." See **EXHIBIT "19"** attached hereto and

incorporated by reference. **(d)** *While Stor-All provided Newsome with faxes at W &L during her employment,* ***on the date of Newsome's termination*** *Stor-All did not provide her with the "Notice to Leave the Premises" via facsimile (as it did with the 12/19/08 fax and others)* ***because it knew that W&L was terminating Newsome's employment on said date***. **(e)** On January 20, 2009, SMR&S on behalf of Stor-All filed a lawsuit against Newsome.

86. **PRIMA FACIE:** Newsome believes an investigation into this instant Complaint will show a prima facie case, that: **(a)** she engaged in activity protected by Title VII – as early as October 2006, W&L was aware of what issues Newsome was having with her landlord and claims of violation under the Fair Housing Act. While W&L allowed one of its attorneys (Elizabeth Horwitz) to assist Newsome with this matter, Horwitz became upset when Newsome refused to waive her rights under the Fair Housing Act, Civil Rights, etc. *Horwitz is a* ***white*** *female as well as landlords and their counsel being* ***white****. Therefore, those committing such civil wrongs and attempting to get Newsome (African-American) to waive her rights under the Fair Housing Act and applicable statutes/laws were white and acting in clear violation of laws prohibiting their activities.* Horwitz in retaliation requested W&L remove Newsome from providing her legal assistant/support in which it obliged said request; **(b)** Newsome in the preservation of her rights proceeded to bring legal action as well as followed up with filing the applicable charge under the Fair Housing Act with the appropriate agency – to which W&L was fully aware and/or should have known Newsome had elected to exercise protected rights – as well as the criminal complaint Newsome filed with the FBI. Moreover, W&L knew and/or should have known of past, present as well as Newsome's intent to bring future legal actions for violations to her civil rights and/or protected rights; **(c)** W&L took and adverse employment action against Newsome – retaliating against Newsome, subjecting her to harassment and hostile work environment, which eventually led to the terminating Newsome's employment - immediately following the accommodation of Horwitz' requests, W&L assigned an attorney (Brian P. Gillan) to Newsome for purposes of retaliation, harassment, hostile and discriminatory treatment. *Gillan being assigned Newsome for purposes of creating a hostile and discriminating environment for purposes creating a situation to mask W&L's unlawful/illegal animus and criminal/civil wrongs it engaged in, in terminating Newsome's employment. Moreover, to create an environment so harassing, hostile, etc. to force Newsome to quit*; and **(d)** there is a **causal connection** between W&L's knowledge of Newsome's engagement in protected activities and the pattern-of-discriminatory practices **(stalking of Newsome from job-to-job/employer-to-employer** and **state-to-state)** rendered Newsome; furthermore, a *causal connection* between W&L's engagement with others to infringe upon the protected rights of Newsome. Such ***systematic*** discriminatory practices were done under the direction of those who are white – (i.e. majority of decision makers being white).

> *Johnson v. University of Cincinnati,* 215 F.3d 561 (C.A.6.**Ohio**, 2000) - To establish a claim under the opposition or the participation clause of Title VII, plaintiff must meet the test of a slightly modified McDonnell Douglas framework by showing, at the prima facie case stage, that: (1) he engaged in activity protected by Title VII; (2) this exercise of protected rights was known to defendants; (3) defendants thereafter took an adverse employment action against plaintiff, or plaintiff was subjected to severe or pervasive retaliatory harassment by a supervisor; and (4) there was a **causal connection** between the protected activity and the adverse employment action or harassment. Civil Rights Act of 1964, § 704(a), 42 U.S.C.A. § 2000e-3(a).
>
> **(n.7)** Under the direct evidence approach to proving employment discrimination, once the plaintiff introduces evidence that the employer terminated him *because of his* ***race*** or *other*

***protected** status*, the burden of persu asion shifts to the em ployer to prove that **it w ould hav e terminate d the plaintiff even h ad it not been motiv ated by discrimination**. Civil Rights Act of 196 4, § 701 et seq., 42 U.S.C.A. § 2000e et seq.

***E.E.O.C.** v. Ohio Edison Co.,* 7 F.3d 541 (C.A.6. **Ohio**, 1993) - Title VII section prohibiting discrimination by employer against employ ee because employ ee ha s "opposed any practice" should be broadl y construed to include claim in which employee, or his rep resentative, has opposed any unlawful em ployment practice. Civil Rights Act of 1964, § 704(a), 42 U.S.C.A. § 2000e-3(a).

87. W&L was ti mely, properly and adequately placed on notice as to the crim inal/civil wrongs rend ered Newso me on October 9, 2008. Acts resulti ng as a direc t and proximate result of those committing such c riminal acts due to ***knowledge of Newsome's e ngagement in protected activities*** and relying on those in positions to deter such unlawful/illegal ***actually engaging in and/or condoning such criminal activi ties***. The unlawful/illegal acts of Newsom e's landlords resulted i n Newsome having to file the appropria te criminal charge with the FBI. W &L being notified of said matters and Newsome's engagement in protected activities. See **EXHIBIT "12"** attached hereto and incorporated by reference. Further supporting that W&L had knowledge of Newsome's engagement in protected activity. *This is the matter W &L authorized Horwitz to assist Newsome with. Horwitz abruptly aba ndoning Ne wsome beca use she refu sed to waive rights secured to her under the Fair Housing Act and/or appl icable statutes/laws gove rning such matters*. Acts resulting a s a direct and proximate result of Ne wsome's landlo rd depriving her rights secured under the Fair Ho using Act; moreover, ***relying upon special favors from his attorneys and t heir relations to court officials and certain law enforcement***.

E.E.O.C. v. Ohio Edison Co., 7 F.3d 541 (C.A.6. **Ohio**,1993) - Employer may not discri minate against em ployee because em ployee opposed unlawful em ployment practice, or m ade charge, or participated in investigation, proceeding, or hearing . . .

Weaver v. Ohio State University, 71 F.Su pp.2d 789 (S. D. **Ohio**. E.Div., 1998) - Plaintiff **is not** require d to show that she engaged in formal proceedings under Title VII in order to establish retaliation claim; an in formal co mplaint to an em ployer concerning practices which are prohibited by Title VII is sufficient to c onstitute protected activity. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C. A. § 2000e et seq.

88. W&L *is **refusing to reinstate*** Newsome as required b y statutes/laws go verning said matters. W&L' s failure to reinstate Newsom e is in violation of her Constitutional/ Civil Rights. *W&L is attempting to force Newsome to forgo protected rights – i.e. by **requesting that she agree not to bring legal actions** against it in exchange **for benefits to which she is entitled to** and benefits afforded to whites and/o r those si milarly situated*. See EXHIBIT "15" *– February 4, 2009 Letter of Berninger to Newsome* at tached hereto and incorp orated b y re ference. W &L knew an d/or should have known that Newsom e would bring legal action against it for liability sustained. W&L having such knowledge m ade a conscious and willful deci sion to remove and dest roy evidence that it knew would be incriminating and support Title VII, Constitutional/Civil Rights violations, etc.

To prove a prima facie case of retaliation under Title VII or ***state employment discrimination statute***, a plaintiff must demonstrate that (1) she engaged in a

protected activity, (2) her employer knew about the protected activity, (3) her employer took adverse e mployment action against the plaintiff, and (4) there was a **causal connection** between t he protected activity and the adverse employment action. R.C. §4112.02(I). *Hollingsworth v. Time Warner Cable,* 812 N.E.2d 976 (**Ohio**.App.1. Dist.**Hamilton**.Co., 2004)

In order to establish a prim a facie case of the unlawful discrim inatory employment practice of retaliation, a plaintiff must dem onstrate (1) that she engaged in protected activity ; (2) that the em ployer knew of h er exercise of protected rights; (3) that she was the subject of adverse em ployment action; and (4) that there is a causal link between the protected activity and t he adverse em ployment action. R.C. § 4112.02(I). *Valentine v. Westshore Primary Ca re Assoc.,* 104 Fair Empl.Prac.Cas. (BNA) 917 (**Ohio**.App.8. Dist.Cuyahoga.Co., 2008)

To establish prima facie case of retaliation, em ployee is required to prove the following el ements: employ ee engaged in protected activity , such as filing claims with Ohio Civil Rights Comm ission (OCRC); em ployer kne w of employee's participation in prot ected activity ; em ployer engaged in retaliatory conduct; and causal link exists between protected activity and adverse action. R.C. § 4112.02(I). *Carney v. Cleveland Hts. –Univ. Hts. City School Dist.,* 758 N.E.2d 234 (**Ohio**.App.8. Dist.Cuyahoga.Co., 2001)

To establish a claim of retaliation under Title VII' s participation clause, plaintiff must make a prima facie case by showing that defendants discharged him because he filed a claim with the EEOC. *Johnson v. University o f Cincinnati,* 215 F.3d 561 (6th Cir. **Ohio**, 2000)

To prove a claim of retaliation, a plain tiff must establish three elements: (1) that she engaged in protected activity, (2) that she was subjected to an adverse employment action, and (3) that a causal link exists betwe en a protected activity and the adverse action. R.C. § 4112.02(I). *Peterson v. Buckeye Steel Casings,* 729 N.E.2d 813 (**Ohio**.App.10. Dist.Franklin.Co., 1999)

Employee's efforts to report to his superiors co-worker 's alleged . . . harassment and abuse of female employees constituted protected activity , for purposes of retaliatory discharge claim . R.C. § 4112.02(I). *Thacher v. Goodwill Industries of Akron,* 690 N. E.2d 1320 (**Ohio**.App.9. Dist.Summit.Co., 1997)

Opposing employer's condoning of illegal discrimination is itself protected activity for purposes of claim of retaliatory discharge. R.C. § 4112.02(I). *Thatcher.*

Employer knew of employ ee's participation in protected activity , as an element of em ployee's prim a facie c ase against e mployer for discriminatory retaliation for dem oting and firing him after em ployee participated in fellow employee's racial discrimination claim against employer for failing to provide him health care benefits; prior to fellow em ployee's cla im, em ployee questioned e mployer abo ut fellow employ ee's lack of benefits, shortl y after which fello w em ployee asked e mployer fo r benefits, Civil Rights Commission nam ed em ployee as a witness in fellow em ployee's discrimination claim bef ore it, and em ployee was the onl y witness o n

> Commission's list who could have supplied fellow employee with benefits information. R.C. § 4112.02. *HLS Bonding v. Ohio Civ. Rights Comm.,* 104 Fair Empl. Prac.Cas. (BNA) 512 (**Ohio**.App.10.Dist.Franklin.Co., 2008)
>
> Complaining to the employer about . . . harassment is a protected activity for the purposes of a claim for retaliatory discharge. *Payton v. Receivables Outsourcing, Inc.*, 840 N.E.2d 236 (**Ohio**.App.8. Dist.Cuyahoga.Co., 2005)
>
> An employee is engaged in a protected activity, for the purposes of a claim of retaliatory discharge, if she opposes a discriminatory employment action or has made a charge, testified, assisted or participated in any investigation, proceeding, or hearing concerning discriminatory employment practices. *Payton v. Receivables.*

89. *W&L created workplace situations which it knew was discriminatory in practices – i.e. taking away of Newsome's job duties and giving them to white employees. Doing so over Newsome's objections. W&L relied upon such discriminatory practices in terminating Newsome's employment. W&L relied upon such discriminatory practices in its effort to create an ALL-white workforce it is trying to create*.

90. **Newsome shared concerns with Andrea Griffith** (Human Resources Representative) **of the need to stay busy and the taking away of her job duties**. ***Newsome advising Griffith of her objections to W&L's taking away of job duties***.

> Confining member to ***menial tasks***, deny them access to same job opportunities within an existing employment as are available to members of other groups, can be just as burdensome on the affected persons which results in the denial of any work. Job assignments are recognized as a *vitally* important aspect of employment, which **must** be *tainted with improper discrimination*. [39 POF 3d 63-64]

*Race discrimination occurred in W&L's initial job assignments and transfers, and, when such assignment changes which Newsome **did not** seek **but was forced** to undergo and over her objections was carried out, W&L engaged in practices violating Title VII and/or employment laws*.

VIII. PRETEXT/BAD FAITH:

91. Wood & Lamping went into Newsome's desk ***(Newsome kept her desk locked)*** to remove and destroy documents – i.e. *Wood & Lamping LLP Policies and Procedures Manual* (revision date as of **July 2006**). Newsome's ***employment date was September 11, 2006***, although she worked at W&L as a contract employment prior to permanent employment. W&L's removal of documentation was done for purposes of destroying evidence it having knowledge would be incriminating and its intent to provide false and misleading information to government agencies should Newsome decide to bring legal action against it. A reasonable mind may conclude that W&L's taking and destroying of said evidence was for purposes of obstructing an investigation and efforts to obtain an undue/unlawful/illegal advantage over Newsome should she bring legal action. Moreover, *W&L's taking and destruction of documentation further supports premeditation, willful and malicious intent to engage in criminal/civil wrongs leveled against Newsome. W&L's taking and destruction of evidence further supports its knowledge that it was **acting in violation of its OWN** policies and procedures in the termination of Newsome's employment.* W&L did not want Newsome to have documentation to refer to that would reveal said violations of its policies and procedures. *An*

investigation into this instant Charge will support that W&L ***failed to follow proscribed procedures*** *in the handling of Newsome's request for medical leave as well as its termination of Newsome's employment.* ***W&L's removal and destruction (willful, deliberate and malicious) of incriminating evidence clearly supports PRETEXT and its acts were done in bad faith – i.e. to cover-up/mask discriminatory practices, obstruction of investigation, deprivation of equal employment opportunities, failure to abide by its own policies and procedures, etc****.*

> ***What Constitutes Evidence of Bad Faith – Generally:*** . . . the existence of an employee booklet or self-imposed policies for terminations have given rise to the application of the implied covenant and limited the common-law employment rule by restricting the employer's right to discharge employees without cause. In these cases, *the implied covenant is breached when the discharge is without good cause or when the employer* ***fails to follow the prescribed procedures*** *for terminating employees*. The implied covenant may also be violated by conduct that falls into other categories, such as retaliatory firings. . . see 48 Am Jur POF 2d 217-218

92. W&L knew and/or should have known that their termination of Newsome's employment was PRETEXT to cover-up/mask an illegal animus. During Newsome's employment, she repeatedly advised of concerns of discriminatory practices. As Newsome did with the January 9, 2009 termination. See EXHIBIT "16" - *February 2, 2009 Letter of Newsome to Paul R. Berninger* attached hereto and incorporated by reference as if set forth in full herein which states in part:

> February 2, 2009 Letter From Newsome to Paul R. Berninger:
>
> 7. **PRETEXT** on the part of Wood & Lamping can also be shown. I believe a reasonable mind and/or jury may conclude that its taking of my *Policies and Procedures Manual* was deliberate, willful and malicious. Moreover, done to cover up unlawful/illegal practices. Clearly prior to my termination Wood & Lamping had ***premeditated, calculated*** and ***well-hatched plan*** to cover-up their retaliatory and discriminatory practices. Such acts which are clearly unacceptable. Thank goodness I decided to make a copy of the Policies and Procedures Manual as well as keep my copy of the binder provided at the Seminar Julie Pugh and Heath Walsh conducted. Even the laws are aware how shady employers are in attempting to cover-up such unlawful/illegal acts. No I believe I have a valid claim.
>
> 8. It is going to be interesting to find out why others (white) felt comfortable acknowledging bringing Complaints and wanting feedback; however, when I presented mine, how Wood & Lamping retaliated; moreover, subjected to discriminatory treatment - which ultimately resulted in my termination.
>
> 9. Elimination of my job – taking away of my job duties were merely acts orchestrated by Wood & Lamping to mask their unlawful/illegal practices (discrimination and retaliation and knowledge of my engagement in protected activities). The Policies and Procedures Manual clearly states no employee

engaging in protected activities would be discriminated and/or retaliated against; however, that was not the case. Again, who am I - just let a jury decide.

10. While you mentioned economic times contributing to Wood & Lamping's decision, that is also up to a jury to decide. Let them release their financial information and of course a great deal of other information as it relates to the information they relied upon to reach their decision. Let the jury decide whether or not my termination was for non-discriminatory reasons. I really do not think so. However, that is not up to me to decide. . .

93. An investigation into this instant Charge will support that W&L's termination of Newsome's employment violated policies and procedures as set forth in its *Wood & Lamping LLP Policies and Procedures Manual* and its *Employer's Guide*. This Employer's Guide was created by W&L and is provided to the public.

94. An investigation into this instant Charge may yield that W&L failed to investigate the harassment and discrimination reported by Newsome. Said failure was a direct and proximate result of its knowingly creating *a hostile, intimidating, discriminatory, threatening, harassing and discriminatory* work environment for purposes of forcing Newsome to quit and/or creating situations for purposes of covering-up/masking the unlawful/illegal employment termination to which it subjected Newsome to.

> ***Employment Termination Policies:*** No particular form for an employee booklet or personnel pamphlet is required before the implied covenant may be invoked to condition the termination of an at-will employee upon a showing of good cause. *All that is required is that the booklet describe what conduct constitutes ground for dismissal and what activities of employees warrant disciplinary action short of discharge*. Where this requirement is met, the court will hold the employer to something approximating a due process standard in determining whether the employer acted in good faith. . . Thus, *the issue was whether the employee had received the required warning provided by the booklet*. .. The court held that a covenant of good faith was implied in the employee's employment contract, and that there was a triable issue of fact as to whether the employer had afforded the employee the process required by the employee booklet.. . .The information upon which the employee relies as an objective manifestation of the employer's implied promise of job security in exchange for good performance may be entirely informal. *A formal printed booklet that is routinely distributed to new workers* ***is not*** *always required, and* ***neither is a statement*** *outlining the employer's termination procedures. . . The court also held that an employee booklet with termination policies* ***was not*** *essential to invoke the implied covenant.* . . Where the employee pamphlet or the employer's personnel policies prescribe a procedure for terminating at-will employees and imply that employees will be dismissed only for cause, *the employer* ***has an affirmative duty*** *to carry out its function* ***in good faith*** *and* ***to deal fairly*** *in determining to discharge an employee* . . . The employer's good faith may be evidenced by the fact that the employer performed all of the investigation, hearing and

> evaluative processes strictly in accordance with the provisions of its policies or the em ployee booklet. . . *On the other hand, wh ere the evidence shows that the process w as incomple te and* ***negligently*** *conducted, and included the* ***deliberate alteration of the employee's personnel file*** *in order* ***to document charges aga inst the emp loyee,*** *such evidence may not only result in a finding o f bad faith on the employer's part but also* ***lead to the imposition of punitive damages*** *for* ***oppression*** *and* ***malice***. . . .An expert witness testifi ed on plaintiff's behalf that the investigation of the charg es against her had been incom plete and that, in the expe rt's opinion, the dism issal had been unjustified. On th e em ployer's appeal, th e court affirm ed a judgment awarding pl aintiff contract dam ages, com pensatory damages and punitive damages. See 48 Am Jur POF 2d 218 – 222.

95. ***Violation of Employee Handbook Rules:*** Employee hand books or manuals are frequently used as a basis for implied-in-fact contract rules. An employee handbook may give rise to an implied-in-law contractual obligation. Thu s, although there is som e authority to the contrary, it has been rec ognized that the fair dealing portion of the covenant gives the em ployee the benefit of the rules and regulations prom ulgated for his pro tection, as in an em ployee handbook. While the procedures for discharge in an em ployee handbook do not necessaril y create a contract right in the employee, the employee's dismissal without following the procedures outlined in the handbook m ay be evidence of bad faith by the employer. 82 Am Jur 2d Wrongful Discha rge § 72 (*Gates v. Life of Montana Ins. Co.,* 638 P.2d 1063 (1982)).

96. An investigation into this instant Charge m ay yield that *W&L* ***manipulated*** *job assignments which adversely affected Newsome*. Therefore, precluding any a ssertion W&L m ay attempt to assert unde r the at-will em ployment doctrine. W&L hiring Newsom e as an Estate Planning Co ordinator; however, in its m anipulation of job assignm ents, too k awa y duties for sai d position and gave to whi te employees. *W&L doing so over Newsome's objections*. At the time of Newsome's termination she was assigned and provided legal support to Thomas J. Breed. Thomas J. Breed is a Partner and the **Department Head** *of the Estate Planning Group* as well as a member on the Executiv e Committee (Comm ittee making dec ision on hiring and termi nation). Breed being a member of the group au thorizing and/or approvi ng the termination of Newsom e's em ployment. *Members of the Executive Committee are* ***ALL*** *white*. Breed being the attorney to which his form er law firm (SMR&S) at the time of Newsome's termination would be filing a lawsuit against Newsome – a lawsuit that was filed on or abo ut January 2 0, 2009 against Newsom e. *To allow Newsome t o remain in th e employment of W &L and continue to assist B reed would ha ve created a CONFLICT OF INTERE ST for SMR &S in its representation of Stor-All in the lawsuit filed against Newsome*. W&L **scheming**, **conniving**, and **deviously** wo rking with SMR&S to deprive Ne wsome equal employment opportunities and rel ying upon relationships. An inve stigation will y ield that Newsome's termination of employment with W&L was maliciously motivated.

> ***Retaliatory Dismissal s:*** Retaliatory firings have been traditionally the ground for invoking the public p olicy exception to the co mmon-law at-will em ployment doctrine. In these cases, the retaliato ry act has been hel d to violate the public interest if the em ployee has been discharged for perform ing an act that public policy encourages, or for refusing to e ngage in co nduct that public policy condemns.. . . The court held that the . . . seem ing ***manipulation*** of job assignments, *the capricious f iring*, and the apparent ***connivance*** *of the* ***personnel manager*** *in this course of events* all supported the jury' s conclusion that the *dismissal was* ***maliciously*** *motivated*. . . . In other decisions

where an employee's recovery for bad faith wrongful discharge has been upheld, it was relatively clear that the retaliatory dismissal of the employee would constitute a violation of public policy. The public policy issue is rarely given separate treatment, however, where the discharge was independently or alternatively found to constitute a violation of the implied covenant of good faith and fair dealing. 48 Am Jur POF 2d 224-225.

IX. STATISTICS/DISPARATE TREATMENT:

29 CFR § 1607.11 – Disparate Treatment

> The principles of disparate or unequal treatment must be distinguished from the concepts of validation. A selection procedure – even though validated against job performance in accordance with these guidelines – cannot be imposed upon members of a race, sex, or ethnic group where other employees, applicants, or members have not been subjected to that standard. Disparate treatment occurs where members of a race, sex, or ethnic group have been denied the same employment, promotion, membership, or other employment opportunities as have been available to other employees or applicants. Those employees or applicants who have been denied equal treatment, because of prior discriminatory practices or policies, must at least be afforded the same opportunities as had existed for other employees or applicants during the period of discrimination. Thus, the persons who were in the class of persons discriminated against during the period the user followed the discriminatory practices should be allowed the opportunity to qualify under less stringent selection procedures previously followed, unless the user demonstrates that the increased standards are required by business necessity. This section does not prohibit a user who has not previously followed merit standards from adopting merit standards which are in compliance with these guidelines; nor does it preclude a user who has previously used invalid or unvalidated selection procedures from developing and using procedures which are in accord with these guidelines.

97. An investigation into this instant Charge may support that hiring and terminations of African-Americans are disproportionate; moreover, adversely affected African-Americans. W&L maintaining approximately ***1% to 3% of African-Americans*** <u>*in workplace consistently comprised of approximately* ***95% to 97%*** *whites*</u>.

98. **PRIMA FACIE:** An investigation in this instant Charge will support that: **(a)** *Newsome's job duties were taken away and given to white employee(s) over her objections*. W&L doing so to provide white employees with job security. <u>*Had W&L not taken job duties from Newsome to give to white employees, it would have been white employees not having work*</u>. **(b)** Newsome was assigned attorneys W&L wanted to keep happy and attorneys that were not pleased with Assistants/Legal Secretary(s) they were assigned; **(c)** Newsome was required to take on various attorneys along with paralegal assignments; however, was not given additional increase in pay rates or promotions as white employees were; **(d)** Salary pay rates/increases were ***heavily*** <u>*disproportionate*</u> amongst whites and African-Americans – i.e. with whites getting better pay raises, salary increases

and/or promotions for taking on additional duties; **(e)** Newsome was deprived medical leave and/or fringe benefits afforded to whites and/or those similarly situated; and **(f)** Newsome was deprived equal treatment, equal employment opportunities - based on W&L's knowledge of her engagement in protected activities (clearly violating W&L's policies and procedures) and ***systematic*** *discrimination* – afforded to white employees and/or those similarly situated.

> ***Equal Employment Opportunity Commission*** *v. New York Times Broadcasting Service, Inc.,* 542 F.2d 356 (6th Cir. 1976) – Although statistical evidence is primarily used in cases alleging racial discrimination within meaning of Civil Rights Act of 1964, statistical evidence is important tool for placing all seemingly inoffensive employment practices in their proper perspective. Civil Rights Act of 1964, §§ 701 et seq., 706(e) as amended 42 U.S.C.A. §§ 2000e et seq., 2000e-5(f)(1).
>
> **Prima facie violation** of Civil Rights Act may be established by statistical evidence showing that an employment practice has effect of denying members of one race equal access to employment opportunities. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq. *New York City Transit Authority v. Beazer,* 440 U.S. 568, 99 S.Ct. 1355 (n.5) (1979)

99. W&L **repeatedly** attempted to get Newsome to work with Brian Gillan over her objections to the discriminatory practices reported. W&L attempting to do so with knowledge that working with Gillan had affected Newsome physically, mentally and emotionally as a direct and proximate result of the creation of a hostile, threatening, intimidating, harassing and discriminatory work environment. W&L advising Newsome that Gillan wanted to continue to work with her. Gillan wanting to do so although advising that it was not working out. See **EXHIBIT "25"** attached hereto and incorporated by reference. Gillan doing so **AFTER** commending Newsome of the great work she was doing (advising "You're the best!"). See **EXHIBIT "7"** - *December 21, 2006 E-mail from Gillan* attached hereto and incorporated by reference as if set forth in full herein. W&L did not require whites who complained of Gillan's unlawful/illegal actions to continue to work with Gillan; however, W&L was requiring Newsome to continue to work with Gillan. ***It was only because Newsome advised of reporting such unlawful/illegal actions did W&L pull Gillan*** – a PROTECTED ACTIVITY.

100. An investigation into this Charge will support that W&L terminated another employee/attorney (Peter Newman – **white** male) that was said to be hostile, harassing, loud, etc. and provided Newman's Assistant (Kathy Richey) with some time off to regroup from such hostile and harassing treatment. Kathy Richey is a white female. *Kathy Richey was assigned to work with Gillan prior to Newsome's employment; however, due to complaints, Gillan was removed from her desk*. Gillan was assigned to Hope Kortanek - a white female; however, after complaints W&L from white employees, W&L did not try and force white employees to continue to work with Gillan. Gillan was assigned to Newsome (African-American female); however, when Newsome complained of hostile and discriminatory practices and forwarded evidence of such hostile, threatening, harassing and discriminatory practices ***evidenced*** in Gillan's e-mail to the Human Resource representative (Andrea Griffith), W&L forced Newsome to continue to work with Gillan over her objections. *It was not until Newsome advised of reporting such employment violation that W&L pulled Gillan. However, this* ***did not*** *stop W&L from continuing to seek ways in which to terminate Newsome's employment*. At the time of Newsome's termination of employment, both Richey and Kortanek and Gillan were still employed. See **EXHIBIT "25"** – *April 19, 2007 E-mail of Newsome to Griffith* attached hereto and incorporated by reference as if set forth in full herein.

April 19, 2007 Email of Newsome to Andrea M. Griffith:

> Just to let you know tha t I am think ing about talking to Bill Ellis when he returns regarding BPG.
>
> While I hav e been patient, I find th at **his be havior is incr easing annoying, b adgering an d harassing**. **I shared with you from his first e-mail the motives for his actions**.
>
> I was told prior to going on vacation in March to b e patient. It is now April and his behavior is still the sa me. Providing ***false*** deadlines or urgency of some and then constan tly and re peatedly bad gering regarding them. The discovery that BPG mentioned in his e-m ail on last week and needing to be done by Monday (4-16-07) was served on him on or about **February 23, 2007** . So would think he knew as early as February that he had a deadline. Then I was give n the impression that it had to go out Monday; however, did not get it until yesterday. Now the constant notes providing time restraints. Along with attacks on my appointments along with implication that they are excessive – when they are not.
>
> *While I am aware that Kathy and Ho pe worked with him in th e past, they are not now.* ***My concerns is the reason and/or the difference between their situation and mine*** . ***It is appa rent that I am being required to work with BPG when he has made it clear i t w as not working out , so why am I being subjected to his treatment and changes were made for Kathy and Hope, yet not I***.
>
> He has c ome to collect his files (approxim ately a month) in advance. Collection coming after he had sent t he e-mail on how he wanted his files handled. He has a copier/printer closer to his end of the hallway; however, elects to walk t his far. Moving documents around on my desk – placing his first.
>
> I really need to know ho w this is going to be handled in that I have some serious concerns. **I have sh ared my concerns t hat I find his behavior h ostile and efforts tak en by him to provo ke an altercation**. Still I am working with him and he is allowed to continue to do what he is doing. As I shared, I believe he has a motive and shared such motive with you. Furthermore, as I shared his actions and behavior is not right, neither is it fair.
>
> Please let me know som ething. As I mentioned, I intend to d iscuss this m atter with Bill when he returns, **because it is affecti ng my ability to perform my tasks** and the request of other attorneys.

101. W&L knew and/or should have known of Gillan's established *pattern-of-harassment* and *sexual discrimination* against females. Moreover, Gillan used his position to engage in a sexual relationship with a contract employee. *When this information was made known, W&L terminated the female in which Gillan was having a sexual relationship with* . Newsome addressed said relationship

in January 15, 2007 e-mail to Andrea Griffith. See EXHIBIT "6" attached hereto and incorporated by reference. Again, W&L terminated the employment of an attorney (Peter Newman); however, allowed Gillan who has an established record of violating employment laws to remain in its employment and allowed Gillan to continue to sexually harass and/or use his position to harass female employees and/or take advantage of female employees. *Gillan drafting and distributing an e-mail to Newsome that was drafted with discriminatory/hostile/harassing intent*. Gillan attacking Newsome through e-mail(s) and asserting her to be "insubordinate," and exhibiting "passive/aggressive behavior." Such discriminatory practices condoned by W&L because it was intending (*for **PRETEXT** purposes*) to place *discriminatory e-mail* in Newsome's employee file and did not want a rebuttal or the truth in Newsome's employee file that would support how early the retaliation and discrimination against Newsome had begun and W&L's efforts to cover-up/mask its knowledge of Newsome's engagement in protected activity. *W&L knew and/or should have known that Gillan was prejudice and had a history of **discriminating against females**.* Moreover, used his position to obtain an undue advantage (i.e. engage in sexual relationship) over female(s).

> **EEOC Decision No**. 71-357 (¶ 6168) **Retention of Supervisor With Known Prejudices Was Unlawful: Racial Discrimination-Discharge for Misconduct-Racially Tainted Evidence** – The discharge of a Negro worker was reasonably to be regarded as unlawful where the misconduct used as a basis for the termination was tainted with racial discrimination in that the warnings and statements regarding the employee's work performance came from a supervisor known to be prejudiced against Negroes, and much of the misconduct charged against him involved opposition to racial discrimination.
>
> **Racial Discrimination-Prejudice of Supervisor-Retention as Violation** - There was a reasonable basis for believing that an employer violated the Act by retaining as a foreman an individual known to be prejudiced against Negroes. Negro employees were discriminated against because of their race with respect to terms and conditions of employment in that they were precluded from many of the jobs open to Caucasian employees because of the employer's policy of not assigning Negroes to jobs under this prejudiced foreman.

102. At the time of Newsome's termination, W&L employed **approximately 65** employees of which **two (2) were African-American** – which is **3%.** To include one person who is of India descent (at time of hire, Newsome does not believe employee – Brian Coutinho - had obtained American citizenship; however Coutinho was working on it) would be approximately 4%. Pertinent information needed to address "Disparate Treatment" in W&L's handling of hiring(s) and termination(s). Moreover, W&L's goal of creating an **ALL**-white work environment.

At the time of Newsome's employment there were two (2) other African-Americans – Angie Hart and Marcia Sherman. Ms. Hart's employment was ABRUBTLY terminated. From my understanding from information received AFTER my unlawful/illegal termination, Ms. Hart believed that W&L may have discriminated against her. Newsome being advised by Paul Berninger that Ms. Hart brought action against it. See **EXHIBIT "1"** - attached hereto and incorporated by reference. However, *Newsome prior to being provided information from Paul Berninger (attorney at W&L) had no knowledge that Ms. Hart had brought and/or was intending to bring legal action against W&L.* However, what is important to note, *W&L may have subjected Hart to the same discriminatory practices and having knowledge (although Hart did not) that it was committing Title VII*

violations/employment violations – as with New some – W&L may have removed and destroyed evidence that Hart possessed which it felt would be incriminating and would support any action brought by Hart. Because W&L did so with Newsome – removed and destroyed evidence – a reasonable mind may conclude W&L has a known practice of committing such criminal/civil wrongs to avoid employer liability.

Based upon the information contained herein, the ***racial*** *composition* of employees at W&L, W&L's removal and destruction of evidence from Newsome's desk ***(Newsome kept her desk locked)*** that it knew was incriminating, a reasonable mind may conclude that the racial composition of W&L's workforce and its acts to cover-up/mask discriminatory practices, was its knowledge that it was engaging in Title VII violations, Civil/Constitutional violations, criminal/civil wrongs against Newsome. Moreover, the **pattern-of-discrimination** and retaliation against Newsome based on W&L's knowledge of her engagement in protected activities further support racial discrimination and its efforts to interfere with Newsome's rights to seek recovery. See EXHIBIT "16" - *Newsome's Letter of February 2, 2009 to Paul Berninger* attached hereto and incorporated by reference as if set forth in full herein:

February 2, 2009 Letter from Newsome to Paul R. Berninger:

Pattern-of-Discrimination/Retaliation:

1. About November 2006, I requested assistance from Wood & Lamping regarding a Landlord matter I was dealing with. Elizabeth Horwitz was assigned to assist me. However, Elizabeth became upset with me with I refused to give up rights I believe I was entitled to under the Fair Housing Act. From my take, Elizabeth (white) and opposing counsel (white) were must have agreed to try and convince me to waive rights secured under the Fair Housing Act. Such efforts failed and I proceeded to file the lawsuit to protect my rights. Again, Elizabeth being upset with me, requested a change in Secretaries/Legal Assistants and Wood & Lamping obliged. Her acts were unacceptable, and clearly obvious of no understanding or feeling of what it is like to have to stand by rights that many sacrificed their lives for so that I can enjoy and live where I want not where another decides. Some of our conversations I am confident are memorialized in Wood & Lamping's e-mails.

2. Then I was assigned Brian Gillan. While I was commended on my work ethics and strived to carry myself in a professional manner, my experience with Brian Gillan was a continuance by Wood & Lamping to subject me to retaliation and discriminatory treatment. First appearing to be pleased with my work (as evidenced in e-mail), Brian's sudden change and craftily drafted e-mail to slander my character, work ethics, etc. was launched. Wood & Lamping was aware of this and for quite some time did nothing to deter Brian's acts although I reported violations to its attention. It was not until I advised that I was to going to report this to Bill Ellis that Brian was pulled. My concerns were made known as to the motives behind Brian's conduct; however, nothing was done. My concerns regarding how other white employees were not required to endure the hostile, discriminatory and brutal treatment that Wood & Lamping was going to make me endure although it was fully aware of the emotional,

physical and m ental im pact it was having on me. Som e o f our conversations I am confident are memorialized in Wood & Lamping's e-mail (for example attached). . . .

3. While it was not clear to m e why Wood & La mping would not represent me in m atters brought to its attention, I could not d well on that. I was able to obtain an Injunction and Restraining Order in my Landlord & Tenant matter which Elizabeth though t would be h ard to obtain. Then in October 2008, I was unlawfully evicted from my residence. Wood & La mping was t imely and p romptly notified of this m atter. I even advised of m y re porting this matter to th e FBI. Either way, I was engagi ng in protected activities in which Wood & Lamping was fully aware. See my correspond ence with Andrea regarding this. What I did not lik e about this was ho w Andre a attempted to make it appear there was a problem with my being out. I do not eve r recall exceeding any days allowed for leave (va cation and/or sick); however, aware of m y circumstances, attempted to add salt to the womb – clearly UNACCEPABLE.

4. I had a doctor's appointment **in October** and advised Andrea of what was taking place. Then **in December 2008** , I went to An drea to advise of medical procedure and determ ine how leave would be covered. Andrea advised of the Family and Medical Leave Act and how the firm would handle such m atters. I fol lowed up with the required Request Form for leave on January 8, 2009. On January 9, 2009, I wa s term inated being advised m y position was being eliminated.

5. Since leaving Wood & Lamping, I have foun d out that Tho mas J. Breed's fo rmer law firm Schwartz Manes & R uby – no w Schwartz Manes Rub y & Slovin – is represent ing a client that has busi ness a business dispute with m e. Whether or not W ood & Lam ping would have represented me in that m atter, I do not know. What I do know, is that I recall getting a fax from the com pany while at Wood & Lamping when I picked it up from the counter in the cop y room. While I was not aware at the tim e th at To m's form er law firm was representing that co mpany, I found it interesting to find out th at my termination came on January 9, 2009 – the very sam e weekend this company was holding what they called an "Am nesty Weekend." Not only that, no fax as sent prior by them on this date (so I concluded that they knew of what was about to take place at Wood & Lamping), but I was mailed a notice on the ver y sam e date of m y ter mination. Tom is a member of the Executive Board at Wood & Lamping if I am not mistaken. Raising co ncerns for a reasonable mind (jury) as to the motive behind m y termination – was it done to aid his former law firm (y ou scratch my back and I' ll scratch y ours – at my expense). What is To m's interest in the m atter and whethe r or not he has an y interest still with Schwartz Manes? Again, that i s not up to me t o decide, but for a jury I would think. A ***causal*** link/connection can be established.

6. In regards to the FMLA, I will only present the following and let you take it from there because all I am required to do is present a prima facie case and evidence which I believe can be done . . .

Newsome believes that an investigation into this instant Charge will yield that W&L's January 9, 2009, termination of Newsome's employment was a direct and proximate result of its knowledge of Newsome's engagement in protected activities, her filing of Title VII actions, complaint of discriminatory treatment, hostile work environment, etc. The record evidence will support W&L's knowledge of Newsome's engagement in lawsuits and its knowledge that Breed's former law firm (SMR&S) would be filing a lawsuit against Newsome. Therefore, as a direct and proximate result of knowledge of said information, W&L terminated Newsome's employment without just cause.

An investigation into this instant Charge and evidence contained herein, will support W&L's African-American employees (approximately 3% at the time of Newsome's termination) were discriminated against because of their race in respect to hiring, promotions, raises/merit increases, termination, terms and conditions of their employment, employee benefits – i.e. deprived benefits (such as medical coverage) - that were afforded to whites and/or those similarly situated, etc. Moreover, ***W&L terminated the employment of African-Americans that complained of discriminatory practices***.

An investigation into this instant Charge and evidence contained herein will support that W&L's termination of Newsome was a direct and proximate result of its efforts to create an **ALL-white workforce**. It appears from information provided by Paul Berninger (attorney at W&L) that another African-American (Angie Hart) may have believed her discharge/termination was illegally motivated. Therefore, a reasonable mind may conclude based on such information, W&L decided to violate Title VII and remove African-Americans from its place of employment because it did not want its discriminatory practices exposed. Upon W&L's termination of Newsome's employment, it *hired **several** WHITE employees **SHORTLY*** thereafter. Moreover, W&L terminated Newsome's employment with discriminatory and retaliatory intent. Further supporting **DISPARATE TREATMENT.**

> **Racial Discrimination-Prejudiced Supervisor-Effect on Racial Composition of Workforce** – On the basis of testimony regarding the prejudices held against Negroes by a supervisor and the inferences to be drawn from the fact that Negroes made up 26 percent of the workforce prior to hiring of such supervisor but declined to 5 percent after his hiring, it was reasonable to conclude that the employer was unlawfully refusing to hire Negroes as a class because of their race. . . .
>
> Section 704(a) of Title VII is intended to provide "exceptionally broad protection" for protestors of discriminatory employment practices. *Pettway v. American Cast Iron Pipe Co.,* 411 F.2d 998 at n. 18 (5th Cir. 1969), [2 EPD ¶10,011] 60 LC ¶9253. *Pettway* holds that an employer may not retaliate even if the protestor's claims are completely unfounded. It is clear from the transcript, and we so find, that the testimony of Respondent's officials regarding Charging Party's opposition to racial discrimination influenced the decision to discharge him. Under these circumstances, the discharge was in violation of Section 704(a) of Title VII. (United States v. Hayes International Corp., 415 F.2d 1038 (5th Cir. 1969) [2 EPD ¶10,061] 60 LC ¶ 9303; United States v. Sheet Metal Workers,

> Local 36, 416 F.2d 123 (8th Cir. 1969), [2 EPD ¶ 10,083] 61 LC ¶9319].. . .
>
> It is clear that Respondent's Negro employees are hereby discriminated against because of their race with respect to the terms and conditions of their employment, because they are precluded from many of the jobs that are open to similarly situated Caucasian employees. . .
>
> The record before us contains Respondent's payroll covering 97 production employees for the week ending June 30, 1968. It reveals that 10 (26%) of 38 production employees hired before June 30, 1966, are Negro, and that only 3 (5%) of 59 post-Foreman B hires are Negro. On the basis of the testimony of Respondent's Superintendent regarding Foreman B and the inference which may be drawn from these figures, we conclude that Respondent has violated and is violating Title VII by refusing to hire Negroes as a class because of their race.

103. While the *Wood & Lamping LLP Policies and Procedures Manual* states:

> **EQUAL OPPORTUNITY**
> The firm is an equal opportunity employer, and as such, is firmly committed to treating **all** employees and applicants **equally** without regard to race, color, sex, religion, national origin, age, disability, marital status, veteran status, or other protected classes. We will endeavor to make reasonable accommodations for known physical or mental limitations of otherwise qualified employees and applicants with disabilities unless the accommodation would impose an undue hardship on the operation of or business. Our employment decisions, including, but not limited to, hiring, compensation, benefits, training, and promotions are based on the principles of **equal** employment opportunity. *Discrimination by any member of the firm* ***will not*** *be tolerated*. Suspected violations of this policy must be reported promptly to a member of management or to a partner. Violators will receive discipline appropriate to the offense, up to an including termination. *This policy also* ***prohibits retaliation*** *against anyone who has filed a complaint of* ***discrimination*** *or* ***harassment****.*
> (Wood & Lamping LLP Policies and Procedures Manual @ p. 11) – **EXHIBIT "4"** attached hereto and incorporated by reference as if set forth in full herein.

W&L violated Title VII as well as other statute/laws governing employment. W&L refusing to hire African-Americans because of their race and apparently because complaints of concerns of discriminatory practices. As a direct and proximate result of Newsome's complaints and now it appears from information obtained from Paul Berninger (attorney at W&L) that another African-American (Angie Hart) complaining of discriminatory practices, that W&L *has set out to create* ***an ALL-white*** workforce and/or ridding itself of African-American employees who complained of discriminatory practices. *At the time of Newsome's employment and during her employment, W&L*

did not *employ any Afri can-American attorneys* . While the re were vacancies for at torneys and apparently a need for sup port staff, W&L *shortly* ***AFTER*** Newsome's termination employed *several* white employees. W&L *creating a work environ ment of approximately one (1) African-American* – Marcia Sherm an. Therefore, leaving the racial com position of **approximately 1 %** for Africa n Americans. Supporting **DISPARATE TREATMENT.**

An investigation into this instant Charge will support the racial bias revealed by the disproportionate workforce, work opportunitie s, prom otions, raises, etc. Therefore, *there is a reasonable basis for bel ieving that W&L engag ed in unlawful employme nt discrimin ation against African-Americans on account of their race and/or sex and reporting of discriminatory practices and there is a* ***SIGNIFICANT*** *dispropo rtion of said race in emp loyment at W &L*. Ther efore, such ***statistics may be used*** **to infer a** ***pattern or practice*** **of discrimination** by W&L. Moreover, said statistical evidence and otherwise, a s well as the record a s a whole, m ay c onclude that W&L discriminated against Ne wsome, Afri can-Americans as a class, because of their race a nd sex with respect to hirings, termination, promotions, raises, etc.

Therefore, reasonable cause m ay exist to be lieve that W& L and/or its representatives collectively and severally engaged in unlawful em ployment practices in violation of Title VII of t he Civil Rights Act, by term inating, refusing to hi re African-Am ericans because of com plaints of discriminatory practices by said class, prom otions, pa y raise s, etc. Moreover, for purposes of creating an ALL-white workforce – supporting **DISPARATE TREATMENT.**

An investigation into this instant Charge will support that W&L's instigation and creation of discriminatory work en vironment. Furtherm ore, how W&L t ook awa y jo b duties of Newsome to give to white em ployee(s). W&L taking of job dut ies from Newsom e (over Newsom e's objections) was to provi de white employ ee(s) with job security. *The job duties W&L took away from Newso me to give to white employee(s) were th ose still need ed and required in the job Newsome performed at the time of her unlawful /illegal termination* . W &L assignin g Ne wsome to work with Thom as J. Breed, **Department Head** *of the Estate Planning Group,* and requiring the duties of Estate Planning Coordinator – position Newsome was hired for. W&L's taking awa y of Newsome's job duties was done with m alicious intent and done for pretext purposes – to mask/cover-up illegal anim us. Terminating Newsom e's em ployment in retalia tion of her participation in protected activities an d knowledge that Breed' s form er law firm (SMR&S), on behalf of Stor-All, would be filing a lawsuit against Newsome.

> **EEOC Decision No**. 71-1531 (¶ 622 7) **Racial and National Origin Bias Re vealed by Dispr oportionate Work O pportunities: Racial and National Origin Di scrimination-Statistical Evi dence-Disproportionate Work Opportunities** – The re was a rea sonable basis for bel ieving that a local labor union, an em ployer association and its individual m embers engaged in unl awful em ployment discrimination against Ne groes on acc ount of their race and against Spanish surnam ed A mericans on account of their national origin, where the work opportunities accorded m embers of both groups were disproportionate to their m embers of the em ployers associ ation. Statistics may be used to infer a pattern or practice of discrimination.. . .
>
> Title VII perm its the use of statistical probability to infer a pattern or practice of racial discrimination. *Parham v. Southw estern Bell Telephone Co.,* [3 EPD ¶80 21] 4 33 F.2d 42 1 (8th Cir., October 28, 1970), 3 EPD ¶ 8021, and the cases cited therein. See also *United States v. Hayes International Corp.,* [2 EPD ¶10,0 61, 60 LC ¶ 9303]

415 F.2d 1038 (5th Cir. 1969); ***Cameron Iron Works v. EEOC,*** 320 F.Supp. 1191 (S.D. Tex. December 18, 1970), 3 EPD ¶8064. From the above evidence, statistical and otherwise, and the record as a whole, we conclude that Respondent Local, Respondent Employer Associations, and their contractor members discriminated against Charging Parties, Negroes as a class, and Spanish surnamed Americans as a class, because of their race and national origin respectively, with respect to the referral and hiring of cement mason foremen and cement mason journeymen and apprentices. . .

Reasonable cause exists to believe that Respondent Local, Respondent Employer Associations, and the individual members of the Employer Associations collectively and severally engaged in unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964, by refusing to hire, limiting, segregating, and otherwise discriminating against Charging Parties, Negroes as a class, and Spanish surnamed Americans as a class because of their race and national origin.

EEOC Decision No. 72-0976 (¶6344) **Racial Bias Against Negro Supervisor: Racial Discrimination-Negro Supervisor-Notice of Promotion-Lack of Support** – There was reasonable cause to believe that an employer discriminated against a Negro worker by failing to give the customary notice of promotion of the worker to a supervisory position, failing to support him in the supervision of white employees, failing to award him incentive pay, *assigning him the **least desirable** night shift duty* during most of the tenure of his employment, and by discharging him because of his race.

104. Newsome set forth a detailed ***statistical*** *pattern* as well as pattern of discriminatory practices – i.e. refusal to represent Newsome in legal matters because she refused to forgo protected rights and/or waive protected rights secured to her under Fair Housing Act, Title VII, Civil Rights Act, Constitution, etc. – wherein *W&L engaged in unlawful employment practices by maintaining hiring and termination practices that adversely affected and discriminated against African-Americans because of their race. During Newsome's employment, W&L employed **no** African-American attorneys and if there were any prior to Newsome's hiring, W&L was sure not to hire anymore. However, similarly placed persons of different races were accorded dissimilar treatment. W&L repeatedly hiring white employees. Providing Newsome with false reasons for her termination and shortly thereafter hiring **several** whites – in its efforts of creating an ALL-white workforce*.

Racial Discrimination-Segregated Job Classifications – Detailed statistical patterns established a reasonable basis for finding that an employer engaged in an unlawful employment practice by maintaining a hiring and job assignment policy which discriminated against Negroes because of their race. The employer employed no Negroes as officials or managers, sales workers, office and clerical workers, skilled craftsmen or over-the-road drivers. The employer employed 110 persons, 13 of whom (or 11 percent) were Negroes, in an area where about 40 percent of the population was Negro.

Where similarly placed persons of different races are accorded dissimilar treatment, the Commission must find, in the absence of other evidence, that race was a factor in the disparate treatment. On the basis of the evidence presented herein we conclude that there is

reasonable cause to believe that Charging Party was discriminated against with respect to the several foregoing terms and conditions of employment because of his race. . . .The statistical patterns detailed above establish, prima facie, that Respondent maintains racially discriminatory hiring and assignment policies. *Bing v. Roadway Express,* 444 F.2d 687 (5th Cir. 1971), 3 EPD ¶ 8265.. . . There is reasonable cause to believe that Respondent Employer has engaged and continues to engage in unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964 by discriminating against Charging Party in the terms and conditions of his employment and subsequently terminating him because of his race (Negro), and by maintaining a hiring and assignment policy which discriminates against Negroes because of their race.

105. **PRIMA FACIE: (a)** The ***statistical*** *evidence* contained in this instant Charge and W&L's unlawful/illegal termination for purposes of creating an ALL-white work environment; along with false reasons provided for termination and its knowledge of Newsome's engagement in protected activities, *are important tools* ***for placing all seemingly inoffensive employment*** *practices in their* ***proper*** *perspective*; **(b)** an investigation into this instant Charge will support from the statistical evidence that W&L's practices has the effect of denying African-Americans equal access to employment opportunities; moreover, when African-Americans complained of discriminatory practices, W&L sought ways to terminate their employment as well as remove and destroy evidence it having knowledge would be incriminating and support Title VII violations and/or employment violations regarding discrimination/retaliation, etc.; **(c)** W&L **repeatedly** *relied upon word-of-mouth hiring* and when it terminated Newsome's employment relied upon discriminatory practices to eliminate the number of African-Americans in the workplace while *it employed SEVERAL white employees* ***shortly AFTER*** Newsome's termination. W&L knew at the time of Newsome's termination that it was committing Title VII violations as well as other discriminatory practices – intent of hiring additional white employees in their creation of *an* ***ALL-white*** *work environment* with intent to exclude African-Americans; and **(d)** Newsome believes an investigation will yield that she was qualified for the position she lost as well as was assigned job duties performed by paralegals, and, W&L shortly after Newsome's termination hired white employees with knowledge that it was engaging in Title VII violations and/or discriminatory employment practices.

> ***Word-of-mouth hiring*** **is** *discriminatory because of its tendency to perpetuate all white composition of a work force*. 42 U.S.C.A. § 1981; Civil Rights Act of 1964, §§701 et seq., 706(e) as amended 42 U.S.C.A. §§ 2000e et seq., 2000e-5(f)(1). *Barnett v. W. T. Grant Co.,* 518 F.2d 543 (n. 8) (C.A.N.C. 1975)
>
> Statistics can in appropriate cases establish a prima facie of discrimination, without necessity of showing specific instances of overt discrimination. *Barnett v. W.T.* at n.7.
>
> Under Title VII law, an employee may prove intentional discrimination in a disparate treatment case either directly or indirectly. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. §2000e et seq. ***Ohio Civ. Rights Comm.*** *v. Kent State Univ.,* 717 N.E.2d 745 (**Ohio**.App.11. Dist.Portage.Co. 1998)
>
> Complainant may prove employer's discriminatory purpose by direct or circumstantial evidence, including discredit of proffered

> nondiscriminatory rea sons for disch arging complainant. *Republic Steel Corp. v. Hailey,* 506 N.E.2d 12 15 (**Ohio**.App.8. Dist.Cuyahoga.Co., 1986)
>
> To establish a prim a facie case of discrim ination under Title VII, a plaintiff may prove he r claim through either direct evidence, statistical pr oof, or the McDonnell Douglas test . *McConaughy v. Boswell Oil Co.,* 711 N.E.2d 719 (**Ohio**.App.1. Dist. **Hamilton**.Co., 1998)
>
> Under Mc Donnell Doug las test for establishing prim a facie case of discrimination under Title VII, the pl aintiff m ust show that (1) she was a m ember of a protected clas s, (2) she suffered an adverse employment action, (3) she was qualified for the position she lost, and (4) she was replaced by someone outside the protected class, or that a comparable non-protected person was treated better. Civil Rights Act of 1964, §7 01 et seq., as am ended, 42 U.S.C.A. § 2000e et seq. *McConaughy V. Boswell* at n.11.

106. An investigation into the allegations of this instant Charge will support liability under Title VII of and against W&L which includes: **(a) disparate treatment (employment of African-Americans during Newsome's employment NEVER exceeded 3%)** – wherein Newsome (who is a member of the protected group – Afric an American) was treated differently than non-members of her class/race and the reason being because of W& L's knowledge of her e ngagement in protected activities an d ***VOCALIZED opposition*** **to violation of her protected ri ghts**; **(b)** W&L allowed Newsome to be subjected to harassm ent tha t creat ed an offensive, retaliatory , and hostile work environment; and **(c)** W&L retaliated against Newsom e for her engagement in protected activity secured under statutes/laws.

> *Dunnom v. Bennett,* 290 F.Su pp.2d 860 (S. D.**Ohio**.W.Div., 2003) - Several theories of liability are available under Title VII, including: **(1)** disparate treatment, in which a member of a class protected by the statute is treated differently than non -members of the class, and the reason is due to the protected status; **(2)** harassm ent that creates an offensive or hostile work environm ent; and **(3)** retaliati on for protected activity under the statute. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq.

107. W&L treated Newsom e differently because of her race, i ts knowledge of her engagement in protected activities, an d Newsom e's refusal to forgo and/or waive rights secured to her under th e applicable statutes/laws. W&L 's ac ts against Newsome were **overt** and **intentional** conduct because of her race and exercise of protected rights.

108. Two theories of race discrim ination which have developed since the enac tment of Title VII of the 1964 Civil Rights Act, and which are particularly comm on to claim s of discrimination in job assi gnment, are "disparate tr eatment" an d "disparate im pact," or "pattern of practice." *Disparate treatment race discrimination involves overt or intentional conduct, and occurs when an e mployer tre ats one individual or gr oup differently from another bec ause of that individual's race*.

109. To establish a ***prima facie case of individual disparate treat ment*** *based on race* in violation of Title VII of the 1964 Civi l Rights Act, with respect to job assignm ents, Newsom e must

show: **(a)** she is a member of a group protected by the statute; **(b)** that she satisfactorily performed duties assigned; **(c)** that she was rejected under circumstances giving rise to an inference of unlawful discrimination. *Moreover, may require that Newsome demonstrate that from such discrimination she was "harmed." Evidence of a pattern of practice of discrimination against Newsome, who is African-American may serve to support a claim of disparate treatment.*

PRIMA FACIE – DISPARATE TREATMENT: It is important to note: **(i)** Newsome is an African-American female and, therefore, a member of group protected under Title VII of the Civil Rights Act; **(ii)** Newsome satisfactorily performed duties assigned her and was assigned to attorneys W&L wanted to keep happy and complained about the work of the Assistant/Legal Secretary assigned. While Newsome was assigned various attorneys and took on additional job duties, W&L did so without giving her the pay increases and/or promotions as it afforded to white employees obtaining additional job duties and/or responsibilities; **(iii)** Newsome was rejected and terminated by W&L because of her race and W&L's knowledge of her engagement in protected activities. Newsome's employment with W&L was terminated in its obliging Thomas J. Breed's former employer/law firm (SMR&S) with termination because it had knowledge that SMR&S on behalf of its client, Stor-All, would be bringing a lawsuit against Newsome. Further supporting the criminal/civil wrongs of W&L and its overt and deliberate acts to infringe upon Newsome's rights secured to her under Title VII and/or governing statutes/laws; and **(iv)** Newsome has been injured/harm as a direct and proximate result of W&L discriminatory practices; moreover, as a direct and proximate result of W&L's engagement in ***systematic*** *discriminatory practices/* ***pattern-of-discriminatory*** *practices,* ***disparate*** *treatment* to cause Newsome injury/harm based upon its knowledge of her engagement in protected activities.

110. An investigation into this instant Charge will support W&L's knowledge of Newsome's previous filing of EEOC Charges, engagement in protected activities, filing of lawsuits, participation in investigations, etc. Moreover, that another African-American (Angie Hart) believed that she was discriminated against – pursuant to conversation with Paul Berninger. W&L fully aware of its discriminatory intent removed and destroyed evidence from Newsome's desk ***(Newsome kept her desk locked)*** that it knew would be incriminating.

> *Grano v. Department of Development of City of Columbus,* 637 F.2d 1073 (C.A.6.**Ohio**, 1980) - In a Title VII suit brought under a disparate treatment theory, the allegation is that defendant failed to hire or failed to promote person because of his or her race, religion, national origin, or sex, and reason why employer acted as he did is crucial; thus, where Title VII case is brought under disparate treatment theory, plaintiff must prove discriminatory intent. Civil Rights Act of 1964, § 701 et seq. as amended 42 U.S.C.A. § 2000e et seq.

111. *An investigation into this instant Charge may support that hirings and terminations of African-Americans* ***are disproportionate***; moreover, ***adversely*** *affected* African-Americans. W&L maintaining approximately 1% to 3% of African-Americans in workplace consistently comprised of approximately 95% to 97% whites.

> *Barnes v. GenCorp Inc.,* 896 F.2d 1457 (C.A.6.**Ohio**, 1990) - Appropriate statistical data showing employer's ***pattern of conduct*** toward protected class as group can, if unrebutted, create inference that defendant discriminated against individual members of class, but to do so, statistics must show significant disparity and eliminate the most common nondiscriminatory reasons for disparity.

112. W&L's termination of Newsome's employment was based on her race, sex, engagement in protected activities, and systematic discrimination. W&L *SHORTLY **after** Newsome's termination employed **SEVERAL** white employees* in its efforts to have a non-African-American workplace. Moreover, in retaliation of receiving complaints of discriminatory practices. W&L having knowledge that it was acting in violation of Title VII of the Civil Rights Act as well as engaging in discriminatory practices, retaliation, systematic discrimination, etc., acted with willful, malicious and malice in its removing and destruction of evidence known to it to be incriminating and supporting employment violations. W&L's acts were pretext in efforts of covering-up and/or masking discriminatory employment practices.

113. W&L may have applied the same unlawful/illegal tactics used on Newsome – in its removal and destruction of evidence incriminating to W&L – on Angie Hart because it knew that its practices were racially motivated and discriminatory. Moreover, that because concerns of discriminatory practices were made known to it and Hart's notification of discriminatory practices, that it moved to cover-up/mask such discriminatory practices in the handling of Newsome's termination.

114. W&L provided promotions with pay increases automatically to white Secretaries/Legal Assistants to Paralegals without notice and/or posting for position. Those who were subject to and receiving such benefits were **ALL** white. W&L provided promotions and/or salary increases to whites for taking on extra duties (paralegal, etc.) without posting. Rendering said special promotions and/or salary increases with knowledge that it was acting violation of the laws and engaging in discriminatory practices which adversely affected African-Americans.

115. Objective harm to Newsome resulted from W&L's racial discriminatory conduct.

116. Bias against Newsome occurred in the taking away of job duties to give to white employees similarly situated and to provide them with job security while Newsome continued to work for attorneys in the *Estate Planning Department* as well as required the performance of job duties taken away.

117. *Sexual harassment is actionable under Title VII only if it is so severe or pervasive as to alter the conditions of the victims employment and create an abusive working environment. Clark County School Dist. V. Breeden,* 532 U.S. 268, 121 S.Ct. 1508. . . . Two types of harassment are unlawful under Title VII: . .. (2) situations in which the *working environment is **oppressive** to members of the protected group because of actions of coworkers, supervisors*, or customers. (29 CFR § 1604.11) (45B Am. Jur. 2d § 824) The second type of unlawful harassment may occur absent any economic effect on the complainant's employment, and is referred to as *hostile work environment harassment. When the workplace is **so permeated** with **discriminatory intimidation**, **ridicule**, and **insult that is sufficiently severe or pervasive** to alter the conditions of the victim's employment and create an abusive working environment, Title VII is violated. Discrimination based on sex, race, . . . if it creates a hostile or abusive work environment, violates Title VII. . . . A hostile work environment harassment claim involves a pervasive atmosphere of discriminatorily severe or unwelcome working conditions that have the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.*

118. When a workplace is so permeated with discriminatory intimidation, ridicule, and insult that are severe or pervasive to alter conditions of victim's employment and create an abusive working environment, Title VII is violated. *Title VII comes into play **before** the harassing conduct leads to clinical mental illness because*: **(a)** a discriminatorily abusive work environment, even one that does not seriously affect an employee's psychological well-being, can and often will detract

from employees' job performance, discourage employees from remaining on the job, or keep them from advancing in their careers; and **(b)** even without regard to these tangible effects, the very fact that the discriminatory conduct was so severe or pervasive that it created a work environment abusive to employees because of their race, gender, religion, or national origin offends Title VII's broad rule of workplace equality.

119. W&L created a workplace environment discriminatory and prejudicial as a direct and proximate result of Newsome's engagement in protected activities and her refusal to forgo rights secured to her under the applicable statutes/laws. W&L doing so for purposes of depriving Newsome equal protection of the laws, due process of laws, deprivation of rights secured under Title VII of the Civil Rights Act, Constitution, W&L's keeping with systematic discrimination leveled against Newsome for her exercising rights and efforts to deprive her life, liberties and the pursuit of happiness. W&L's termination was in keeping with the ***systematic*** *discrimination* to which Newsome has become a victim in that W&L is engaging in criminal/civil wrongs to prevent and preclude Newsome equal employment opportunities and efforts of destroying her life and to create difficulty in her obtaining employment opportunities elsewhere. Such systematic discriminatory practices W&L was engaging in being practices commonly known to be used by white employers to preclude/prevent African-Americans from obtaining employment elsewhere. Such acts which are clearly motivated by malice and ill intent.

120. *W&L* ***was responsible and condoned*** *the discriminatory acts rendered Newsome*. W&L confident that it had destroyed evidence was disappointed to find that Newsome had retained copy of *Wood & Lamping LLP Policies and Procedures Manual*. Rendering W&L disappointing news in that they had failed to achieve their goal in cover-up/masking discriminatory practices and efforts to remove and destroy evidence supporting its knowledge of violations of its own policies and procedures. Moreover, W&L's failed efforts to cover-up/mask conspiracy it was engaging in with others through the ***systematic*** *discrimination* leveled against Newsome based upon its knowledge of her engagement in protected activities/exercise of protected rights. A reasonable mind may conclude that W&L's removal and destruction of *Wood & Lamping LLP Policies and Procedures Manual* and/or evidence were efforts taken by it to avoid liability. Moreover, *W&L's* ***repeated*** *efforts in requesting that Newsome waive protected rights and not bring legal action against it in exchange for receipt of medical benefits and/or medical insurance*.

> In a hostile work environment harassment claim where no job benefits are affected by the undesirable conduct alleged, a plaintiff must demonstrate both that sexual or other discriminatory harassing actions took place, and that the employer was responsible for the harassment. (*Andrews v. City of Philadelphia*, 895 F.2d 1469 (1990); *Katz v. Dole,* 709 F.2d 251 (1983))

121. A reasonable mind may conclude that in the context of all the relevant circumstances based upon the facts, evidence and legal conclusions contained in this instant Charge as well as that yielded from an investigation into the allegations contained herein, that W&L's acts were pervasive, severe, hostile, discriminatory, threatening, intimidating, harassing, etc. and done for purposes of forcing Newsome to quit and efforts initiated for PRETEXT purposes – i.e. to cover-up/mask discriminatory practices. A reasonable mind may conclude that Newsome has been affected emotionally and mentally and during the course of her employment had to endure repeated discriminatory practices because W&L was aware of her participation in protected activities, refusal to waive rights secured under the Civil Rights Act, Constitution and other governing statutes/laws. *Moreover, that W&L repeatedly attempted to get Newsome to forego protect rights and agree not to bring legal action against it in exchange of obtaining medical insurance to which she was entitled*. **Said demand by W&L is *clearly prohibited* as a matter of statutes/laws**. W&L is attempting to

coerce Newsome to forego protected rights in exchange of receiving medical benefits to which she was entitled and medical benefits afforded to whites and/or those similarly situated.

> In determining whether harassment is sufficiently serious enough to create a hostile work environment, the employer's conduct as a whole is evaluated in the context of all the relevant circumstances. *Haehn v. City of Hoisington,* 702 F.Supp. 1526 (1988).

122. **PRIMA FACIE: (a)** Newsome suffered intentional discrimination due to her race and sex. W&L allowed harassment by male supervisor (Gillan) and others based on knowledge of Newsome's engagement in protected activities, filing of charges/lawsuits, participation in investigation(s), etc. W&L knew and/or should have known of Gillan's engagement in employment violations and discriminatory practices leveled against female employees wherein he ***repeatedly asserted*** *and* ***abused*** *his supervisory powers* and subjected them to harassment; resulting in a sexual relationship with female employee in his usurpation of power/authority. **(b)** The record evidence will support W&L's discrimination against Newsome was pervasive and regular. Moreover, W&L's knowledge of Newsome's engagement in protected activities that further prejudiced it against her. Leading W&L to conspire with others to infringe upon Newsome's rights secured under Title VII of the Civil Rights Act, Constitution, Fair Housing Act, Family & Medical Leave Act, and other statutes/laws governing said matters. Newsome was subjected to discriminatory employment practices as a result of W&L's knowledge of her engagement in protected activity. W&L subjected Newsome to discriminatory practices in keeping with the ***systematic*** *discriminatory* practices leveled against Newsome for the reporting of Title VII violations, filing of charges and/or lawsuits, participation in investigations, etc. for recovery of injury /harm sustained. **(c)** The record evidence will support W&L's hostility towards Newsome, retaliatory and discriminatory practices towards Newsome, etc. which has detrimentally impacted/affected Newsome's life. W&L as early as January 15, 2007 and as recent as January /February 2009 (in response to its January 9, 2009 termination), was timely, properly and adequately placed on notice of its employment violations and the detriment of such civil rights violations leveled against Newsome. **(d)** The discrimination W&L leveled against Newsome would detrimentally affect a reasonable person of the same race and/or sex. **(e)** *Respondent superior liability exist and the record evidence will support that W&L's Human Resource Representative (Andrea Griffith), W&L's Managing Partner (C. J. Schmidt), W&L's Executive Committee, Partners of the firm and others were aware they were acting in violation of Title VII of the Civil Rights Act and/or the applicable statutes/laws governing employment. Moreover, W&L's removal and destroying of evidence known to it to be incriminating and would support employment violations/discrimination*.

> Various tests have evolved to establish hostile work environment claims under Title VII. One test for sexual harassment requires that: (a) the employee suffered intentional discrimination due to sex and race; (b) the discrimination was pervasive and regular; (c) the discrimination detrimentally affected the plaintiff; (d) the discrimination would detrimentally affect a reasonable person of the same sex in that position; and (e) respondent superior liability exists. (*Knabe v. Boury Corp.,* 144 F.3d 407 (1997); *Andrews v. City of Philadelphia,* 895 F.2d 1469); *Washington v. City of Cleveland,* 948 F.Supp. 1301 (N.D. **Ohio** 1996). (The subjective component of the test for a hostile work environment in violation of Title VII does not require that an employee feel physically threatened; instead, the employee must subjectively perceive the environment to be abusive. (*Williams v. General Motors Corp.,* 187 F.3d 553)

123. The record evidence will support that Newsome repeatedly advised W&L of concerns of abusive environment and supervisors' hostile and unacceptable behavior. Behavior which affected Newsome's work and ability to perform job duties assigned. Discriminatory practices to which Newsome objected to both verbally and/or in writing. Newsome being advised that W&L would handle; however, W&L allowed such discriminatory practices to continue and merely continued to seek ways to cover-up discriminatory practices and complaints submitted by Newsome, as well as seek ways in which to terminate Newsome's employment. Newsome's complaints of employment violations and W&L's knowledge of Newsome's engagement in protected activities resulted in its going through Newsome's desk ***(Newsome kept her desk locked)*** to remove and destroy evidence it knew would be incriminating and would reveal discriminatory practices, criminal/civil wrongs and ***efforts taken the obstruct justice should Newsome bring legal action against it*** – *legal action W&L* ***repeatedly*** ***requested*** *that Newsome* ***waive in exchange*** *for receipt of medical benefits to which she was automatically entitled to*.

> Factors as to whether the workplace environment is sufficiently hostile or abusive to support . . . harassment claim under Title VII include: (a) frequency of discriminatory conduct; (b) its severity; (c) whether it is physically threatening or humiliating or a mere offensive utterance; and (d) whether it unreasonably interferes with employee's work performance. (*Clark County School Dist. V. Breeden,* 532 U.S. 268, 121 S. Ct. 1508, 149 L. Ed. 2d 509; *DeAngelis v. El Paso Mu. Police Officers Ass'n,* 51 F3d 591 (1995)).
>
> In a case of race-based hostile work environment, . . . court established the following elements: (a) membership in a protected class; (b) plaintiff subjected to unwelcomed racial harassment; (c) harassment based on race; (d) harassment had the effect of unreasonably interfering with work performance by creating an intimidating, hostile, or offensive work environment; and (e) the existence of employer liability.

X. EMPLOYMENT-AT-WILL/PROTECTED ACTIVITY:[19]

> ***At-Will Employment Doctrine:*** At common law, in the absence of an employment contract or a definite term, employees and employers were free to terminate their relationship with or without cause at any time. The parties were engaged in an employment relationship said to be terminable "at-will" by either party. This notion became known popularly as the "at-will doctrine.". . . *Today the employer's unbridled freedom to fire an employee without cause and without incurring civil* ***liability no longer exists***. . . Later, courts began to find that self-imposed termination policies and practices of employers contained implied promises not to discharge at-will employees except for good cause. *If a discharge occurred under circumstances showing intentional abuse, the courts often permitted an additional recovery under a separate tort theory, such as intentional infliction of emotional distress . . .* modern courts have fashioned a separate, independent cause of action sounding in tort for wrongful discharge. This tort continues judicial

[19] When an employee is discharged solely for exercising a statutorily conferred right an exception to the general rule must be recognized. *Frampton v. Central Indiana Gas Co.*, 297 NE2d 425, 63 ALR3d 973.

adherence to the traditio nal at-will d octrine of em ployment but recognizes two excepti ons: *firings in violation of a fundamental principle of public policy, and dismissals in breach of an implied covenant of good faith and fair dealing*. . . .because a firing in violation of a public policy interest necessarily implies a violation of the covenant of good faith and fair dealing.[20]

Today the em ployer's u nbridled free dom to fire an em ployee without cau se and without incurring civil liability no longer exists [**ANNOTATION:** Modern status of rul e that e mployer m ay discharge at-will em ployee for any reason, 12 ALR 4 th 554; Law Reviews: Blades, Em ployment at Will v. Individual Freedom: *On Limiting the* ***Abusive Exercise*** *of Employer Po wer*, 67 Col um L. Rev 1404 (1967). Peck, Unjust Discharges From Em ployment: A Necessary Change in the Law. 40 **Ohio St.** L J 1 (1979)]. . . Initiall y, restrictions were placed on the em ployer's right and power to fire through collective ba rgaining agreem ents and a variety of state and fe deral statute s forbidding discrimination in em ployment based on proscribed motivational factors [Title VII, Civil Rights Act of 1964, as amended 42 USCS § 2000e-17. *This act prohibits a discharge du e to race. . . sex. . . It also prohibit s retaliatory firings for protesting unlawful acts or for participating in Title VII charges*. **Administrative remedies are available through the Equal Employment Opportu nity Com mission (EEOC) and m ust be ex hausted before civil suit**. . . Thi s act prohibi ts a discharg e due to rac e. . . A dire ct action in federal court is authorized. . . Civil Rights Act of 187 1, 42 USCS § 1983. This act applies to persons acting under c olor of law and prohibi ts deprivation of rights secured under the constitution and the laws of the United States. Direct action in federal court is authorized.. . .] *In addition to th e contract and statutory limitations on th e employer's power, ma ny courts no w refuse to adhere to the traditional view, finding little to recommend its continued a pplication in a modern society, particularly where th e circumstances of the di scharge co ntravene a clearl y mandated public policy or where the employer is motivated by bad faith or malice.* While the courts that now rec ognize some limitation on the em ployer's power of dismissal do not agree on the doctrinal basis of the restriction, all of them recognize that, in an appropriate case, **the fired employee must have some civil remedy for a discharge that is judged to be "retaliatory," "abusive," "malicious," "in bad faith," or in contravention of public polic**y. 31 Am. Jur. Trials 3 17 §§346-347.

EEOC Deci sion No. 7 0-925, Case No. YME9 -141 (¶ 6158) **Discharge for Civil Rights Ac tivities Indicates Racial Discrimination: Racial Discrimination-Discharge- Participation in Civil Rights Activities** – There was reasonable basis for a belief that joint employers of a Negro airline ticke t agent engaged in unlawful em ployment practices b y causi ng him to be removed from his regular em ployment and subsequently di scharging him because of his race and f or absenting him self to participate in various civil rights activities. Evidence indicated that the ch arging part y's attendance record com pared favorab ly with those of other ticket agents a nd that he was never officially reprim anded or warn ed against further absen ces or against engaging in civil rights a ctivities prior to his term ination. . . . . It is now well

[20] 48 Am. Jur. Proof of Facts 2d 191-192.

> settled that, where an employer has mixed motives for discharging an employee, and any one of those reasons is unlawful, the non-discriminatory nature of other motives does not preclude a finding of reasonable cause to believe that the employer (or, in this case, employers) has engaged in an unlawful employment practice within the meaning of Title VII of the Act. [*NLRB v. Murray Ohio Manufacturing Company,* (48 LC ¶ 18,691) 326 F.2d 509, 517 (6th Cir. 1964); *Wonder State Manufacturing Company v. NLRB* (49 LC ¶ 18,870) 331 F.2d 737, 738 (6th Cir. 1964)].

124. Newsome's termination of employment with W&L was ***premeditated***. Moreover, W&L having knowledge that Ohio is an at-will-employment state, thought that it could ***create false/frivolous*** *reasons for Newsome's unlawful/illegal discrimination and* ***go unchallenged***. However, to W&L's disappointment, it found out that documentation removed from Newsome's desk ***(Newsome kept her desk locked)*** and destroyed would be that in which Newsome a copy had. W&L removing and destroying evidence that it knew would be incriminating and would reveal violations of its own policies and procedures. *W&L thinking that it could terminate Newsome and assert perhaps a defense under the at-will-employment doctrine. However, such defense would also fail because the record evidence reveals that such defense is null/void when the evidence supports violations under Title VII of the Civil Rights Act and/or applicable laws governing said matters*. Moreover, that *W&L's Title VII/employment violations and discriminatory practices occurred under circumstances showing* ***intentional abuse*** *and* ***intentional violations*** *of the statutes/laws prohibiting discrimination in employment*. **W&L's termination of Newsome's employment was *in violation of fundamental principle of public policy and clearly a breach of an implied covenant of good faith and fair dealing***. While W&L's policies and procedures clearly violates its Policies & Procedures – i.e. see "EQUAL OPPORTUNTY" and "POLICY AGAINST UNLAWFUL HARASSMENT" at pages 11 and 20-22 of *Wood & Lamping LLP Policies and Procedures Manual* - W&L took a far departure from said policies and procedures and subjected Newsome to discriminatory practices as a direct and proximate result of her race/sex and knowledge of her engagement in protected activities. W&L doing so with knowledge that its *discriminatory treatment* of Newsome during her employment as well as her termination violated Title VII of the Civil Right Act and employment laws.

125. An investigation into this instant Charge will support that W&L engaged in unlawful employment practices by refusing to represent Newsome in legal matters to which she sought representation and that said refusal was illmotivated – see "REPRESENTATION OF EMPLOYEES" at page 22 of *Wood & Lamping LLP Policies and Procedures Manual* at **EXHIBIT "4"** attached hereto. Said refusal by W&L to represent Newsome was discriminatory and denied as a direct and proximate result of her race and its knowledge that Newsome had engaged in protected activities. W&L knew and/or should have known that Newsome believed in exercising rights secured to her under the laws. That Newsome believed in pursuing the proper legal avenue/recourse when protected rights were violated. W&L with said knowledge attempted to coerce Newsome to forego the exercise of protected rights; moreover, waive the right to bring legal action against it for the discriminatory practices leveled against her.

126. Newsome's unlawful/illegal termination would not have occurred had W&L not been aware of her engagement in protected activities and/or filing of EEOC Charge/lawsuits. Moreover, Newsome's engagement and participation in civil rights activities, refusal to forego protected rights, knowledge of Thomas J. Breed's former law firm's (SMR&S) intent to file a frivolous lawsuit against Newsome, resulted in the unlawful/illegal termination. The fact that ALL persons engaging in such civil wrongs against Newsome and trying to convince her to waive and/or forego rights were white is pertinent information – apparently not understanding or appreciating (as Newsome did) the sacrifices of persons making it possible for the creation and enactment of civil rights laws.

An investigation into th is instant Charge will support **systematic** *discrimination* and that W&L's discriminatory practices and t ermination was a direct and proximate result of it s knowledge of Newsom e's engagem ent in protect ed activities and her refusal to forego exercising protected rights. W&L determined to violate Newsom e's rights and decided that should she bring legal action against it, it would resort to the sy stem creat ed to destroy and m ask such discrim inatory practices leveled against African-Am ericans. Moreover, **resort t o advising th e EEOC an d/or g overnment agencies of New some's engagement in other legal matters** . *W&L will be attempting to rely upon unlawful/illegal practices of former employers and others against Newsome. As with W&L and many others, the o bject of such discriminat ory practices is to;* ***(a)*** *deprive Newsom e of equal employment opportunities,* ***(b)*** *deprive her equ al protection of the laws,* ***(c)*** *deprive her due proces s of laws,* ***(d)*** *obstruct the administration of justice, and* ***(e)*** *paint Newsome as the boy-who-cried-wolf, paranoid, a serial litigator, etc. –* ***such tactics of a system destroy the li ves of African-Americans and/or people of colo****r.*

Determined to keep the ***systematic*** *discrimination* leveled against Newsome going and efforts of obstructing the adm inistration of ju stice, *W&L made a* ***willful****,* ***conscious*** *and* ***deliberate*** *decision to remove and destroy evidence from Newsome's desk (****Newsome kept her desk locked****) that* ***it knew was incriminating*** *and would sup port W &L's violation o f its own policies and procedure s.* Moreover, would reveal the unlawful/illegal actions taken by W&L to cover-up/mask discriminatory employment practices.

> **EEOC Deci sion No** . 7 1-460 (¶617 5) **Time Limit Tolled By Prematur e Charge To EEOC: Na tional Origin Di scrimination-Discharge for Fili ng Charge** – A reasonable basis existed for concluding that a Spanish-surnam ed American was discharge d from his em ployment because he filed charges alleging discrim ination o n account of national or igin, where there was no evidence that the discharge would ha ve occurred had the em ployer not been aware of the filing of the charge.. . .
>
> Charging Pa rty was hired b y Respo ndent on Ju ne 4, 1968 , as a bookkeeper. On Nove mber 21, 1969, Charging Part y was discharge d. Charging Party asserts that he had never been reprimanded in connection with his work, and that his supervisor wa s antagonistic because he is a Spanish surnamed American and *because he filed a charge of discrimination against another e mployer.* [Fn 6 : A c opy o f a ne wspaper article describing that charge was i ncluded in Charging Part y's personnel file] . . . O ne of three o f Respondent's officials who participated in the dec ision to discharge Charging Party stated in an affidavit that he ha d contacted an employer against whom Charging Party had m ade a previous Commission Charge. He states that the employer re commended that "we tak e action now for our o wn protectio n." He also stat ed that "the m aterial in (Charging Party' s perso nnel file) gave indication th e (Charging Party) was n ot rational (s ic). The file reflected he had filed a C ivil Rights charge with E EOC. I was sure the same thing would eventually happen to me." . . . There is no evidence on the record indicating that Respondent would have discharged Charging Party had it not been aware of Charging Part y's earl ier charge. Such an action based, at least in part, upon Chargi ng Party' s participation in Commission procee dings violates Section 704(a) of Title VII.

127. While the Fifth Circui t Court 's d ecision in *Newsome v. Equal Employment Opportunity Commission*, 301 F.3d 227 in clearly states:

> *Newsome al so is not entitled to th e writ because she has another ade quate remedy available, i.e.* ***she coul d file suit in court against her employer****. . . .*

[**EMPHASIS AD DED**] See **EXHIBIT "26"** attached hereto and incorporated by reference. This **INFORMATION POSTED O N T HE INTERNET:** The very practices that the E EOC note s as discriminatory practices are used to notify pote ntial em ployers of Ne wsome's en gagement in protected activities as we ll as retaliate against Ne wsome for e xposing di scriminatory practices of white employers.

128. W&L knew and/or should have kno wn that it was engaging in unlawful employment practices in violation of Title VII of the Civil Ri ghts Act. This was the reason W& L went int o Newsome's desk ***(Newsome kept her desk locke d)*** to rem ove and destro y evidence t hat it knew would be incrim inating and support t he discriminatory practices Newsome was subject ed to and had to endure over her objections. W&L creating a h ostile/harassing environment and then resorted t o retaliatory practices for purposes to forcing Newsome out of the workplace and/or setting the stage to mask the unlawful/illegal termination.

> **EEOC Deci sion No**. 7 1-1677 (¶62 89) **Supervisor's Use of Racial Terms in Harassing Employe e Was Unlawful: Racial Discrimination-Verbal Harassme nt-Use of Racially Related Terms-Discharge-Retaliation for Protected Acti vities** – . . . *Since the harassment was partially due to the employee's having filed charges with the Commission and her opposition t o racial practices and its fore seeable resu lt was a cessation of w ork for whi ch the employee was discharged, the discha rge was reasonably to be viewed as based on considerations of race and the employee's opposit ion to practices feared by the employer to be unlawful*.
>
> We find that the Respo ndent's cont inual use of the term s "troublemaker" and "civil rightser" pla yed a substantial role in forcing Charging Party to leave her work. . . . *It is also well settled that Title VII guarant ees employees the right to work in an atmosphere* ***free*** *from racial invectiv e*. [Fn. 8 - Decision of Equal Employment Opportunity Commission No. 70-683, decided April 10, 1970, EMPLOYMENT PRACTICES GUIDE (CCH) ¶6145…]
>
> Inasmuch as Responde nt's unla wful racial harassm ent of Charging Party was conducted either with an intent to cause Charging Party to cease work, or with reckless disregard of the consequences of such harassment, inasmuch as Charging Party's cessation of work was among the reasonabl y foreseeable results of suc h harassm ent, and inasmuch as Charging Party was discharged for her cessation of work, *we find that Charging Party was* ***discharged because of he r race****, as alleged, and also becau se Charging Party* ***filed a charge wi th the Commission****, and* ***opposed practices feared*** *by Respondent to be unlawful*.. . .
>
> Reasonable cause exists to believe that Respondent engaged in unlawful employment practices in violation of Title VII of the Civil Rights Act of 196 4 *by harassing a nd discha rging Cha rging Party because of her race, because she filed a charge with the Commission, and because she oppose d practices feared by Respondent to be in violation of Title VII*.

129. An investig ation into this instant Charge will support ***systematic*** *discriminatory* practices leveled against Newsome. Moreover, W&L's engagement with third parties to induce th e breach and/or discriminatory practices. It was during the signing of the Magistrate's Order in a legal matter brought by SMR&S attorney (David Mera nus) on beha lf of their client (Stor-All) advised of his knowledge of Newsome's engagement in protected activity. Information confirming Newsome's concerns of *systematic discriminatory* practices as well as being stalked from job-to-job/state-to-state and her em ployer(s) bein g contacted and notified of her enga gement in protected activities. Said contact is made for purposes of getting Newsom e terminated from place of em ployment, deprive Newsome of equal em ployment opportunities, deprive Newsom e equal protection of the laws, etc. See EXHIBIT "24" – *February 6, 2 009 Letter to Meranu s* attached hereto and incorporated by reference.

130. *The employer-employee relationship is contractual in nature* ; ***it may be created by express***. . . *oral contract* or *by implication of circumstance s*, but essentially consists of the right of one person t o order and control another in the perform ance of work b y the latter. . . The law also recognizes a term of employment which is terminable at will where there is an indefinite hiring – that is, where no period of service is specified. Under the well-established common-law rule still adhered to in most jurisdictions, in an employment for an indefinite term the employee may be discharged at any time for any or no re ason, regardless of motive, without the em ployer incurring liability, ***unless there is a . . . statutory restriction on the rig ht of discha rge***. . . . **All** *the circumstances of the employment relationship will be examined to determine what the parties inte nded with respect to the duration of employment*. Factors that may be considered include **the policy** of the employer, nature of the job, . . . In such a case, or **where discharge is prohibited by statute,** *there is al so a line of authority holding that* ***a tort action wi ll lie*** *against the employe r* ***for conspiring with third parties*** *to induce the breach*. 7 Am Jur Proof of Facts 2d 12-14.

131. Newsome believes that an investigation into this instant Com plaint m ay reveal that W&L's term ination of h er em ployment is an o ngoing pattern-of-discrim ination and/o r ***systematic*** *discrimination* of certain white em ployers against Newsom e for her exercising of protected rights secured to her under Title VII, Civil Rights Act, Fair Housing Act, etc. Newsome in *good faith* exercised her rights and brought the applicable legal actions to address legal wrongs rendered against her – said engagem ent and/or pursuit which is clearly protected and prohibits retaliation against her. Moreover, Newsome had a good faith belief that she is being subjected to **systematic** *discrimination* and **former employers and other s have been *stalking* her from job-to-j ob/state-to-state contacting her employ ers and adv ising of past/present legal actions and/or her intent to file future lawsuits**.[21] As evidenced in Newsome's conversation with David Meranus, attorney for Stor-All, in a lawsuit filed by him on behalf of Stor-All against Newsom e. Confirmation of s aid stalking was made known on February 6, 2009 during the e xecution of Magistrate's Order ruling in favor of Newsome's motion to tra nsfer matter. See **EXHIBIT "24"** – *February 6, 2009 Letter of Newsome to David Meranus* attached hereto an d incorporat ed b y re ference. W&L obtaining a copy of said correspondence in that i t is evident Newsome's termination of em ployment and Stor-All 's la wsuit establishes a causal connection.

> **IMPORTANT TO NO TE:** That while Newsom e was not sure (however had an idea) of the persons behind the stalking, Meranus' confirmation of February 6, 2009, shed additional light and provided Newsome with pertinent information to determine

[21] "P OST-TERMINATION IN FORMATION:" **It is w hen y ou go bey ond the f acts or make statements out of a desire to har m the for mer e mployee or c over up t he tr uth t hat y ou c an ge t in tr ouble**. . . Obtain Lega l Advice: Ea ch situation is unique and should be handled accordingly in or der to avo id po ssible legal trou ble from depar ting emplo yees. Employers should consult with their attorney regarding their specific legal obligations to departing employees. - **EXHIBIT "20"** - *W&L's Employer's Guide* at page 27 attached hereto and incorporated by reference as if set forth in full herein.

this. In the lawsuit SMR &S brought against Newsome on behalf of its client (Stor-All), Stor-All's insurance company (Liberty Mutual) has been made known. This information is important because Liberty Mutual has been linked to the employer in New Orleans, Louisiana in the matter Meranus addressed. Supporting a CAUSAL Link and acts in furtherance of systematic discrimination against Newsome; moreover, the scope, range (extending across states), and at what great lengths that white employers have gone to see that Newsome is not employed. In that it was Meranus that mentioned this matter, Newsome believe it is important to determine how such information was obtained and the CAUSAL Link between Newsome's engagement in protected activity in New Orleans, Louisiana and her termination of employment from W&L. While Newsome was not aware during the settlement of a claim with Liberty Mutual on January 21, 2009 (day after SMR&S filed complaint on behalf of Stor-All against Newsome), during the course of Stor-All's lawsuit, its insurance company has become known to Newsome. Therefore, raising serious and valid concerns as to Liberty Mutual's role, Stor-All and SMR&S role in Newsome's termination of employment with W&L. See **EXHIBIT "27"** – *January 21, 2009 Fax from Liberty Mutual to Newsome* attached hereto.

> *Spence v. Local 1250, United Auto Workers of America,* 595 F.Supp. 6 (N.D.**Ohio.**E.Div., 1984) - Employee **need <u>not</u>** establish validity of original discrimination claim to prove charge of employer retaliation flowing from employee's opposition to unlawful employment discrimination, but rather, relevant issue is whether employee sincerely believed discriminatory practices existed. Civil Rights Act of 1964, § 704(a), as amended, 42 U.S.C.A. § 2000e-3(a).

> *Warren v. Ohio Dept. of Public Safety,* 24 Fed.Appx. 259 (C.A.6.**Ohio,**2001) - Under opposition clause which prohibits retaliation against someone opposing violation of Title VII, person opposing apparently discriminatory practices must have a good faith belief that practice is unlawful. Civil Rights Act of 1964, § 704(a), 42 U.S.C.A. § 2000e-3(a).

132. While W&L may attempt to assert that Ohio is an "employment-at-will" state, its <u>*Title VII violations*</u> against Newsome ***<u>precludes</u>*** *<u>any such defense</u>* under said "at-will" doctrine. Moreover, its retaliation and harassment of Newsome because she opposed employment practices prohibited by law precludes any such defense under the employment-at-will doctrine.

> *Mulvin v. City of Sandusky,* 320 F.Supp.2d 627 (N.D. **Ohio**.W.Div., 2004) - Under Ohio law, public policy **warrants <u>exception</u>** to employment-at-will doctrine *for retaliation for reporting . . .harassment in workplace*.

133. Newsome believes the evidence provided not only in this instant Complaint and written documentation evidencing W&L's knowledge that she was engaging or would be engaging in protected activity – had filed and/or would be filing Title VII actions opposing unlawful practices, filing of criminal complaint addressing civil wrongs (i.e. under Civil Rights Act, etc.), participating in an investigation, proceeding with lawsuits addressing civil wrongs protected under Title VII, Civil Rights Act, etc. – will support retaliation by W&L and its attempt to cover-up/mask said violations by committing criminal/civil wrongs in the taking and destroying of evidence from Newsome's desk ***(<u>Newsome kept her desk locked</u>)***.

Muir v. Chrysler LLC, 563 F.Supp.2d 783 (N.D.**Ohio**.W.Div., 2008) - "Protected activity" element of prima facie case of retaliation under Title VII may be met by evidence of opposing an unlawful practice or making a charge, testifying, assisting or participating in an investigation, proceeding or hearing. Civil Rights Act of 1964, § 704(a), 42 U.S.C.A. § 2000e-3(a).

134. An investigation into this instant Charge may yield information that W&L having knowledge that Newsome would be bringing civil lawsuits against former employers. Therefore, ***in an effort to aid former employers and/or those engaged in legal action brought by Newsome, W&L terminated Newsome's employment to provide opposing parties with an undue advantage*** – by financially devastating Newsome for purposes of creating difficulty in bringing actions and to provide opposing parties with an unlawful/illegal advantage – ***over any claims that she would be entitled to bring under the applicable statutes/laws within the time allotted***. RAISING VALID CONCERNS that such practices are in furtherance of the ***systematic*** *discrimination* leveled against Newsome and the perpetrators of said discrimination are **ALL** white – *in keeping with each scratching the others back*. W&L relying up on its knowledge of Newsome's engagement in protected activities and intent to use such information as a defense, proceeded to go into Newsome's desk ***(Newsome kept her desk locked)*** to remove and destroy evidence which it knew was incriminating and would support the discriminatory practices leveled against Newsome. Moreover, W&L's violations of its own policies and procedures. Then W&L attempted to ***coerce*** Newsome and get her to waive any rights she had to bring legal action in exchange for receiving medical benefits to which she is entitled and benefits afforded to white employees and/or those similarly situated.

135. Newsome believes the evidence contained in this instant Complaint as well as an investigation into the allegations of this Complaint will yield that she complained of harassment and/or hostile/ discriminatory treatment; therefore, shielding/protecting her against the retaliatory acts rendered her by W&L. Furthermore, that W&L's retaliation towards Newsome was a direct and proximate result of her notifying of exercising protected rights and its knowledge of Newsome's *participation* in bringing and/or filing of charge(s)/complaint(s)/lawsuit(s) to recover from civil/legal against her as well as her participation in an investigation.

Payton v. Receivables Outsourcing, Inc., 840 N.E. 2d 236 (**Ohio.**App.8.Dist.Cuyahoga.Co., 2005) - Complaining to the employer about. . . harassment is a protected activity for the purposes of a claim for retaliatory discharge.

Payton v. Receivables Outsourcing, Inc., 840 N.E. 2d 236 (**Ohio.**App.8.Dist.Cuyahoga.Co., 2005) - An employee is engaged in a protected activity, for the purposes of a claim of retaliatory discharge, if she opposes a discriminatory employment action or has made a charge, testified, assisted or participated in any investigation, proceeding, or hearing concerning discriminatory employment practices.

Gliatta v. Tectum, Inc., 211 F.Supp.2d 992 (S.D.**Ohio.**E.Div., 2002) - For purposes of a retaliation claim under Title VII, activities such as filing an Equal Employment Opportunity Commission (EEOC) claim fall under the "participation" clause of Title VII. Civil Rights Act of 1964, § 704(a), 42 U.S.C.A. § 2000e-3(a).

The record evidence will support Newsome's reporting of harassment by supervisor(s); as well as others harassing her for exercising of protected rights and seeking relief from said wrongs. How bold and blatant was W&L? The record evidence will support that Newsome timely, properly and adequately placed it on notice of violations; moreover, W&L having access to various sources to support its knowledge of Newsome's engagement in protected activities elected to take a far departure from its own policies and procedures for purposes of depriving her equal employment opportunities, equal protection of the laws, etc.

136. Newsome's termination was unjustified, illegally motivated, was not due to any economic conditions and/or hardships, was not of business necessity and is evidenced by W&L's hiring of several white employees AFTER Newsome's termination of employment in its efforts of creating an ALL-white workplace and its efforts to destroy evidence to cover-up/mask discriminatory practices when it went into Newsome's desk ***(Newsome kept her desk locked)*** to remove and destroy evidence incriminating to it and revealing knowledge of its employment violations.

137. ***Bad Faith Discharges.*** An alternate theory of recovery in wrongful discharge cases may be advanced on the ground that the employee's at-will employment contract contained an ***implied-in-law covenant of good faith and fair dealing*** *and that an unjustified dismissal under some circumstances constitutes a breach of the covenant enabling the employee to recover damages in a cause of action sounding in contract or tort, in some cases, both contract and tort* [**Note:** Protecting At-Will Employees Against Wrongful Discharge: *The Duty To Terminate* ***only*** *in Good Faith*. 93 Harv L Rev 1816 (1980)]. To some extent this theory has been recognized by the courts in . . . **Ohio** [*Randolph v. New England Mut. Life Ins. Co.* (6th Cir. **Ohio**) 526 F2d 1383]. See 31 Am Jur Trials 317 § 7.

138. ***Bad Faith Breach of Contract.*** Regarding breach of contract claim in terminating Newsome's employment, W&L violated its contractual obligations in bad faith, then W&L is liable for all damages suffered by Newsome which are traceable to the breach, including those which could not be foreseen at the time the contract of employment was formed. Newsome's employment was terminated by W&L in bad faith violation of the employment contract, therefore, Newsome can recover all damages proximately caused by W&L's bad faith breach, including damages for mental distress, provided such injury is proximately caused by the bad faith breach. See 31 Am. Jur Trials 317 § 60, p. 509.

139. W&L in terminating Newsome's employment breached the covenant of good faith and fair dealing.

140. ***Definition of Implied Covenant of Good Faith and Fair Dealing.*** Newsome seeks to recover damages which she claims were sustained as a result of W&L's breach of its duty to act in good faith and deal fairly with Newsome with regard to the terms of W&L's personnel and appraisal policies and procedures. *Every* contract of employment includes *as a matter of law* an obligation of good faith and fair dealing between the parties in its performance or enforcement. This implied duty of good faith and fair dealing forbids either party from doing anything which will interfere with the right of the other to receive benefits of the agreements. The implied duty imposes on each party the obligation to do everything that the contract presupposes they will do to accomplish its purpose. See 31 Am Jur Trials 317 § 60, pp. 509-510.

141. ***Breach of the Implied Covenant of Good Faith and Fair Dealing – Standard of Proof.*** Liability for the W&L's breach of the duty of good faith and fair dealing is imposed for failure of it to act in good faith and to deal fairly rather than arbitrarily in the performance of its obligations under the employment contract so as not to frustrate the purpose of the employment contract or to deny Newsome the benefits of the contract. It is not necessary to prove actual

dishonesty, fraud or concealment in order for Newsome to recover damages for breach of the implied duty of good faith and fair dealing. See 31 Am Jur Trials 317 § 60, p. 510.

*142. As a matter of law, Newsome is entitled to recover liability s ustained by W &L for employment violations and its breac h of the duty of good f aith and fair dealing. W&L acted arbitrary and committed criminal/c ivil wrongs to cover-up/mask Title VII/employment violations. While it is not necessary for Newso me to prove actual dishonesty, frau d or throug h the evidence contained in this instant Charge, W&L's **theft of her property** to cover-up/mask and shield an illegal animus will further sustain pretext and knowledge of its engage ment in criminal/civil wrongs leveled against Newsome.*

XI. R EDUCTION IN FORCE:

> *Hodgens v. General Dynamics Corp.,* 144 F.3d 151 (1st Cir. 1998) - **[6]**Employees' rights to obtain leave under . . .are essentially prescriptive, setting subst antive floors for conduct by employers, and creating entitlements for employees. **[9]**Employer's motive is relevant to whether em ployer has violated proscriptiv e provisions . . . protecting from discrim ination those em ployees who exercise their rights . . .; *the issue i s whether employer took the adverse action because of a prohibited reason or for a legitimate nondiscriminatory reason*. **[18]**. . .protects e mployee who visits a d octor with sym ptoms that are eventually dia gnosed a s constituting a serious health condition, *even if, at the time of the initial medical appointment s, the illness has not yet been diagnosed nor its degree of seriousness determined*. **[21]**For employee to be unable to pe rform his or her job within meaning of . . . section entitling employee to 12 weeks of leave for seriou s h ealth condition m aking em ployee unable to perform his or her job, it will suffice if employee is unable to perform job because of need to o btain m edical treatm ent o r diagnosis; he or she d oes not have to be physically u nable to work. **[23]**Employer m ay n ot use reduction-in-force (RIF), reorganization, or im proved-efficiency rationale as pretext to mask actual d iscrimination or retaliat ion for employee's exercise of . . . rights; the mere incantation of the mantra of "efficiency" is not a talism an insulating an em ployer from liability for invidious discrimination.
>
> > N.23 - But *an employer **may not** use its RIF/reorganization/improved-efficiency rationale as a pretext to m ask actual discrimination or retaliation*; the m ere inc antation of the m antra of " efficiency" is not a tal isman insulating an e mployer from liability for invidious discrim ination. See *McDonnell Douglas,* 411 U.S. at 804, 93 S.Ct. 1817 (employer may not use an ostensibl y legitim ate reason for an adverse action as a pretext for discrimination that is prohibited by statute); 29 U.S.C. § 2615(a); 29 C.F.R. § 825.220; cf. *INS v. Chadha,* 462 U.S. 919, 944, 103 S.Ct. 2764, 77 L.Ed.2d 317 (1983): "Co nvenience and efficiency are not the prim ary objectives-or the hallm arks-of

democratic government." Nor are they the objectives of public policy underlying statutes . . .

[25]Even if employer's articulated reason for its adverse employment action is facially neutral, as in the case of a reduction in force (RIF), if in reality the employer acted for reason prohibited by the . . . retaliation provision, then its asserted legitimate reason and its ostensibly nondiscriminatory selection criteria as to who is subject to RIF <u>*cannot*</u> ***insulate*** *it* from liability.

> N.25 - Because of the availability of seemingly neutral rationales under which an employer can hide its discriminatory intent, and because of the difficulty of accurately determining whether an employer's motive is legitimate or is a pretext for discrimination, there is reason to be concerned about the possibility that **an employer could manipulate its decisions to purge employees it wanted to eliminate**. See *Weldon v. Kraft, Inc.,* 896 F.2d 793, 798 (3d Cir.1990) (Subjective evaluations of performance "are more susceptible of abuse and more likely to mask pretext" than objective job qualifications.) (internal quotation marks omitted). The law does not permit this. **Even if an employer's actions and articulated reasons are facially neutral (e.g., a RIF), if in reality the employer acted for a prohibited reason (e.g., retaliation for exercising a protected right), then its asserted legitimate reason for the RIF and its ostensibly non discriminatory selection criteria as to who gets RIFed cannot insulate it from liability**. As Judge Posner wrote in the context of . . .discrimination, "[a] RIF is not an open sesame to discrimination . . . Even if the employer has a compelling reason wholly unrelated to . . . any of its employees to reduce the size of its work force, this does not entitle it to use the occasion as a convenient opportunity to get rid of its . . . workers." *Matthews v. Commonwealth Edison Co.,* 128 F.3d 1194, 1195 (7th Cir.1997) (citation omitted). Nor can it be an opportunity to get rid of workers who exercise their . . . right. . .

143. There is no legitimate nondiscriminatory reason for Newsome's termination. An investigation into this instant Charge will support a *pattern-of-practice* used by W&L. Such practices that W&L may have also been used on another African-American employee (Angela Hart). As Newsome advised W&L, "***You mentioned that an employee, Angie, brought charges against Wood & Lamping which was unsuccessful. While I am not aware of any charges by Angie, I would think that any comparison of my treatment and handling would be left up to the appropriate agency to handle; moreover, up to a jury to decide . .***" See EXHIBIT "16" attached hereto and incorporated by reference. Taking advantage of African-Americans who may not be familiar with what their rights are and apparently W&L's repeat reliance upon such corrupt practices – placing

employees at a disadvantage so that they can obtain an undue/unlawful/illegal advantage should legal actions be brought against it.

144. W&L may attempt to use the reduction-in-force as an excuse to shield/mask Title VII violations – thinking that the state of the economy would provide it with such a frivolous defense masked behind discriminatory practices – however, *SHORTLY **AFTER*** Newsome's unlawful termination, W&L hired several white employees. Evidencing further discriminatory practices to reduce the number of African-Americans W&L employed and efforts of maintaining an ALL-white workforce.

145. *Even if W&L's RIF were true (when it is not), such defense cannot be used to deprive Newsome of protected rights secured to her under Title VII and/or other statutes/laws governing engagement in protected activities. W&L's deprivation of benefits under the Family & Medical Leave Act was also due to Newsome's race. W&L affording whites and/or those similarly situated medical leave to attend to medical issues; however, deprived Newsome of such benefits when she applied.*

146. W&L's termination of Newsome's employment was done to aid Thomas J. Breed's former employer/law firm (SMR&S) in a lawsuit it obtained knowledge would be filed against Newsome.[22] W&L's termination being done to aid a third party in legal matters to be brought against Newsome and to provide said third-party with an undue/illegal/unlawful advantage over Newsome. W&L's participation in such matter is also racially and discriminatorily motivated. Moreover, PRETEXT to cover-up/mask ***systematic*** *discriminatory* practices leveled against Newsome.

147. Newsome was not only terminated because of her race and W&L knowledge of her engagement in protected activities, but to deprive Newsome of medical benefits and/or fringe benefits afforded to white employees and/or those similarly situated.

> *Hollins v. Ohio Bell Telephone Co.,* 496 F.Supp. 2d 864 (S.D.**Ohio**.W.Div., 2007) - When an employee complies with the requirements of the Family and Medical Leave Act (FMLA), the employee is entitled to certain substantive rights under the Act, including the right to take FMLA leave and the right, upon return from the leave, ***to be restored to the position of employment*** held when the leave commenced or to an equivalent position.
>
> *Schmauch v. Honda of America Manufacturing, Inc.,* 295 F.Supp.2d 823 (S.D.**Ohio**.E.Div., 2003) - Employers have prescriptive obligation under the FMLA, i.e., they must grant employees substantive rights guaranteed by the FMLA, and they have a proscriptive obligation, i.e., **they *may <u>not</u>* penalize employees for exercising such rights**.

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[22] **PRIMA FACIE - <u>CAUSAL CONNECTION</u>: (a)** W&L's termination of Newsome occurred on January 9, 2009. **(b)** SMR&S' client's (Stor-All's) Amnesty Weekend was set for January 9th thru January 11th. Stor-All advising Newsome of Amnesty Weekend via facsimile at the number assigned Newsome by W&L. See **EXHIBIT "18"** – *12/19/08 Fax From Lori Whiteside/Stor-All* attached hereto and incorporated by reference. **(c)** On January 9, 2009, Stor-All provided Newsome with "NOTICE TO LEAVE THE PREMISES." See **EXHIBIT "19"** attached hereto and incorporated by reference. **(d)** *<u>While Stor-All provided Newsome with faxes at W&L during her employment, **on the date of Newsome's termination** Stor-All did not provide her with the "Notice to Leave the Premises" via facsimile (as it did with the 12/19/08 fax and others) **because it knew that W&L was terminating Newsome's employment on said date***</u>. **(e)** On January 20, 2009, SMR&S on behalf of Stor-All filed a lawsuit against Newsome.

Skrjanc v. Great Lakes Power Service Co., 272 F.3d 309 (C.A.6.**Ohio**, 2001) - The FMLA *protects an employee's right to be treated the same as other similarly situated employees*.

XII. PUBLIC POLICY:[23]

Defining "Public Policy:" "Public policy" has been characterized as the principle that no one can lawfully do that which has a tendency to be injurious to the public or against the public good.. . . In order for an employee discharge to be against public policy, the discharge must affect a duty that inures to the benefit of the public at large, rather than a particular employee. . . . the specific circumstances in which public policy will support a cause of action for wrongful termination, stating that a public policy cause of action arises only when the termination is in retaliation for performing an important and socially desirable act, exercising a statutory right, or refusing to commit an unlawful act. The Model Termination Act provides that an employer ***may not*** *take adverse action in retaliation against an individual for filing a complaint*, giving testimony, or otherwise lawfully participating in proceedings under the Act. Courts in some states also look to the employer's motivation for discharging the employee as a part of its determination of whether public policy has been violated. A discharge will violate public policy only when the employer was motivated by bad faith, malice, or retaliation. The termination itself must be motivated by an unlawful reason or purpose that is against public policy. 82 Am. Jur 2d Wrongful Discharge § 57 (*Green v. Amerada-Hess Corp.,* 612 F.2d 212 (5th Cir. 1980)).

Public Policy: Despite the almost universal acceptance of the employment at will doctrine, the common law governing the employment relationship has been undergoing a period of flux corresponding to increasingly rapid and fundamental changes in the legal, social and economic conditions affecting the relations between employer and employee that have taken place since the formulation of the doctrine. An important ***judicially created restriction*** on an employer's otherwise ***arbitrary right to discharge an employee at will is the view recognizing a civil cause of action for wrongful discharge when such an employee is discharged in retaliation for actions which are protected by public policy.*** . . . The "public policy" exception to the employment at will doctrine has been applied to afford civil relief to an employee at will discharge under the following circumstances: . . . ***any employee because the employee has testified or is about to testify, or because the employer believes that the employee will testify in any investigation or proceedings relative to the enforcement"*** of the. . . law guilty of a misdemeanor, . . . for having filed a complaint under the . . . Act under the provision

[23] See "EMPLOYMENT AT WILL" and "SEVERANCE AGREEMENTS" - **EXHIBIT "20"** - *W&L's Employer's Guide* at pages 9-10 and 12 attached hereto and incorporated by reference as if set forth in full herein.

of that Act m aking it unlawful "to discharge. . . any em ployee because such employee has filed any complaint or instituted or caused to be instituted any proc eeding unde r or related to this Act, or has testified or is about to testify in any such proceeding. . . In m ost cases recognizing a private cause of action on the part of an employ ee discharged i n retaliation for actions which are protected by public policy, the *public policy is evidenced by either. . . a statute designed* ***specifically*** *to protect the rights of the employee vis-à-vis employer. . .* .On the other hand, there is also authority rec ognizing a cause of action for the wrongful discharge of an em ployee at will in instances in which the *employer's motive for the discharge i* ***nterferes*** *w ith an important public interest*, regardless of the exist ence of an express statutory prohibition or statem ent of public policy specifically protecting the right of the em ployee vis-à-vis em ployer. . . a nd the public's interest in m aintaining a proper balance between the two, *the court held that any* ***termination of employment*** *which is* ***motivated*** *by* ***bad faith*** *or* ***malice*** *or based* ***on retaliation*** *is not in the best interest of the* ***economic system*** *or the* ***public good*** *and constitutes a* ***breach of the employment contract*** **.** Other courts have apparently indicated that a discharge from em ployment which is m otivated solely by malice on the part of the employer may be actionable under the prima facie tort doctrine. . .Using this approach, the plaintiff must satisfy the burden of showing an exclusive m alicious m otivation for the discharge, excluding any motive other than a desire on the part of the employer to cause the plaintiff harm . *The co nduct recog nized as tortuous must involve specific intent on the part of the employer to harm the plaintiff or to achieve some other proscribed goal*. . . . 7 Am Jur POF 2d 20-22, 25-28.

Public Polic y Considerations. The courts hav e dem onstrated an increased willingness to imply a terminate-for-cause **only** condition in an at-will em ployment c ontract, *and to enforce th e covenant o f good faith and fair dealing arising out of the contractual relationship* . The ground upon which m ost courts are w illing to im pose a restriction on the em ployer's right to di scharge an a t-will em ployee without cause, however, is public policy considerations. Thus, **where an employee is fired for exercising a right that public policy w ould encourage, or for refusing to per form an a ct that public policy would condemn, civil liability for resulti ng damages may be imposed on the employer**. This restriction on the em ployer's power to fire an at-will employee without cause appears to have been accepted, at least in principle, in the following jurisdictions:. . . **Ohio** [*Smith v. Frank R. Schoner, Inc.,* 94 **Ohio** App 308, 51 **Ohio** Ops 4 55, 115 NE2 d 25]. . .The restriction has also been ap plied in two areas of federal jurisdiction. . . . **The discharged e mployee bears the bur den in most ca ses of establishi ng that the alleged w rongful di scharge contravened a public policy that was *clearly mandated* and *specifically expressed* in a statute, judi cial decision or administrative agency regulation**. . . While the courts are not entirely uniform in their statement of the public policy exception, they do appear to be in greater agreem ent on the specific areas covered by

this ground. *Where the employee has been discharged for allegedly exercising a right encouraged by public policy,* ***liability has been imposed in virtually every case*** *where the dismissal was in retaliation for filing a . . . claim* . . . In other cases, the courts have imposed liability for wrongful discharge where the firing was in retaliation for an employee's serving on a jury, **for reporting *criminal* activity**, . . . Liability for wrongful discharge is more consistently found on public policy where the dismissal is in retaliation for the employee's refusal to participate in illegal acts or for attempting to rectify unlawful activity by the employer or coworkers. Thus, an employer has been held liable for wrongful discharge for firing an at-will employee in retaliation for the employee's refusal to participate in an illegal . . . scheme. . . 31 Am Jur Trials 317, § 6.

148. While Newsome approached W&L for legal representation regarding a legal matter she was dealing with involving her landlords and their counsel out of concerns that she was being requested to forego rights secured to her under the Fair Housing Act, Civil Rights Act, Constitution and other governing statutes/laws, Newsome did so in keeping with W&L's policies and procedures; however, W&L retaliated against Newsome because she refused to waive her rights and/or forego protected rights – i.e. as W&L has repeatedly tried to get Newsome to waive rights and agree not to bring legal action against it. See EXHIBIT "15" attached hereto and incorporated by reference.

149. ***Relation of Public Policy to Covenant:*** In determining whether the covenant of good faith and fair dealing has been breached, many courts will also examine public policy. Conduct of the employer which violates or undermines the public policy set forth in a statute will be deemed a breach of the covenant. In some jurisdictions, a cause of action for wrongful discharge in contract for violation of the implied covenant of good faith and fair dealing is coterminous with, and extends no further than, a cause of action for wrongful discharge in tort. *The case that first enunciated the covenant involved an employee fired because she refused to yield to her supervisor's. . . overtures; public policy was the basis for creating the implied covenant that prevents such* ***abusive dismissals****, the court holding that a termination by the employer of a contract of employment at-will which* ***is motivated by bad faith*** *and* ***malice*** *or* ***based on retaliation*** *is not in the best interest of the public good and* ***constitutes a breach of the employment contract***. Thus, a dismissal which contravenes public policy constitutes not only an independent retaliatory tort, but also a breach of the implied covenant between the parties. While some courts have held that a discharged at-will employee may maintain a claim for breach of an implied covenant of good faith and fair dealing whenever the termination violates an established public policy, *most of the courts recognizing breach of the implied covenant claims in the employment at-will context have done so* **where dismissal *deprived* an at-will employee of an *employment benefit* that was earned or reasonably expected**. 82 Am Jur 2d Wrongful Discharge § 68.

150. ***Public Policy Exception:*** Most courts recognize an exception to the common-law at-will employment doctrine where the termination of the employee is based upon a violation of a principle of public policy. Thus, where Newsome is discharged for exercising a right or performing a duty that public policy encourages or requires, W&L may be subject to liability in tort for wrongful discharge. This exception is recognized, at least in principle, in the overwhelming majority of jurisdictions. Newsome may bear the burden of establishing that the alleged wrongful discharge contravened a public policy that was clearly mandated and specifically expressed in a constitution, statute, judicial decision, or administrative agency regulation in which Newsome was discharged for pursuing an employment-related right that is one of important public interest protected by state or federal constitutions, statutes, or judicial decisions; of which an investigation will yield Newsome

has shown and the evidence provided in this instant Charge will support has been sustained. See 48 Am Jur POF 2d 192-193.

151. **A. PRIMA FACIE: (a)** Public policies involved in W&L discriminatory practices and employment violations leveled against Newsome include but it not limited to – (i) Title VII of the Civil Rights Act of 1964 [42 U.S.C.A. § 2000e et seq.]; (ii) 29 C.F.R. §§ 1601.6 and 1601.7; (iii) Section 4112 of the Ohio Revised Code; (iv) Ohio Civil Rights; (v) Ohio/U.S. Constitution; (vi) knowledge of Newsome's engagement in protected activities – i.e. filing of past EEOC Charges, filing of civil lawsuits, filing of claims under the Fair Housing Act, filing of criminal charges and participation in investigation, etc.; (vii) participation in federal investigations; (viii) violations under the applicable statutes/laws governing said matters. **(b)** Newsome was engaged in conduct favored by public policy. **(c)** W&L knew and/or believed that Newsome was engaged in protected activities – i.e. W&L finding out through other sources as well as Newsome advising of engagement in protected activities. **(d)** Retaliation was the motivating factor behind W&L's termination of Newsome's employment. W&L retaliated by terminating Newsome to deprive her of benefits to which she was entitled. Not only that, W&L having knowledge that Thomas J. Breed's (attorney Newsome assisted) former law firm (SMR&S), on behalf of its client (Stor-All), would be filing a lawsuit against Newsome; therefore, W&L terminated Newsome's employment for purposes of providing SMR&S and its client with an undue/illegal advantage over Newsome in the lawsuit that would be filed against her. **(e)** W&L's *termination of Newsome's employment was to undermine an important public policy.* In an effort to cover-up/mask such ***systematic*** *discriminatory* practices, W&L removed and destroyed evidence that it knew and/or should have known was incriminating. Evidence which it knew and/or should have known would support W&L's violations of its own policies and procedures. Criminal/civil wrongs committed by W&L were done with malicious intent to obstruct the administration of justice.

> ***Elements of Public Policy Exception:*** To prevail, an employee asserting a discharge that undermines public policy must establish five key elements:
>
> (i) The existence of a relevant public policy;
> (ii) That he or she was engaged in conduct favored by public policy;
> (iii) That the employer knew or believed that the employee was engaged in protected activity;
> (iv) That retaliation was a motivating factor in the dismissal decision, and
> (v) That the discharge would undermine an important public policy.
>
> (a) In some jurisdictions, *to state a claim for wrongful discharge due to violation of public policy*, an employee **must** demonstrate:
>
> (1) that the employee was discharged;
>
> (2) that the dismissal violated some clear mandate of public policy; and
>
> (3) that there was a nexus between the defendant and the decision to fire the employee.

(c) A prim a facie case of term ination in violation of public policy requires a showing that:

(1) the employer prohibited the em ployee from perform ing a public duty o r exercising an im portant job-related right or privilege;

(2) action directed by the employer would violate a specific statute relating to public health, safety or welfare, or would un dermine a clearly exp ressed public p olicy relating to the em ployee's basic re sponsibility as a citizen or a right or privilege as a worker;

(3) the employee was term inated as a result of refusing to comply with the em ployer's order or directive was based on th e em ployee's reasonable belief that the action ordered by the employer was illegal, contrary to a clearly expressed statut ory policy relating to the employee's duty as a citizen, or violative of the employee's right or privil ege as a worker. See 82 Am Jur 2d Wrongful Discharge §55. *Owens v. Carpenters' Dist. Council,* 161 F3d 7 67 (4th Cir. 1998); *Hayden v. Bruno's Inc.,* 588 So.2d 874 (1991).

B. PRIMA FACIE: (i) Newsom e was discharged/term inated from her place of employment; **(ii)** Newsom e's discharge/termination clearly violated public policy clearly m andated by statutes/laws governing said m atters – i.e. (a) Title VII of the Civil Rights Act of 1964 [42 U.S.C.A. § 2000e et seq.]; (b) 29 C.F.R. §§ 1601.6 and 1601.7; (c) Section 4112 of the Ohio Revised Code; (d) Ohio Civil Rights; (e) Ohio/U.S. Constitution; (f) knowledge of Newsome's engagement in protected activities – i.e. filing of past EEOC Charge s, filing of civil lawsuits, filing of claim s under the Fair Ho using Act, filing of cri minal charg es and participation in investigation, etc.; (g) participation in federal investigations; (h) violations under the applicable statutes/laws governing said matters.; and **(iii)** The rec ord evidence will support that here is a nexus/connection betwe en W&L's decision to discharge/terminate Newsome's.

C. PRIM A FA CIE: (I) W&L's termination of Newsom e's em ployment prohibited her from perform ing a public policy and exercising he r rights secured/guaranteed under the FMLA. Depriving Newsome of benefits pro vided to whi te em ployees and/or em ployees sim ilarly situated. Moreover, W&L deprived Newsome from perform ing a public duty or ex ercising an i mportant job-related right or privilege. **(II)** The unl awful/illegal acts and discrim inatory practices orchestrated by W&L clearly violated public policy -- Title VII of the Civil Rights Act of 1964 [42 U.S.C.A. § 2000e et seq.]; 29 C.F.R. §§ 1601.6 and 1601.7; Section 4112 of the Ohio Revised Code; Ohio Civil Rights; Ohio/U.S. Constitution; knowledge of Newsom e's engagem ent in protected activities – i.e. filing of past EEOC Charges, filing of civil lawsuits, filing of claim s under the Fa ir Housing Act, filing of criminal charges and pa rticipation in investigation, etc.; participation in federal investigations; violations u nder the ap plicable statutes/laws go verning said m atters. -- relating to public health welfare and clearly undermined expressed public policy relating to Newsome's responsibility as a citizen and employee. **(III)** Newsome's employment with W&L was term inated because she refuse d to forego protected rights; for the exercise/engagem ent in protected rights; reporting of criminal/civil wrongs to the proper authorities; W&L' s knowledge that any discrim inatory practices and/or employment violations would be m et with legal action, therefore, W&L had representatives rem ove

and destroy evidence it knew would be incriminating and support violations of its own policy and procedures as well as public policy.

152. **PRIMA FACIE: (a)** W&L's termination of Newsome's employment was motivated by reasons contrary to public policy. **(b)** Based on the orientation provided Newsome at the time of employment, *Wood & Lamping LLP Policies and Procedures Manual*, W&L's Employer's Guide, W&L's specializing in employment/labor laws, and the applicable statutes/laws governing employment laws, she had an expectation of job security and fair treatment under Title VII of the Civil Rights Act of 1964 and other governing statutes/laws.

> **EQUAL OPPORTUNITY**
> The firm is an equal opportunity employer, and as such, is firmly committed to treating **all** employees and applicants **equally** without regard to race, color, sex, religion, national origin, age, disability, marital status, veteran status, or other protected classes. We will endeavor to make reasonable accommodations for known physical or mental limitations of otherwise qualified employees and applicants with disabilities unless the accommodation would impose an undue hardship on the operation of or business. Our employment decisions, including, but not limited to, hiring, compensation, benefits, training, and promotions are based on the principles of **equal** employment opportunity. *Discrimination by any member of the firm* ***will not*** *be tolerated*. Suspected violations of this policy must be reported promptly to a member of management or to a partner. Violators will receive discipline appropriate to the offense, up to and including termination. *This policy also* ***prohibits retaliation*** *against anyone who has filed a complaint of* ***discrimination*** *or* ***harassment***.
> (Wood & Lamping LLP Policies and Procedures Manual @ p. 11) – **EXHIBIT "4"** attached hereto and incorporated by reference as if set forth in full herein.

(c) An investigation into this instant Charge will support an absence that W&L's termination of Newsome's employment was for good cause. Therefore, a breach of good faith and fair dealing. **(d)** A special fiduciary relationship existed between W&L and Newsome. **(d)** An investigation on into this instant Charge as well as the evidence, facts and legal conclusions set forth herein, will support actual bad faith, malice, criminal intent, breach of good faith and fair dealing on the part of W&L and it having knowledge that there was no just cause for the termination of Newsome's employment. Criminal/Civil wrongs by W&L to remove and destroy evidence that it knew was incriminating and would support discriminatory intent/practices; moreover, done to obstruct the administration of justice and deprive Newsome rights secured to her under the applicable statutes/laws. W&L demanding that Newsome waive her right to bring legal action against it in exchange of benefits unlawfully/illegally withheld in retaliation of her exercising and/or engaging in protected activities. **(e)** An investigation into this instant Charge will support fraud, deceit and misrepresentation on behalf of W&L to cover-up/mask discriminatory practices leveled against Newsome. **(f)** W&L's termination of Newsome's employment was arbitrary.

> ***Specific Circumstances Constituting Breach***: Breach of an implied covenant of good faith and fair dealing occurs where:
>
> (i) Termination is motivated by a reason contrary to public policy.

(ii) There is an expectation of job security or fair treatment.

(iii) There is an absence of an express representation that employment is terminable at will.

(iv) A special, fiduciary relationship exists between the parties.

(v) There is actual bad faith on the part of the employer, not merely the absence of good cause for discharge.

(vi) There is fraud, deceit, or misrepresentation on the part of the employer.

(vii) The discharge is arbitrary.

82 Am Jur 2d Wrongful Discharge § 71.

153. Through this instant Charge, Newsome seeks the intervention of the EEOC/OCRC to enforce the applicable laws and to bring the proper actions of and against W&L for any /all employment violations/discriminatory practices found. Newsome was unlawfully/illegally discharged/terminated from employment with W&L in violation of public policy.

> *Miller v. MedCentral Health Sys., Inc.,* 2006 **-Ohio-** 63 (**Ohio.**App.5.Dist.Richland.Co., 2006) -Fact that statutes and regulations establishing public policy **do <u>not</u>** require an employee to report the violation or specifically protect the reporting employee from retaliation does not foreclose a discharged employee from maintaining a common-law claim for wrongful discharge in violation of public policy.

154. Newsome believes an investigation will support that she engaged in protected activities and W&L's knowledge of said engagement (i.e. filing of Title VII Charges, filing of lawsuit(s) for civil/legal wrongs, participation in investigations – See Exhibit "_" - filing of charge for violations under Fair Housing Act, notified W&L of request for medical leave protected under Family & Medical Leave Act, etc.) all of which supports Newsome's engagement in statutorily protected activities, of which an adverse employment action occurred which resulted in Newsome's termination of employment. There is a causal link between Newsome's engagement in the protected activities and W&L termination of her employment for the engagement in said protected activities. There is evidence to support W&L repeatedly requesting that Newsome waive protected rights and not bring legal action against it in exchange for benefits to which she was automatically entitled to – benefits W&L afforded to whites and/or those similarly situated; however, deprived Newsome of.

> *Kowalski v. Kowalski Heat Treating, Co.,* 920 F.Supp. 799 (N.D.**Ohio**, 1996) - To establish prima facie case of retaliation, plaintiff must show that he engaged in a statutorily protected activity, that adverse employment action occurred, and that causal link between the two exists.
>
> *Meyer v. United Parcel Serv., Inc.,* 882 N.E.2d 31 (**Ohio**.App.1.Dist.**Hamilton.**Co., 2007) - An

> aggrieved employee may pursue a retaliatory - discharge claim based on a violation of public policy . R.C. § 4123.90.
> *Meyer v. United Parcel Serv., Inc.,* 882 N.E.2d 31 (Ohio.App.1.Dist.**Hamilton.**Co., 2007) - A statutory retaliation claim and a wrongful discharge claim based on public policy are distinct claims that must be addressed separately. R.C. § 4123.90.

155. W&L's termination of Newsome's employment was done with willful, malicious and deliberate intent to cause her injury and harm.

> ***Malicious Discharge:*** Some courts recognize tortuous discharge claims only when the termination of an employee is in retaliation for performing an important and socially desirable act, exercising a statutory right, or refusing to commit an unlawful act.. . . 82 Am Jur 2d Wrongful Discharge § 83 (*Graham v. Contract Trans., Inc.,* 220 F3d 910 (8th Cir. 2000)).

XIII. PRETEXT:

> She now must have the opportunity to demonstrate that the proffered reason was not the true reason for the employment decision. This burden now merges with the ultimate burden of persuading . . . she has been the victim of intentional discrimination. She may succeed in this either directly by persuading the court that a discriminatory reason more likely motivated the employer or indirectly by showing that the employer's proffered explanation is unworthy of credence. *Tye v. Board of Educ. Of Polaris Joint Vocational School Dist.,* 811 F.2d 315 (6th Cir. **Ohio**, 1987)
>
> In each case, the plaintiff attempted to establish a prima facie case by showing (1) membership in the protected class, (2) discharge, (3) qualification for the position, and (4) replacement by a person who was younger or a member of the opposite. . . *Tye v. Board of Educ. Of Polaris*

156. **PRIMA FACIE: (a)** Newsome is an African-American female; therefore a member of the protected class. **(b)** Newsome was discharge/terminated from employment with W&L. **(c)** Newsome was qualified for the position (Estate Planning Coordinator) for which she was hired and was qualified to perform additional job responsibilities assigned her; and **(d)** Newsome was replaced by a white employee; moreover, W&L hired several white employees shortly AFTER Newsome's unlawful/illegal discharge.

157. **PRIMA FACIE: (a)** The reason provided to Newsome for her termination has no basis in fact. PRIOR to W&L's termination of Newsome's employment it removed and destroyed evidence from her desk ***(Newsome kept her desk locked)*** that would support violation of its own policies and procedures – removing and destroying of incriminating evidence. **(b)** The proffered reason W&L provided Newsome for termination did not actually support or motivate the adverse action taken against her. **(c)** An investigation into this instant Charge will support that W&L 's

proffered reason for Newsome's termination is false, unworthy of belief and insufficient to motivate the adverse action taken against her.

> Title VII plaintiff who is trying to show that employer's stated reason for adverse employment action is pretextual is required to show by preponderance of evidence that proffered reason: (1) had no basis in fact; (2) did not actually motivate adverse action; or (3) was insufficient to motivate adverse action. *Niswander v. Cincinnati Ins. Co.,* 529 F.3d 714 (6th Cir. **Ohio,** 2008)

158. An investigation into this instant Charge will support W&L's EXTREME discriminatory and retaliatory practices leveled against Newsome. Moreover, leveled against African-Americans in efforts of reaching its goal of creating a non-African-American workplace. Moreover, the criminal/civil wrongs committed against African-Americans for reporting what they believed were discriminatory practices – i.e. Paul Berninger advising that another African-American employee (Angie Hart) expressing concerns similar to that of Newsome. Newsome was unaware of such claims by Hart until Berninger addressed such matter to her. Based upon W&L's handling of Newsome's employment as well as efforts to cover-up/mask/destroy evidence, a reasonable mind may conclude that W&L did the same with Hart for purposes of avoiding liability.

> When determining relative weight to assign similar past acts of harassment, factfinder may consider factors such as severity and prevalence of similar acts of harassment, whether similar acts have been clearly established or are mere conjecture, and proximity in time of similar acts to harassment alleged by plaintiff. *Hawkins v. Anheuser-Busch, Inc.,* 517 F.3d 321 (6th Cir. **Ohio,** 2008)
>
> In hostile work environment case, more weight should be given to acts committed by serial harasser if plaintiff knows the same individual committed offending acts in the past; serial harasser left free to harass again leaves impression that acts of harassment are tolerated at the workplace and supports plaintiff's claim that workplace is both objectively and subjectively hostile. *Hawkins v. Anheuser-Busch.*

An investigation into this instant Charge will also support that W&L subjected Newsome to a hostile working environment over her objections. Moreover, W&L allowed an attorney (Brian Gillan) who had a history of hostile treatment of females as well as engaged in sexual relationship, etc. to continue to work in its employment. *W&L aware of Gillan's past and history of harassing female employees allowed said behavior and assigned Gillan to Newsome. W&L left Gillan free to commit such unlawful/illegal acts for purposes of creating a hostile, threatening, intimidating, discriminatory, harassing environment against Newsome for purposes of covering-up/masking its unlawful/illegal discriminatory and retaliatory practices for Newsome's objections and participation in protected activities*. When a white employee (Kathy Richey) was subjected to alleged acts by another attorney (Peter Newman), W&L terminated Newman's employment and allowed Richey time off to recoup from such alleged hostile treatment alleged by Newman. ***However, when Newsome was subjected to such hostile/discriminatory and retaliatory practices to which she complained, W&L allowed Gillan to remain in its employment and to feel free to continue such employment violations***.

159. A reasonable mind may conclude that W&L's removal and destruction of evidence will support PRETEXT. Moreover, said actions of W&L were done for purposes of obstructing the administration of justice, depriving Newsome equal employment opportunities, cover-up/mask

W&L's violation of its own policies and procedures. W&L's termination of Newsome's employment was illegally motivated, done to cover-up/mask discriminatory practices, aid third party (SMR&S) in a legal matter it having knowledge would be brought against Newsome – termination being rendered in efforts of eliminating a CONFLICT OF INTEREST – a clear violation involving public policy as well as violation against an employee for engaging in protected activities made known to W&L.

> To establish, for purpose of Title VII claim, that employer's reason for terminating employee was pretextual because it was more likely than not that employee was terminated based on an illegal motivation, employee must show that the sheer weight of the circumstantial evidence of discrimination makes it more likely than not that the employer's explanation is a pretext, or coverup. *Abdulnour v. Campbell Soup Supply Co., LLC*, 502 F.3d 496 (6th Cir. **Ohio**, 2007)

> To demonstrate that employer's reason for the discharge was pretextual, in an employment discrimination action, the employee show by the preponderance of the evidence either (1) that the proffered reasons had no basis in fact, (2) that the proffered reasons did not actually motivate his discharge, or (3) that they were insufficient to motivate discharge. *Jones v. Potter,* 488 F.3d 397 (6th Cir. **Ohio**, 2007)

160. An investigation into this instant Charge will support that Newsome approached W&L for representation in a legal matter to which W&L assigned Elizabeth Horwitz (attorney – white female). However, *Horwitz' job was to convince Newsome to waive protected rights secured to her under the Fair Housing Act, Civil Rights Act, Constitution and other governing statutes/laws –* **as W&L has attempted to do regarding depriving Newsome rights secured under the FMLA** (See EXHIBITS "15" attached hereto and incorporated by reference). When Newsome refused to waive protected rights, Horwitz became upset and requested to be assigned another person to provide her legal assistant. Horwitz became very hostile and irate because Newsome refused to forego her rights and expressed her entitlement to exercise said rights. From that point on, W&L subjected Newsome to discriminatory/hostile/retaliatory practices and harassed due to her refusal to waive protected rights, having to move forward and file the required civil actions to preserve her rights, W&L's knowledge of Newsome's engagement in protected activities as well as filing of charges/lawsuits to protect her rights. W&L taking job duties away from Newsome and giving to white employee – job duties to which was still required in the position Newsome held based on the attorneys assisted. At the time of Newsome's termination the job duties taken away from her and given to white employee were still required of the attorney, Thomas J. Breed (**Department Head** *of the Estate Planning Group*), to which Newsome provided legal support. *The decision makers and those engaging in the discriminatory practices leveled against Newsome* ***are ALL*** *white. Moreover, from the evidence, clearly have* ***no regard*** *for Civil Rights nor understanding of Newsome's appreciation and entitlement to said protected rights sought to be exercised. W&L's proffered reason for the termination of Newsome's employment* ***is PRETEXT*** *for racial prejudice*.

> Black female employee had proven employer's violation of statute regarding right of all persons to full and equal benefits of laws where employee had established that she was treated in harassing manner due to her filing of discrimination claims, that her attempted transfer was employment term varying from those accorded to similarly situated white workers, and that, although employer articulated legitimate nondiscriminatory reasons by way of rebuttal, employer

had been shown by preponderance of evidence to have employed such reason merely as pretext for racial prejudice. 42 U.S.C.A. § 1981. *Harris v. Richards Mfg. Co., Inc.,* 511 F.Supp. 1193 (n.6) (1981).

Proof of prima facie case under section of civil rights statutes regarding right of all persons to full and equal benefits of laws requires that person alleging violation first establish that his employment terms vary from those which his employer accords to similarly situated white workers. 42 U.S.C.A. § 1981. *Harris v. Richards Mfg. Co.* at n. 7.

161. Because of the **systematic** *discriminatory* practices of W&L and its engagement of third-parties to deprive her of protected rights, Newsome has brought this instant Charge with the EEOC/OCRC for purposes of recovering damages sustained from such injury/harm. Therefore, Newsome is demanding that the EEOC/OCRC perform the **MANDATORY** ***ministerial*** *duties* required and enforce the applicable statutes/laws governing Title VII/Civil Rights violations and/or discriminatory practices/employment violations leveled against her. An investigation into this instant Charge will support W&L's efforts to get Newsome to forego – i.e. agree not to bring legal action against it – protected rights in exchange for obtaining medical benefits to which she was entitled to and said benefits afforded to white employees of W&L and/or those similarly situated. *As a direct and proximate result of Newsome's* ***refusal to waive*** *protected rights, W&L allowed* ***her medical benefits/fringe benefits to lapse***.

Under section of civil rights statutes regarding right of all persons to full and equal benefits of laws, both compensatory and punitive damages are recoverable. 42 U.S.C.A. § 1981. *Harris* at n.8.

An award of punitive damages is permissible under section of civil rights statutes relating to right of all persons to full and equal benefits of laws even though action under such section is joined with Title VII action. Civil Rights Act of 1964, §§ 701 et seq., 704(a) as amended 42 U.S.C. A. § § 2000e et seq., 2000e-3 (a); 42 U. S.C.A. § 1981. *Harris* at n. 9.

Under section of civil rights statutes relating to right of all persons to full and equal benefits of laws, court may award compensatory **damages for *embarrassment, humiliation and mental anguish, and damages for emotional distress* may be inferred from circumstances as well as proved by testimony, but there must be sufficient causal connection between defendant's illegal actions and injury to plaintiff**. 42 U.S.C.A. § 1981. *Harris* at n.10.

XIV. CONSPIRACY:

Limitations on the Right of Discharge – Statutes Providing Civil Remedies: Some statutes dealing with the employer-employee relationship may expressly provide civil remedies. 42 USCS § 1985(3) authorizes an action by the injured party for the **recovery of damages sustained as a result of a conspiracy** (1*) for the purpose of depriving any person of equal protection of the laws, or of equal privileges and immunities under the laws* . . . A conspiracy by private persons to accomplish the purposes proscribed by § 1985(3) is actionable, even in the absence of state action. . . . *Even without state*

action, a plaintiff may contend that various ***of his constitutional rights,. . .*** **have been denied** , or that the exercise of such rights was the reason for defendant 's termination in his employment within the context of a § 1985(3) action. However, the jury will be faced only with the question of whether defendants conspired to deprive plaintiff of his constitutional rights. 7 Am Jur POF 2d 28, 29, 31. See *Griffin v. Breckenridge,* 408 U.S. 88, 29 L.Ed.2d 338, 91 S.Ct. 1790. 15 Am. Jur. 2d, Civil Rights § 16.

The alleged discriminatory practices against which the employee's charge or opposition is directed need not be found to actually exist in order for the employee's activity in protesting to be protected under § 2000e-3(a), if the employee has acted on a reasonable and good faith belief that the employer was engaging in unlawful employment practices. *Even if the employee's complaints are completely unfounded, the Act forbids employer retaliation for making them*. . . . The filing of charges is protected even if the charge contains collateral statements which are false and apparently malicious, and **this includes charges filed against a previous employer**. .. . . *Section 2000e-3(a) also provides "exceptionally broad" protection from retaliation against individuals who oppose unlawful employment practices*.. . .Activities in opposition to unlawful employment practices that have been held to be protected under § 2000e-3(a) include. .. **other prohibited discrimination in employment**. . . **expressing an intention to file an unfair employment practices charge**. . . *Opposition to any unlawful employment practice is protected against retaliatory discharge by § 2000e-3(a)*. . .this is true even if opposition is unintentional and not by design. . . Moreover, it has been held that § 2000 e-3(a) protects an individual from retaliatory discharge ***even when the target of his activity in opposition to unlawful employment practices is directed against someone other than the retaliating employer***. 7 Am Jur POF 2d 34 – 37

162. An investigation into this instant Charge will support that W&L **CONSPIRED** and engaged with third-parties to deprive Newsome of equal employment opportunities because of its knowledge of past filings of EEOC Charges against other employers, filing of lawsuits, participation in investigations, and engagement in protected activities. W&L's termination of Newsome's employment was done to deprive her equal protection of the laws and equal privileges and immunities under the laws. Moreover, to provide opposing parties involved in litigation with an undue/unlawful/illegal advantage over Newsome.** As a direct and proximate result of W&L's unlawful/illegal employment practices, Newsome has been denied rights secured to her under Title VII of the Civil Rights Act of 1964, Ohio Civil Rights law, Ohio/U.S. Constitution, and any and all other statutes/laws governing said matters.

****PRIMA FACIE - CAUSAL CONNECTION:** **(a)** W&L 's termination of Newsome occurred on January 9, 2009. **(b)** SMR&S' client's (Stor-All's) Amnesty Weekend was set for January 9th thru January 11th. Stor-All advising Newsome of Amnesty Weekend via facsimile at the number assigned Newsome by W&L. See **EXHIBIT "18"** – *12/19/08 Fax From Lori Whiteside/Stor-All* attached hereto and incorporated by reference. **(c)** On January 9, 2009, Stor-All provided Newsome with "NOTICE TO LEAVE THE PREMISES."

See **EXHIBIT " 19"** attached hereto and incorporated by refe rence. **(d)** *While Stor-All provid ed Newsome with faxes at W &L during her employment,* ***on the date of Newsom e's termination*** *Stor-All did not provide her with the "No tice to Leave the Premises" via facsimile (as it did with the 12/19/08 fax and others)* ***because it knew that W&L was terminating Newsome's employment on said date***. **(e)** On January 20, 2009, SMR&S on behalf of Stor-All filed a lawsuit against Newsome.

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XV. S YSTEMATIC DISCRIMINATION:

Elements of Damages – In Gene ral: All em ployment-related losses for salaried and hourly wage employees are recoverable in a wrongful discharge suit, regardless of whether t he action so unds in contract or tort. Thus, the em ployee m ay re cover back pay , bo nuses, and commissions that would have been ea rned but for the dismissal. The employee's recovery m ay include ***damages fo r loss of fringe benefits***. . . The em ployee is also entitled to recover the cost of securing oth er em ployment, and this cost m ay include moving expenses. T he am ount o f the award for back pa y and loss of fringe benefits du ring the employ ee's period of unem ployment **may** be offset by the amount of unemployment insurance, i f any, received by the em ployee during that time .. . *the employee has* ***NO*** *duty to seek inferior emp loyment, and the burden of proof of the employee's failure to mitigate damages is on the employer*. Moreover, it has been held that the em ployer may be estop ped from raising the issue of the employee's duty to mitigate damages ***IF*** *the employee's dismissal was* ***maliciously*** *motivated* .. . . Dam ages for con sequential losses and emotional distress genera lly are not allowed in a wrongful discharge case if the cause of action sounds e ntirely in contract. Where the action sounds in tort alone, or in both contract and tort, such compensatory dam ages are allowed. . . Plaintiff testified th at as a result of the firing he suffered em otional distress b y way of humiliation and lost co nfidence and trust. . . The c ourt held tha t this evidence supported an award of com pensatory dam ages.. . . P unitive damages are recoverable in an action for bad faith wrongful discharge if the defendant's con duct is sufficiently culpable.. . . The am ount of punitive damages or exemplary damages to be awarded is a m atter for the discretion of the jury ; it depend s on the circum stances of the particular case. Punitive dam ages must bear a reasonable relationship to the actual dam ages sustained by t he plaintiff, though there is no fixed ratio by which punitive and actual dam ages are properl y proportioned. An appel late court generally will not substitute its judgment for that of the trier of fact as to the a mount of punitive damages to be awarde d. . . . **Plaintiff experienced substantial difficulty finding subsequent employment, and she ultimately had to leave the state**. She had lived and worked in a sm all co mmunity where a dism issal for poor work perform ance would necessari ly have an adverse consequence on her reputation and ability to earn a livelihood. One of the charges against her had been fabricated and

her personnel file had been altered to support the allegation. An award of punitive damages against her former employer was affirmed on the basis of this evidence. . . .Plaintiff had a . . . faithful performance until she was fired by a vindictive supervisor . . .At the trial of Plaintiff's wrongful discharge case, expert witnesses testified that the employer had violated its own personnel practices and policies in thirteen separate instances; and the employer's evidence at trial was often inconsistent and even contradictory as to whether plaintiff was fired . . . **as a part of a reduction-in-force program**. In addition, the president of the company for which she had worked had revealed a calloused attitude toward. . . plaintiff in particular. . . An award of exemplary damages against the plaintiff's former employer was affirmed on appeal. [FN 89] *Flanigan v. Prudential Federal Sav. & Loan Asso.* (1986), 720 P2d 257. . . 105 CCH LC ¶ 55614 (verdict for $95,000 economic damages, $100,000 compensatory damages for mental distress, and $1,300,000 punitive damages). See also *Cancellier v. Federated Dept. Stores* (1982) 672 F.2d 1312. . . 4 8 Am. Jur. Proof of Facts 2d 235-240.

163. An investigation into this instant Charge will support that Newsome has been subjected to unlawful/illegal employment practices in violation of Title VII, Civil Rights law, Constitutional law as well as other statutes/laws governing said matters. Moreover, that the very statutes/laws that the EEOC are to uphold and enforce has REPEATEDLY been abused and violated with Newsome being a victim of such legal wrongs. An investigation into this instant Charge will support how the ***United States Department of Labor*** and others have engaged in UNLAWFUL/ILLEGAL practices in retaliation of Newsome's bringing of legal actions challenging its Department's (i.e. EEOC) failure to enforce and uphold the laws under which it was created.

*The evidence will support that **UNLAWFUL/ILLEGAL** practices have been leveled against Newsome – as with other African-Americans – in retaliation of her challenging the EEOC's practices to interfere and/or preclude her from getting employment. Such practices which include posting information regarding EEOC Charges and/or engagement in protected activity on the INTERNET for ill purposes – i.e. for the destroying of Newsome's life, liberties and pursuit of happiness; moreover for blacklisting purpose. Our government's USAGE of such practices clearly in violation and a FAR DEPARTURE from EEOC policies and procedures.*

164. While it is a KNOWN FACT of the difficulty in African-Americans and/or people of color obtaining employment; moreover, equal employment opportunities, an investigation into this instant Charge will support the ***SYSTEMATIC*** DISCRIMINATION that has been leveled against Newsome and the ***SYSTEMATIC*** PRACTICES of our government to destroy the lives, liberties and pursuit of happiness of such citizens as Newsome who are educated, happy to be an African-American because they have challenged discriminatory handling of charges filed.

*165. As a direct and proximate result of the **SYSTEMATIC** DISCRIMINATORY practices leveled against Newsome and perhaps made known to W&L and/or W&L taking as acceptable based on handling of matters by the United States Department of Labor and others in the posting of information on the INTERNET for PUBLIC review. A reasonable mind may conclude that the United States Department of Labor and others have engaged in such practices for prejudicial/discriminatory/retaliatory intent.*

XVI. EMPLOYER LIABILITY:

166. **PRIMA FACIE:** An investigation into this instant Charge will support that: **(a)** W&L knew and/or should have known of the harassment Newsome was repeatedly subjected to; and **(b)** W&L failed to take prompt and/or appropriate corrective action. W&L advising Newsome that supervisor (as Gillan) wanted to continue to work with Newsome. Gillan wanting to do so over Newsome's objections to harassment and discriminatory practices. W&L aware of Newsome's objections required Newsome to continue to work with Gillan because Gillan advised wanting to continue to work with her. W&L allowed and condoned such harassment although it was aware of the affect it was having on Newsome's ability to perform her job duties, the emotional and mental affect on Newsome, and that its harassment of Newsome was in retaliation of Newsome's reporting and/or complaining of said harassment and discriminatory practices.

An investigation will support that while W&L implemented policies and procedures to remedy harassment and discriminatory practices, it may be held liable for discriminatory practices in violation of Title VII and applicable statutes/laws when the evidence supports an indifference as to indicate an attitude of permissiveness that amounts to discrimination – i.e. when a white employee (Kathy Ritchey) was subjected to what W&L believed to be harassment, it terminated the employment of an attorney (Peter Newman) and afford Ritchey time off from work to recover. However, W&L allowed a serial harasser (Brian Gillan) to remain in its employment and allowed Gillan to continue such practices. Gillan known as a harasser having a history of harassing female employees as well as engaging in sexual acts. While W&L terminated Newman for such harassment, it allowed Gillan to remain in its employment. Newsome advising of concerns of how white co-workers subjected to Gillan's harassment were not required to continue to work with Gillan; however, W&L required Newsome to continue to work with Gillan over her objections. It was only **AFTER** W&L was notified by Newsome of reporting such discriminatory practices that W&L assigned Gillan to another employee. However, the discriminatory practices did not stop there. W&L continued such discriminatory practices and retaliated against Newsome for such reporting. Shortly after the Gillan incident, W&L took away job duties of Newsome to give to white employee. *W&L in* ***retaliation*** *beginning the process of covering up/masking such* ***pattern-of-discriminatory*** *practices took away Newsome's job duties over her objections.* ***W&L failed to take an affirmative duty to prevent said harassment and discriminatory practices rendered Newsome***. *W&L allowed a* ***serial*** *harasser (Gillan) and person* ***known to repeatedly violate*** *its policies and procedures to remain in its employment. Gillan is an attorney who specializes in employment/labor law; therefore, he knew and/or should have known that his acts were in clear violation of Title VII and other statutes/laws governing said matters.*

> For purposes of a Title VII claim, even after a hostile work environment has been established, for an employer to be liable for the . . . harassment of an employee by a coworker, the harassed employee must show that the employer both (1) knew or should have known of the harassment and (2) failed to take prompt and appropriate corrective action. *McCombs v. Meijer, Inc.,* 395 F.3d 346 (6th Cir. **Ohio**, 2005)
>
> An employer who implements a remedy for . . . harassment can be liable for . . . discrimination in violation of Title VII only if that remedy exhibits such indifference as to indicate an attitude of permissiveness that amounts to discrimination. *McCombs v. Meijer.*
>
> For an employer to take corrective action is not enough to avoid liability for hostile environment. . .harassment; an employer has an affirmative duty to prevent . . .harassment by supervisors. Civil Rights

Act of 1964, § 701 et seq., 42 U.S.C .A. § 2000e et seq. *Williams v. General Motors Corp.,* 187 F.3d 553 (6th Cir. **Ohio**, 1999)

167. An investigation into this instant Charge will support how W&L subjected Newsome to discriminatory practices as a direct and proximate result of her complaints regarding employment violations/violations to its policies and procedures. W&L's response to Newsome's complaints manifests in differences or unreasonableness in light of the facts W&L knew and/or should have known of. W&L did not handle Newsome's complaints as it did those of white employees subjected to such harassment and/or discriminatory treatment – i.e. *W&L was going to force Newsome to continue to work with Gillan although it having knowledge of how his harassment and discriminatory practices affected her work. While W&L terminated the employment of Peter Newman for committing such harassment against a white employee (Kathy Ritchey)*. W&L subjecting Newsome to strict and oppressive supervision in its efforts to engage in acts that it thought would be a defense to their covering up/masking their discriminatory practices. W&L repeatedly created situations discriminatory in nature for purposes of providing them with proffered reasons for Newsome's termination should she bring legal action against it. *W&L denying Newsome benefits afforded to white employees and/or those similarly situated*. W&L engaging in unlawful/illegal practices with third-parties to provide third-parties with undue/illegal/unlawful advantage in legal matters that would be sought against Newsome and/or to which Newsome was presently engaged and/or would be engaged in. Therefore, ***W&L is to be held liable for the harassment and discriminatory practices addressed herein***.

> When employer responds to charges of coworker. . .harassment, employer can be liable under Title VII, only if its response manifests indifference or unreasonableness in light of facts employer knew or should have known. *Blankenship v. Parke Care Centers, Inc.,* 123 F.3d 868 (6th Cir. **Ohio**, 1997)
>
> When employer implements remedy after complaint of coworker harassment, it can be liable for . . . discrimination in violation of Title VII only if that remedy exhibits such indifference as to indicate ***attitude of permissiveness*** that amounts to discrimination. *Blankenship v. Parke.*

168. An investigation into this instant Charge will support that W&L is liable under Title VII and other statutes/laws governing said matters because it knew and/or should have known of discriminatory practices complained of. W&L's removal and destruction of evidence from Newsome's desk ***(Newsome kept her desk locked)*** further supports knowledge that it was engaging in Title VII violations and/or discriminatory practices. Moreover, W&L failed to implement prompt and corrective action (i.e. as it did with Peter Newman) when an African-American employee complained of harassment that it afforded to white employees complaining of harassment. Because of the well-established pattern of Gillan, Gillan's harassment and discriminatory practices were foreseeable or fell within scope of his employment. Nevertheless, W&L failed to respond (as it did with Peter Newman) adequately and effectively to negate liability because said harassment involved an African-American employee. An African-American employee W&L knew was engaged in protected activities. Rather than take remedial action to deter the discriminatory practices rendered Newsome, W&L made a conscious decision to try and cover-up/mask such unlawful/ illegal wrong doings.

> For purposes of determining whether employer is liable under Title VII for . . . harassment of employee by co-workers, test is whether employer knew or should have known of charged . . .harassment and

> failed to implement prompt and appropriate corrective action. *Fleenor v. Hewitt Soap Co.,* 81 F.3d 48 (6th Cir. **Ohio**, 1996)
>
> Determination of whether employer was liable for supervisor's. . . harassment of employee depended upon whether supervisor's harassing actions were foreseeable or fell within scope of his employment and whether the employer responded adequately and effectively to negate liability. *Kauffman v. Allied Signal, Inc., Autolite Div.,* 970 F.2d 178 (6th Cir. **Ohio**, 1992)
>
> To prove that an employer is liable under Ohio's antidiscrimination statute for . . . harassment committed by co-worker, an employee must show that the employer knew or should have known of the harassment and failed to take appropriate remedial action. Ohio R.C. § 4112.02. *Courtney v. Landair Transport, Inc.,* 227 F.3d 559 (6th Cir. **Ohio,** 2000)

169. While W&L assigned Gillan to another person, it failed to correct and/or deter such discriminatory practices of Gillan and allowed him to remain in its employment although such practices were in violation of *Wood & Lamping LLP Policies and Procedures*. The taking away of Newsome's job duties and giving them to white employee is pretext; as well as support W&L's creation of discriminatory/hostile/harassing work environment. Further supporting at what lengths W&L went to cover-up/mask such discriminatory practices.

170. W&L failed to implement prompt and appropriate corrective action and merely attempted to hide such discriminatory practices that later manifested itself and resulted in Newsome's termination, its monitoring of Newsome and waiting for opportunities to terminate her employment – i.e. believing upon learning of SMR&S intent to file a lawsuit on behalf of Stor-All was the opportunity it was waiting on and W&L's duty to eliminate the CONFLICT OF INTEREST that would arise should Newsome remain in the employment of W&L – the taking away of Newsome's job duties to give to white employees shortly after her complaint regarding the discriminatory/harassing practices of Gillan.

171. ***Tort Measure of Damages Applicable to Theories of Recovery.*** It is the law that every person who suffers detriment from the unlawful act or omission of another arising out of tort or breach of duty may recover compensation in money from the person in fault which is called damages. Detriment means any loss or harm suffered in person or property. Damages also may be awarded for detriment which the evidence proves is reasonably certain to result in the person injured, in the future. With regard to Newsome's theories of recovery which has been explained based upon race/sex discrimination, breach of the duty of good faith and fair dealing, and Newsome's claims of deceit, the measure of damages for breach of such duties which gives rise to recovery in tort is the amount which will compensate Newsome for all detriment proximately caused by the breach, whether it could have been anticipated or not. ***See 31 Am Jur Trials 317 § 60, pp. 510-511***.

172. The record evidence will support how W&L conspired with third-parties and have gone to great lengths to deprive Newsome equal employment opportunities, equal protection of the laws and efforts taken to keep Newsome from working. It is illegal/unlawful for the EEOC/OCRC to allow the discriminatory practices and criminal/civil wrongs addressed herein to go unaddressed and unpunished. Both the EEOC/OCRC has a duty and obligation to deter and prevent such discriminatory practices as set forth herein and brought to its attention. Pursuant to 42 USC § 1986, the EEOC/OCRC has a duty to enforce the statutes/laws within its jurisdiction as well as deter and prevent such civil rights violations brought to its attention.

Power/Failure to Prevent (42 USC § 1986):

> **Every** person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, *and having* ***power to prevent*** *or* ***aid in preventing*** *the commission of the same,* ***neglects*** *or* ***refuses*** *so to do*, if such wrongful act be committed, **shall be liable** *to the party injured*, or his legal representatives, *for* ***all*** *damages caused by such wrongful act*, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; . . .

173. ***Compensatory Damages in Tort:*** Newsome would be entitled to a finding against W&L, on any of her tort theories of race/sex discrimination, breach of the implied duty of good faith and fair dealing, and Newsome's claims of deceit, and an award to Newsome for damages in an amount that will reasonably compensate her for each of the following elements of claimed loss or harm, provided it is found such harm or loss suffered by her and was proximately caused by the act or omission upon which it is found liability. The amount of such award shall include:

- The reasonable value of medical care, services and supplies reasonably required and actually given in the treatment of Newsome.
- The loss of wages and fringe benefits to date.
- Reasonable compensation for any pain, discomfort, fears, anxiety or other mental and emotional distress suffered by Newsome and of which she or her injury was a proximate cause.

No definite method of calculation is prescribed by law by which to fix reasonable compensation for pain and suffering. Nor is the opinion of any witness required as to the amount of such reasonable compensation. In making an award for pain in suffering the factfinder shall exercise authority with common reasonable judgment and the damages fixed shall be just and reasonable in light of the evidence. ***See 31 Am Jur Trials 317 § 60 pp. 511-512.***

174. ***Punitive Damages.*** In the unlawful discharge of Newsome, W&L has acted maliciously, abusively and in wanton disregard of Newsome's rights, therefore, Newsome may be entitled to punitive damages to the trier of fact. In every state where punitive damages are allowed, the jurisdiction will have defined for itself the character of conduct that warrants the imposition of punitive damages. . . . Another consideration is the evidence upon which the factfinder measures the award. *Most jurisdictions* ***permit evidence of employer's wealth*** *in a punitive damages case to be used as a sort of yardstick to assess the amount of damages which reasonably ought to be imposed*. ***See 31 Am Jur Trials 317 § 62 pp. 513-514***.

The majority of cases to date have allowed recovery of punitive damages in a wrongful discharge case. *In assessing punitive damages, the factfinder may be allowed to consider evidence of the W&L's wealth and financial affairs*. The rationale is that the award should be in an amount sufficient to have an impact on W&L's attitudes and conduct in the future, so as to act as a deterrent to future wrongful conduct of the type under attack. In other words, the wealthier W&L, the larger should be the assessment of punitive damages. Accordingly, where punitive damages are claimed, Newsome may be allowed to conduct some discovery into the subject of the W&L's financial affairs

in most jurisdictions. . . . Newsome should anticipate that discovery into the subject of W&L's financial affairs will be strenuously resisted by it. Accordingly, the discovery plan in a wrongful discharge case should include an effective method of obtaining as much information on the subject of W&L's wealth as the situation will permit in an expedient and efficacious manner. Thus, where liberal or unrestricted discovery into the subject of W&L's wealth is allowed, Newsome should consider seeking the disclosure of the following items of information:

- W&L's current net worth
- W&L's total annual sales or gross income for the last fiscal year and one or more prior fiscal years
- W&L's net annual income for the past fiscal year and one or more prior fiscal years
- The identity and values of all W&L's capital assets
- The nature and amount of W&L's liabilities and obligations
- Copies of the W&L's tax returns whenever such discovery is permitted by the court.

See 31 Am Jur Trials 317 § 31 pp. 437, 438.

175. Through this instant Charge Newsome request an investigation and seeks any and all applicable relief to which she is entitled as a direct and proximate result of Title VII violations and discriminatory practices rendered her.

> 48 Am. Jur. Proof of Facts 2d 240 – 241 – Testimony as to the following elements of damages, among others, should be elicited, when applicable, . . . in an action for bad faith wrongful discharge. (Am. Jur Trials: ***Wrongful Discharge of At-Will Employee***, 31 Am. Jur. Trials 317, §§ 10-11.
>
> - Back pay and unpaid-but-earned wage enhancements[24]
> - Compensation that plaintiff would have earned if plaintiff had not been discharged

[24] *Head v. Timken Roller Bearing Co.,* 486 F.2d 870 (C.A.6.**Ohio**, 1973) - The finding of discrimination against blacks by district court, in addition to nature of relief, (compensatory as opposed to punitive), and clear intent of Congress that grant of authority under Equal Employment Opportunity Act should be broadly read and applied mandate an award of back pay unless exceptional circumstances were present. Civil Rights Act of 1964, § 706(g), 42 U.S.C.A. § 2000e-5(g).

Gutzwiller v. Fenik, 860 F.2d 1317 (C.A.6.**Ohio**, 1988) - Back pay is presumptively favored as make-whole remedy and, absent exceptional circumstances, should be awarded to successful employment discrimination plaintiffs. 42 U.S.C.A. § 1983; Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq.

Gutzwiller v. Fenik, 860 F.2d 1317 (C.A.6.**Ohio**, 1988) - Back pay award for employment discrimination should completely redress economic injury that plaintiff suffered as result of discrimination; it should include salary, raises which plaintiff would have received, sick leave, vacation pay, pension benefits, and other fringe benefits that would have been received but for discrimination. 42 U.S.C.A. § 1983; Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq.

Schwartz v. Gregori, 45 F.3d 1017 (C.A.6.Ohio, 1995) - In determining the amount of front pay to award in employment discrimination action, district court considers a number of factors, including employee's work life expectancy.

- Cost of maintaining health, life, and disability insurance, and other services that would have been covered by employee benefits
- Expense of securing substitute employment, including moving costs
- ***Future*** damages, where appropriate, for commissions, bonuses and wage enhancements that would have been paid on the basis of past services
- Difference, if any, between the value of the plaintiff's former employment and the value of the new employment[25]
- Emotional distress suffered by plaintiff
- Punitive damages, where employer's conduct meets the required standard of culpability for exemplary damages[26]
- Other elements of damages, as appropriate.

176. Ohio Civil Rights Commission Sources Used:
OCRC Complaint No. 9569 - See **EXHIBIT "1"** attached hereto and incorporated by reference.

Damages:

54. The Commission has the authority to order W&L to pay equitable damages, which include but are not limited to, back pay and reinstatement when there is a finding of discrimination pursuant to R.C. 4112. However, " in instances in which it has been decided that an effective employment relationship could not be reestablished, the courts have excluded reinstatement from the forms of relief granted. *EEOC v. Pacific Press Publishing Association,* 482 F.Supp. 1291 at 1320 (1979).

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[25] *Knafel v. Pepsi-Cola Bottlers of Akron, Inc.,* 899 F.2d 1473 (C.A.6.**Ohio**, 1990) - Back pay awarded to Title VII claimant for a time during which the claimant was still employed by former employer, **was <u>not</u>** required to be offset by workers' compensation payments received by the claimant; claimant's inability to work was caused by employer. Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C.A. § 2000e et seq.

Jones v. Ohio Dept. of Mental Health, 687 F.Supp. 1169 (S.D. **Ohio**.W.Div., 1987) - Unemployment compensation received by terminated employee, who established racial discrimination in his discharge from employment, as well as fringe benefits and lost insurance benefits ***should <u>not</u>*** *be deducted from employee's back pay award*. Civil Rights Act of 1964, § 701 et seq., as amended, 42 U.S.C.A. § 2000e et seq.

[26] *Johnson v. University Surgical Group Associates of Cincinnati,* 871 F.Supp. 979 (S.D. **Ohio.**W.Div., 1994) - To prove damages, . . . discrimination plaintiff need simply prove that her conditions of employment were adversely affected.

Woodrum v. Abbott Linen Supply Co., 428 F.Supp. 860 (S.D. **Ohio.**W.Div., 1977) - Damages of type generally available at law are also generally available in civil rights employment discrimination case. Civil Rights Act of 1964, § 701 et seq. as amended 42 U.S.C.A. § 2000e et seq.

55. It has also been recognized by the courts that it would be unjust to deny reinstatement without offering some quantum of monetary relief or "front pay" as a substitute.

56. This alternative relief has been deemed necessary not only to grant discharged employees a reasonable opportunity to find comparable employment, but also to deter future improper employer action. *EEOC v. Kallir, Phillips, Ross, Inc.,* 420 F.Supp. 919 at 927 (1976), *Burton v. Cascade School District No. 5*, 512 F.2d 850 at 854 (1975).

Recommendations:

1. The Commission order Respondent. . .and Respondent . . . to cease and desist from all discriminatory practices in violation of R.C. Chapter 4112; and

2. The Commission order Respondent. . and Respondent. . . to pay front pay to Complainant with 10 days of the Commission's Final Order. Complainant shall be paid the same wage she would have been paid . . . with benefits and raises that she would have been entitled to for a total font pay . . ., less interim earnings, calculated from the date of the Commission's Final Order;

3. The Commission order Respondent. . . and Respondent . . . within 10 days of the Commission's Final Order to issue a certified check payable to Complainant for the amount that Complainant would have earned had she been employed. . . from September 11, 2002 up to the date of the Commission's Final Order, including any raises and benefits she would have received, less interim earnings, plus interest at the maximum rate allowed by law;[27] and

4. The Commission order Respondent. . . to receive sexual harassment training and submit to the Commission of copy of his sexual harassment policy within six (6) months of the date of the Commission's Final Order. A proof of participation in sexual harassment training, Respondent. . . shall submit certification from the sexual harassment trainer or provider of services that he has successfully completed sexual harassment training. The letter of certification shall be submitted to the Commission's Office of Special Investigations within seven (7) months of the date of Commission's Final Order.

[27] Any ambiguity in the amount that Complainant would have earned during this period of benefits that she would have received should be resolved against Respondent. . . Likewise, any ambiguity in calculating Complainant's interim earnings should be resolved against Respondent. . .

XVII. RELIEF SOUGHT

WHEREFORE, PREMISES CONSIDERED Newsome request the following relief:

a) Investigation into the allegations/claims addressed in this instant Charge, the United States Secretary of Labor's/Hilda L. Solis' findings, evidence and legal conclusions it relied upon to render the EEOC's findings and/or conclusion;

b) Investigation into the allegations/claims addressed in this instant Charge, the Ohio Civil Rights Commission's/Jean Marshall-McEntire's findings, evidence and legal conclusions it relied upon to render the OCRC's findings and/or conclusion;

c) That if violations are found, that the Secretary of Labor/Hilda L. Solis, bring the applicable actions of and against Wood & Lamping, LLP, its representatives and employees that engaged in such Title VII violations/discriminatory practices complained of herein;

d) That if violations are found, that the Cincinnati Regional Director of the Ohio Civil rights Commission/Jean Marshall-McEntire, bring the applicable actions of and against Wood & Lamping, LLP, its representatives and employees that engaged in such discriminatory practices complained of herein;

e) Award Newsome damages of and against W&L in an amount equal to any wages, salary, employment benefits, and other compensation denied or lost to Newsome by reason of the violation of the applicable statutes/laws;

f) Award Newsome interest in the amount of any wages, salary, employment benefits and other compensation denied or lost to Newsome by reason of the violation of the statute;

g) Award Newsome an additional amount as liquidated damages equal to the sum of the amount of any wages, salary, employment benefits, and other compensation denied or lost to Newsome and the interest on that amount;

h) *Newsome believes her termination would evidence that Wood & Lamping, LLP does not want her in its employment. Moreover, that during her employment she was subjected to discriminatory and retaliatory treatment for exercising rights secured/guaranteed to her under the applicable statutes/laws of the State of Ohio and/or United States. Newsome does not believe given the facts evidence and legal conclusions set forth here in and that to be determined through an investigation, that a reasonable mind may conclude that it would be in her best interest (mentally or physically) to return to the employment of Wood & Lamping, LLP.* Therefore, Newsome is to be awarded such equitable relief as may be appropriate; including salary of approximately **ten (10) years** – in that Newsome believes an investigation into this matter will yield the acts of W&L and/or its representatives and employees was done with malicious intent; moreover, was done in that it knew and/or should have known the difficulty Newsome would face in obtaining other employment and W&L's role in a conspiracy to deprive Newsome equal employment opportunities based upon information they have obtained on Newsome; moreover, its acts being to interfere with Newsome's exercise of protected rights guaranteed and/or secured under the United States Constitution, Civil Rights Act and/or any and all applicable statutes laws governing the protected activities in which Newsome has engaged and/or participated in. Newsome request that W&L be required to provide her with the appropriate fringe benefits afforded to her during her

employment and/or other employees for a period of **three (3) years**. Moreover, be required maintain any COBRA benefits for a period of three (3) years if it does not want to cover the Plaintiff under its group health coverage and paying any and all over insurance premium coverage to which Newsome became accustomed during her employment with W&L;

i) As a direct and proximate result of Wood & Lamping, LLP's unlawful/illegal actions rendered Newsome she has suffered and continues to suffer injury, including past and future loss of income and other employment benefits, severe emotional pain and suffering, mental anguish, humiliation, loss of enjoyment of life, costs associated with obtaining reemployment, embarrassment, damage to her reputation, and other past and future pecuniary losses. Therefore, Newsome seeks the appropriate relief afforded by laws for such injury/harm and to deter Wood & Lamping, LLP from continuing to practice in such violation of laws.

j) Award Newsome reasonable costs associated with the bringing of this Complaint;[28]

k) Grant Newsome such other and further relief – injunction, etc. – which the Secretary of Labor may deem appropriate to correct the injury/harm sustained by Newsome.

l) If the facts, evidence and legal conclusion sustain, that a finding of and against W&L that probable cause has been found to support its engagement in unlawful discrimination in violation of Title VII of the Civil Rights Act, O.R.C. 4112 and/or the applicable statutes/laws governing said matters.

m) That the EEOC/OCRC pursue the applicable legal action to deter discriminatory practices. Providing Newsome with the proper representation as it has done for other citizens when violations are found.

n) That the EEOC/OCRC enforce the applicable statutes/laws correcting and governing discriminatory practices/employment violations.

o) That the EEOC/OCRC seek any and all applicable relief to which Newsome is entitled and is allowed under the applicable statutes/laws governing said matters.

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[28] *Virostek v. Liberty Township Police Department/Trustees,* 14 Fed.Appx. 493 (C.A.6 .**Ohio**, 2001) - Standard for awarding attorney fees is essentially the same in § 1983 actions and employment discrimination actions under Title VII. 42 U.S.C.A. §§ 1983, 1988(b); Civil Rights Act of 1964, § 706(k), 42 U.S.C.A. § 2000e-5(k).

Spence v. Local 1250, United Auto Workers of America, 595 F.Supp. 6 (N.D.**Ohio**.E.Div.,1984) -
Employee who was wrongfully discharged in retaliation for his opposition to what he believed were discriminatory employment practices directed toward black coemployee was entitled to reinstatement, to back pay and to attorney fees. Civil Rights Act of 1964, § 706(g, k), as amended, 42 U.S.C.A. § 2000e-5(g, k).

Harrington v. Vandalia-Butler Bd. of Ed., 585 F.2d 192 (C.A.6. **Ohio**,1978) - To be a "prevailing party" entitled to award of attorney fees in employment discrimination suit a plaintiff must have been entitled to some form of relief at time suit was brought. Civil Rights Act of 1964, § 706(k) as amended 42 U.S.C.A. § 2000e-5(k).

James v. Runyon, 868 F.Supp. 911 (S.D.**Ohio.**W.Div.,1994) - Prevailing plaintiff in employment discrimination action is entitled to award of attorney fees for all time reasonably spent on a matter.

Parmer v. National Cash Register Co., 503 F.2d 275 (C.A.6 .Ohio,1974) - Costs and attorney fees are awarded only to the prevailing party in a suit brought under Title VII of the Civil Rights Act of 1964. Civil Rights Act of 1964, § 706(k), 42 U.S.C.A. § 2000e-5(k).

Newsome wants this charge filed with the *Equal Employment Opportunity Commission* and *Ohio Civil Rights Commission*; as well as the appropriate State or local agency, if any. Newsome will advise the agencies if there is a change her address or phone number and Newsome will cooperate fully with them in the processing of her charge in accordance with established procedures.

Newsome declare under penalty of perjury that the above Charge of Discrimination is true and correct to the best of her knowledge this 7th day of **July, 2009**.

Denise Newsome
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

Respectfully Submitted this 7th day of **July, 2009**.

Denise Newsome
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

WOOD & LAMPING LLP

POLICIES AND PROCEDURES MANUAL

July 2006

EXHIBIT
107

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INTRODUCTION

This manual is given to each employee of the firm for informational purposes. The firm reserves the right to modify, revoke, suspend, terminate and/or change any or all such policies at any time. While we attempt to give advance notice of the changes, there may be occasions when rules or policies are changed without notice. This manual is not intended to create, nor is it to be construed as, a contract of employment. The employment relationship between the firm and its employees is considered an "at-will" relationship and may be terminated by either party at any time, with or without notice. No one has the authority to change any provision of this handbook orally or to make oral promises about your employment. Any statements to the contrary are unauthorized, and you should not rely upon them. This manual supersedes all previous manuals. We hope that you will enjoy working at Wood & Lamping and that we will have a mutually satisfactory relationship.

ADMINISTRATION

For more efficient service, please contact the following members of the administrative staff with questions or problems:

Andrea M. Geiser

Personnel policies and procedures
Personnel issues
Paralegal and staff hiring
Secretarial assistance
CLE compliance
Vacation and doctor appointments scheduling
Insurance and benefits
Special events planning
401(k) and profit sharing

Brian M. Knauer

Operations management
Information systems issues
Network administration
Attorney recruiting

Roxanne M. Benjamin

Accounting functions
Accounts payable/check requests
Client accounts receivable
Attorney time entry
Payroll and taxes
401 (k) and profit sharing

Andrea M. Geiser & Brian M. Knauer

Office services management
Office supplies
Facilities maintenance
Records management
Office equipment
Telephone system questions
Vault runs
Building and elevator passes
Mail services
Network administration backup
Library purchases and cancellations

Internet Access

All the foregoing policies also apply to Internet access. Users should not access websites that could violate any firm policies or guidelines; particularly, the firm's policy against unlawful harassment.

Retention

At this time, the computer system does not automatically delete saved electronic mail, but individual users are encouraged to regularly delete saved messages.

DRESS CODE/CASUAL (FRI)DAY

Clients, visitors, and other attorneys are in the office every day, so employees should dress professionally. Professional dress is defined for men as slacks, shirts with collars, and ties. For women, professional dress is defined as dresses, suits, or dress slacks and blouses.

On casual Fridays, clothing is relaxed to slacks and shirts with collars for men and casual slacks and tops for women. Because clients expect us to maintain a professional image and environment even on casual days, tee-shirts, tank or halter tops, blue jeans, leggings, stirrup pants, sweat shirts, sweat pants, jogging suits, shorts, skorts, capri pants, tennis shoes, and causal sandals are not considered appropriate attire to wear. Individuals wearing inappropriate attire will be admonished to adapt their dress to the above guidelines.

EQUAL OPPORTUNITY

The firm is an equal opportunity employer, and as such, is firmly committed to treating all employees and applicants equally without regard to race, color, sex, religion, national origin, age, disability, marital status, veteran status, or other protected classes. We will endeavor to make reasonable accommodations for known physical or mental limitations of otherwise qualified employees and applicants with disabilities unless the accommodation would impose an undue hardship on the operation of our business. Our employment decisions, including, but not limited to, hiring, compensation, benefits, training, and promotions are based on the principles of equal employment opportunity. Discrimination by any member of the firm will not be tolerated. Suspected violations of this policy must be reported promptly to a member of management or to a partner. Violators will receive discipline appropriate to the offense, up to an including termination. This policy also prohibits retaliation against anyone who has filed a compliant of discrimination or harassment.

FAMILY AND MEDICAL LEAVE ACT (FMLA)

Eligibility

On October 16, 2000, the firm became subject to the Family and Medical Leave Act ("FMLA"). (Should the firm ever drop below 50 employees, it will remain covered by the Act until the future point when it has no longer employed 50 or more employees for 20 or more weeks in the current or preceding calendar year.) Family and Medical Leave is unpaid leave unless the employee has paid leave available.

Employees who have been listed on payroll for at least 52 weeks and have actually worked 1,250 hours during the twelve-month period prior to the date of the leave are eligible for unpaid family and medical leave under the law. Employees who are not eligible for family and medical leave may request leave, but the firm will have to review business considerations and the individual circumstances involved before deciding whether or not to grant the employee's request.

Amount of FMLA Leave Available

Typically, a FMLA leave occurs in continuous uninterrupted blocks of time, up to 12 weeks. However, if the leave is medically necessary, employees may take FMLA leave intermittently or by reducing their normal weekly or daily work schedule. Intermittent leave is measured in no less than 15-minute increments. The employee's weekly average of hours worked over the prior 12 weeks is used to calculate the total number of FMLA hours available. For example, a 40 hour-per-week employee will have 480 hours of leave available; a 37.50 hour–per-week employee will have 450 hours of leave available; a 30 hour-per-week employee will have 360 hours of leave available; and a 25 hour-per-week employee will have 300 hours of leave available, etc.

The twelve-week period is measured backward from each date that the employee commences FMLA leave ("the rolling 12 months method"). The twelve-week annual allotment is for all FMLA covered purposes. In other words, employees are not entitled to take twelve weeks of leave for each qualifying condition.

Reasons for Requesting Leave

Under the FMLA, an eligible employee may take unpaid leave for:

1) the birth of the employee's child and/or in order to care for the child (leave entitlement expires 12 months from the date of birth);
2) the placement of a foster or adopted child with the employee (leave entitlement expires 12 months from the date of placement);
3) to care for the "serious health condition" of an employee's spouse, child, or parent (FMLA does not cover the care of in-laws); or

4) to care for the employee's own "serious health condition," which makes the employee unable to perform the essential functions of his or her job.

The firm will need to carefully analyze each situation to determine if the leave qualifies as FMLA leave. In general, the intent of FMLA is to provide leave for medical conditions that require ongoing, continuous care and treatment. The Act is not intended to cover short-term conditions where treatment and recovery are brief.

Definition of Serious Health Condition

A "serious health condition" is defined as an illness, injury, impairment, or physical or mental condition that may fall into one of the following six categories:

1) a period of incapacity or treatment in a hospital or medical care facility or any subsequent leave needed for the condition; OR
2) a period of incapacity of more than three consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition that involves:
    i) treatment two or more times by a health care provider, nurse, or physician's assistant under the direct supervision of a health care provider or by a provider of health care services (e.g. physical therapist) under orders of, or on referral by, a health care provider; or
    ii) treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. OR
3) any period of incapacity due to pregnancy or for prenatal care; OR
4) any period of incapacity or treatment due to a chronic serious health condition that requires periodic visits for treatment by a health care provider, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, epilepsy, etc.); OR
5) any period of incapacity due to a condition that is long-term or permanent for which treatment may not be effective (e.g. stroke, terminal diseases, Alzheimer's, etc.); OR
6) any absence to receive multiple treatments by a health care provider for restorative surgery after an accident or injury, or for a condition that, if untreated, would likely result in a period of incapacity of more than three consecutive days (e.g. kidney disease, cancer treatments, etc.).

Unless complications arise, common colds, upset stomachs, flu, ear aches, non-migraine headaches, routine dental or orthodontia problems and periodontal disease do not ordinarily meet the definition of serious health condition. Absences due to the abuse of substances are not covered by the FMLA, but leave taken for the treatment of substance abuse is covered.

Procedure for Requesting Leave

An employee intending to take family or medical leave because of an expected birth or placement, or because of a planned medical treatment, must submit a request at least 30 days before the leave is to begin. If leave is to begin within 30 days, an employee must give notice to the firm as soon as the necessity for leave arises. If an employee is incapacitated, the next of kin is responsible to notify the firm.

In all cases, an employee requesting leave must complete the "Request for Family and Medical Leave" and return it to the firm. (The form is available in the brown forms file cabinet or from Human Resources.) Based on information provided by the employee, the firm will determine if an employee's leave counts as FMLA leave. The firm's notice may be given orally, but will be confirmed in writing.

If an employee exhausts all 12 weeks of FMLA leave, and needs a further extension of some other type of leave, he or she must make written application to the firm. This written request should be made as soon as the employee realizes that he or she will not be able to return at the expiration of the leave period. The firm will consider each extension request separately based upon business considerations and the individual circumstances of each situation.

Medical Certification

A request for leave based on the serious health condition of the employee or the employee's spouse, child or parent must also be accompanied by a "Medical Certification" completed by the applicable health provider. (The form is available in the brown forms file cabinet or from Human Resources.) The firm may require a second or third opinion (at the firm's expense). The firm can ask the employee to provide updated certification no sooner than every 30 days. Employees are permitted at least 15 calendar days to get the medical certification completed and returned after it has been requested by the firm. Depending on the type of FMLA leave, a medical re-certification may be required every 30 days.

Pay During Leave

The employee must use all available paid leave (e.g. paid vacation or sick time, short-term disability, worker's comp., etc.) concurrent with FMLA leave. If available paid leave runs out during the twelve-week period, the remainder of the leave will be unpaid.

Benefits during Leave

Employees will be retained on the firm's health plan(s) under the same conditions that applied before the leave commenced if employees make their contributions to the plan(s). Employees can either pre-pay the amount that would have been collected during the leave or make payments as the leave commences. Failure of the employee to pay his or her share of the insurance premium(s) within the

grace period of the due date may result in the loss of coverage. If the employee fails to return to work after the expiration of the leave, the employee may be required to reimburse the firm for payment of insurance premium(s) during the leave, unless the reason the employee fails to return is the presence of a serious health condition that prevents the employee from performing his or her job or because of other circumstances beyond the employee's control.

Employees who take family or medical leave will not lose any earned seniority or employment benefits, but they are not be entitled to accrue any seniority or paid leave that would have accrued if not for the taking of leave. Cash-out payments taken in lieu of group health coverage(s) under the Section 125 plan are not accrued once paid leave is exhausted.

Return to Work

Employees on leave must complete a "Notice of Intention to Return from Family or Medical Leave" and have their health care provider certify that they are fit to return to work before an employee be returned to active status. (The form is available in the brown forms file cabinet or from Human Resources.)

An employee who is certified to return to work will be restored to his or her old position, or to a position with equivalent pay, benefits, and other terms and conditions of employment. The firm cannot guarantee that an employee will be returned to his or her original assignment. The firm will determine whether a position is considered to be an equivalent position.

Employees who need to return to work on an intermittent basis, or who are not able to perform the essential functions of their prior position, may be transferred to a position that is better suited to intermittent periods of leave or reduced work schedules. The firm may deny job restoration to "key" salaried employees.

Failure to Return to Work

The failure of an employee to return to work upon the expiration of a family or medical leave of absence may subject the employee to immediate termination unless an extension is granted or the employee is legally entitled to some other type of leave.

If the employee fails to return to work after the expiration of the leave, the employee may be required to reimburse the firm for payment of insurance premium(s) during the leave, unless the reason the employee fails to return is the presence of a serious health condition that prevents the employee from performing his or her job or to circumstances beyond the employee's control.

U.S. Equal Employment Opportunity Commission

PRESS RELEASE
2-12-09

J.C. PENNEY TO PAY $50,000 TO SETTLE EEOC RACE DISCRIMINATION SUIT

African American Greeter Targeted With Racial Slurs and Fired Due to Race, Federal Agency Charged

NEW YORK -- J.C. Penney Corporation, Inc. will pay $50,000 to settle a race discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced today.

The EEOC had charged that J.C. Penney discriminated against Reinell Singh, an African American who worked as a greeter welcoming customers into Penney's Staten Island store at the Staten Island Mall on 140 Marsh Avenue. The EEOC's lawsuit says that Singh's supervisor referred to her several times using racially offensive names and subsequently fired her for racial reasons.

In addition to the $50,000 in compensatory damages to be paid to Singh, the three-year consent decree resolving the case (*EEOC v. J.C. Penney Corporation, Inc.*, Civil Action No.06 5192 in the U.S. District Court for the Eastern District of New York) includes injunctive relief enjoining J.C. Penney from race discrimination or retaliation; requiring the adoption of a non-discrimination policy and complaint procedures; anti-discrimination training; posting of a notice about the EEOC and the lawsuit; a memorandum setting forth the requirements of Title VII of the Civil Rights Act of 1964 to all store employees; monitoring and reporting.

"In spite of advances since Title VII of the Civil Rights Act was enacted 44 years ago, race discrimination still remains one of the most pervasive problems in today's workplace," said Spencer H. Lewis, director of the EEOC's New York District Office. "Racial slurs must simply not be tolerated, and the EEOC will fight to eradicate any such discrimination from the workplace."

Konrad Batog, the EEOC's trial attorney assigned to the case, added, "All employees have a right to be judged by their work performance and not their race. This consent decree will help make sure that what happened to Ms. Singh does not happen to any other J.C. Penney employee."

On February 28, 2007, the Commission launched its E-RACE Initiative (Eradicating Racism and Colorism from Employment), a national outreach, and education and enforcement campaign focusing on new and emerging race and color issues in the 21st century workplace. Further information about the E-RACE Initiative is available on the EEOC's website at http://www.eeoc.gov/initiative/e-race/index.html.

The EEOC is the government agency responsible for enforcing federal anti-discrimination laws in the workplace. Further information about EEOC is available on the agency's web site at http://www.eeoc.gov.

EXHIBIT 108

The U.S. Equal Employment Opportunity Commission

PRESS RELEASE
3-19-08

WASHINGTON GROUP INTERNATIONAL TO PAY $1.5 MILLION TO BLACK WORKERS WHO WERE RACIALLY HARASSED

EEOC Settles Suit Against Global Employer in the Construction Industry

BOSTON — The U.S. Equal Employment Opportunity Commission (EEOC) today announced a litigation settlement with Washington Group International, Inc. (WGI) for $1.5 million dollars, as well as significant injunctive relief, on behalf of African American workers who were racially harassed and then retaliated against for complaining about it.

WGI is a provider of planning, engineering, design, construction, technical, management, and operations and maintenance services to public and private sector clients worldwide.

The EEOC charged in its lawsuit that WGI created a racially hostile work environment for black employees and failed to take appropriate action to remedy the discriminatory conduct at the Sithe Mystic Power Plant construction project in Everett, Mass. -- which the company managed as general contractor from approximately December 2001 through June 2003. WGI not only subjected black employees to racial graffiti and other forms of harassment, the EEOC said, but retaliated against them for complaining.

“Employers must remain vigilant in protecting all employees from racial harassment, especially in today’s increasingly diverse labor force,” said EEOC’s New York District Director Spencer H. Lewis, Jr. “In this case, rather than swiftly taking corrective action to remedy the racially hostile workplace, WGI targeted the victims for retaliatory measures, including termination.”

The EEOC filed suit against WGI in 2004 under Title VII of the Civil Rights Act of 1964 (Case No. 04-12097-GAO in the U.S. District Court of Massachusetts). The consent decree resolving the case was submitted to U.S. District Court Magistrate Judge Marianne B. Bowler for approval.

Under the decree, WGI will pay $1.3 million to be shared among six African American former employees, and $200,000 will be apportioned among eleven similarly situated individuals identified during the litigation. Injunctive relief includes requiring WGI to conduct anti-discrimination training and implement an anti-graffiti policy; revise its equal employment opportunity policies and procedures; post a notice about the settlement for all Power Unit construction sites for the next two years; and monitoring by the EEOC for a period of two years.

R. Liliana Palacios-Baldwin, senior trial attorney in the EEOC’s Boston Area Office, said: “Even though a construction site may be viewed by some as a ‘rough and tumble’ workplace, discrimination is unlawful regardless of the job site – it doesn’t matter whether employees work behind a computer or behind a forklift.”

On Feb. 28, 2007, EEOC Chair Naomi C. Earp launched the Commission's E-RACE Initiative (Eradicating Racism And Colorism from Employment), a national outreach, education, and enforcement campaign focusing on new and emerging race and color issues in the 21st century workplace. Further information

about the E-RACE Initiative is available on the EEOC's web site at http://www.eeoc.gov/initiatives/e-race/index.html.

Washington Group International, Inc. is a provider of planning, engineering, design, construction, technical, management, and operations and maintenance services to public and private sector clients worldwide. Further information about Washington Group International, Inc. can be found on the company's website: http://www.wgint.com.

The EEOC enforces federal laws prohibiting employment discrimination. Further information about the agency is available on its web site at www.eeoc.gov.

This page was last modified on March 19, 2008.

 Return to Home Page

U.S. Equal Employment Opportunity Commission

PRESS RELEASE
4-8-09

MARJAM SUPPLY COMPANY TO PAY $495,000 TO SETTLE EEOC RACE DISCRIMINATION SUIT

Black Employees Targeted With Racial Slurs, Fired for Complaining, EEOC Says

WHITE PLAINS, N.Y. – Marjam Supply Company, Inc., a building materials supplier, will pay $495,000 to five former employees to settle a race discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced today.

The EEOC's lawsuit (Civil Action No. 03-cv-5413-SCR in the U.S. District Court for the Southern District of New York, White Plains Division) charged that Marjam discriminated against African American employees in its Newburgh warehouse facility on the basis of their race by subjecting them to differential discipline and termination, creating a hostile work environment, and retaliating against employees who objected to the discrimination.

The EEOC charged that a Marjam supervisor and other Marjam employees made unwelcome racial slurs and comments. The racially hostile workplace included repeatedly calling an employee the N-word, talking about the Ku Klux Klan and referring to burning crosses in front of African American employees. An employee who complained was fired, the EEOC's lawsuit charged. Such alleged conduct violates Title VII of the Civil Rights Act.

"Egregious racial harassment still occurs in the 21st century workplace, even though some people may think such discrimination can only be found in history books," said EEOC Acting Chairman Stuart J. Ishimaru. "Hostile work environments are unacceptable. The EEOC is committed to vigorous enforcement of the employment anti-discrimination laws to ensure that every worker has an equal opportunity to reach his or her full potential."

The consent decree was submitted to the district court judge for approval after the parties reached a settlement agreement in mediation. In addition to the $495,000 in back pay and compensatory damages to be paid to five former employees, the three-year consent decree includes the following injunctive relief:

- Adopting non-discrimination and complaint procedures;
- Appointing an Equal Employment Office Coordinator;
- Establishing a toll-free number for reporting discrimination complaints;
- Providing anti-discrimination training;
- Issuing a memorandum to all employees on Marjam's commitment to abide by all federal laws prohibiting employment discrimination;
- Posting a notice about the EEOC, the lawsuit, and Marjam's non-discrimination and complaint procedures; and
- Monitoring and reporting on carrying out the settlement terms.

"Employers must recognize that they have a responsibility to prevent racial harassment in their workplace and to take swift action to correct any discrimination when it occurs," said Spencer H. Lewis, director of the EEOC's New York District Office. "In addition, retaliating against employees for complaining about discrimination is unlawful and taken very seriously by the Commission."

During Fiscal Year 2008, the EEOC received 33,937 race discrimination charge filings, up 11% from the prior year. Of the total, approximately 8,600 race charges alleged racial harassment, up 23 percent from nearly 7,000 such filings in FY 2007.

The EEOC enforces federal laws prohibiting employment discrimination. Further information about the federal agency is available on its web site at www.eeoc.gov.

U.S. Equal Employment Opportunity Commission

PRESS RELEASE
2-25-04

Federal Express to Pay over $3.2 Million to Female Truck Driver for Sex Discrimination, Retaliation

EEOC and Plaintiff's counsel score trial Victory 'for every woman' at Fedex

PHILADELPHIA - A federal jury late yesterday returned a multi-million dollar verdict in favor of the U.S. Equal Employment Opportunity Commission (EEOC) and Marion Shaub of Wrightstown, Pa., in their lawsuit against Memphis, Tenn.-based shipping giant Federal Express Corporation for violations of Title VII of the 1964 Civil Rights Act and the intentional infliction of emotional distress to Ms. Shaub.

The jury found Federal Express liable for a sex-based hostile work environment and retaliation and awarded Ms. Shaub $391,400 in back pay and front pay, $350,000 in compensatory damages for emotional pain and distress, and $2.5 million dollars in punitive damages.

"I always believed the truth would prevail and it has," said Shaub after the verdict was announced. "This is a victory for every woman who works at Federal Express and those who will work there in the future."

The lawsuit (Case 02-cv-1194, Middle District Pennsylvania) filed in February 2002, alleged that the company violated Title VII when it subjected Shaub, at the time the only female tractor-trailer driver at the company's Middletown facility, to a hostile work environment based on her sex and retaliated against her when she complained about the treatment.

According to the lawsuit, prior to her termination in October 2000, Shaub was constantly subjected to anti-female remarks and threats from male co-workers. EEOC and Shaub further alleged that, after she made numerous complaints about the gender-based hostility in her work environment, her truck brakes were sabotaged and she was refused help with the loading of her truck in retaliation for her complaints.

"This verdict sends employers a loud and clear message that sex discrimination and retaliation are simply unacceptable," said EEOC Philadelphia Regional Attorney Jacqueline McNair. "The EEOC, as well as the U.S. Supreme Court, have consistently pointed out to employers the benefits of adopting and enforcing an effective policy opposing harassment in the workplace. It is the employer's responsibility to demonstrate that such conduct is inappropriate and will not be tolerated."

Private counsel Martha Spurling who, along with attorney Ralph Lamar, joined with EEOC to represent Ms. Shaub's interests in this matter, said: "Ms. Shaub is pleased with this verdict and hopes that she is the last Federal Express worker male or female who has to go through this kind of horrific, perilous ordeal."

Title VII of the 1964 Civil Rights Act requires that employers provide each employee a working environment free of harassment based on their race, color, sex, religion or national origin. It also prohibits an employer from taking adverse action against an individual for exercising his or her right to complain about behavior reasonably believed to violate Title VII.

In addition to enforcing Title VII, the EEOC enforces the Age Discrimination in Employment Act, which protects workers age 40 and older from discrimination based on age; the Equal Pay Act of 1963, which prohibits sex-based wage discrimination; the Rehabilitation Act of 1973, which prohibits employment discrimination against people with disabilities in the federal sector; Title I of the Americans with Disabilities Act, which prohibits employment discrimination against people with disabilities in the private sector and state and local governments; and sections of the Civil Rights Act of 1991. Further information about the Commission is available on the agency's web site at www.eeoc.gov.



U.S. Equal Employment Opportunity Commission

PRESS RELEASE
5-26-10

Creative Networks Settles EEOC Retaliation Lawsuit for $110,000

Disability Services Company Fired Employee Over Discrimination Charge and Threatened Witness, Federal Agency Charged

PHOENIX – Creative Networks, LLC, a company which provides services to the disabled, has agreed to pay $110,000 to settle a lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced today. The EEOC charged that two coordinators at the company were unlawfully retaliated against on the same day for complaining about national origin and race discrimination and participating in an investigation about it.

According to the EEOC(s suit, Case No. 05-CV-03032-PHX-SMM, filed in U.S. District Court for the District of Arizona, on May 16, 2003, Rhonda Encinas-Castro went to the EEOC to file a charge of discrimination based on national origin and race. About 14 days later, the EEOC said, Encinas-Castro was fired by the company's executive director for filing the charge. Further, the agency charged, the executive director threatened to fire Kathryn Allen, who had never been disciplined for anything before, because she had been named as a witness in Encinas-Castro's discrimination charge.

Title VII of the Civil Rights Act of 1964 protects from retaliation both employees who complain about discrimination and those who serve as witnesses to it.

As part of the agreement, besides the $110,000 in monetary relief, Creative Networks must adopt an anti-retaliation policy and provide anti-retaliation training to its employees. Creative Networks is also prohibited from engaging in any further retaliation.

Mary Jo O(Neill, regional attorney for the Phoenix District Office, said, "We will continue to vigorously protect employees who complain about discrimination or serve as witnesses to it because they are the lifeblood to effective enforcement. These civil rights statutes only mean something when people are free to tell the truth about discrimination in the workplace. We have seen an alarming increase in retaliation charges, and we are very concerned that employees know that they can report discrimination without repercussions."

Rayford O. Irvin, acting district director of the Phoenix District Office, added, "As the United States Supreme Court recently reiterated in the Burlington Northern case, the primary purpose of the retaliation statutes is to maintain 'unfettered access' to complaint processes. We will ensure that all employees are protected from retaliation whether they are the filer of a charge or have assisted other employees in their complaints."

Creative Networks, an Arizona corporation with more than 1,000 employees, provides medical, psychological, and educational services to individuals with mental and physical disabilities.

Retaliation charges with the EEOC have risen from 18,198 in Fiscal Year 1997, comprising 22.6 percent of all charges, to 33,613 in FY 2009, accounting for 36 percent of all charges.

The EEOC is responsible for enforcing federal laws against employment discrimination. Further information is available at www.eeoc.gov.

U.S. Equal Employment Opportunity Commission

PRESS RELEASE
4-26-10

MCEA To Pay $80,000 To Settle EEOC Retaliation Suit

Agency Said Local Union Discriminated Against Workers Because They Protested Discrimination at Workplace

BALTIMORE – The Maryland Classified Employees Association (MCEA) union will pay $80,000 to settle a retaliation discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced today.

In its lawsuit, the EEOC charged that MCEA fired employee Gail Tate-Buntin in 2007 for her perceived involvement in an EEOC investigation of her employer's alleged unlawful employment practices, her opposition to practices she believed to be discriminatory, and her association with Michele Handy, another MCEA employee who had filed a discrimination charge. The EEOC also charged that MCEA denied a promotion to Handy and subjected her to discriminatory terms and conditions of employment because she filed a discrimination charge with the EEOC against MCEA.

Retaliation against an employee for protesting employment discrimination or participating in a discrimination charge investigation violates Title VII of the Civil Rights Act of 1964. The EEOC filed suit (Case No. WDQ-10-CV-00762 in U.S. District Court for the District of Maryland, Northern Division) after first attempting to reach a pre-litigation settlement.

In addition to the monetary payment to Tate-Buntin and Handy, the EEOC's settlement requires MCEA to provide significant remedial relief during the two-year consent decree. MCEA will:

- refrain from further engaging in retaliation against any person because he or she opposed any practice made unlawful under Title VII or participated in a Title VII-related proceeding;
- submit written notification to EEOC regarding any and all reports of retaliatory harassment or retaliatory discrimination;
- adhere to an anti-harassment/anti-discrimination policy and distribute a copy of said policy to all current and future officers, managers, employees and independent contractors;
- require all current and former managers and persons designated to receive and investigate complaints of harassment and discrimination to attend four hours of training regarding all requirements of Title VII;
- post notices at all its facilities affirming its commitment to maintaining a work environment free of discrimination and retaliation under all federal equal employment opportunity laws; and
- submit other compliance reports to EEOC for the duration of the decree.

"Title VII depends for its enforcement upon the cooperation of employees who are willing to oppose or report employment discrimination," said EEOC Acting Regional Attorney Debra M. Lawrence. "This settlement achieves the EEOC's objectives by providing relief to the victims while implementing measures to prevent future retaliation."

The most frequently filed charges with the EEOC in FY 2009 were charges of discrimination based on race (36 percent), retaliation (36 percent) and sex-based discrimination (30 percent).

The EEOC enforces federal laws prohibiting employment discrimination. Further information about the Commission is available at its web site www.eeoc.gov.

U.S. Equal Employment Opportunity Commission

PRESS RELEASE
8-19-10

Yates Construction To Pay $30,000 To Settle EEOC Racial Harassment And Retaliation Suit

Black Employees Subjected to Racial Insults, Federal Agency Charged

GREENSBORO, N.C. – Stokesdale, N.C.-based Yates Construction Company, Inc. will pay $30,000 to settle a racial harassment and retaliation lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced today. The EEOC had charged that Yates subjected an African-American employee to racial harassment and discharged him in retaliation for complaining about it. The settlement also includes one other person who was allegedly subjected to racial harassment.

According to the EEOC's suit, Rodney McCants and at least one other black employee were repeatedly subjected to the use of racial slurs such as the "N" word, and to racially offensive jokes about African-Americans. The suit further charged that McCants complained about the harassment on at least two occasions in late 2007 and early 2008, but the company failed to stop the harassment. The suit also asserted that McCants was discharged in April 2008 in retaliation for his complaints.

Racial harassment and retaliation violate Title VII of the Civil Rights Act of 1964. The EEOC filed suit in U.S. District Court for the Middle District of North Carolina (*Equal Employment Opportunity Commission v. Yates Construction Company, Inc.*, Civil Action No. 1:09-cv-00687) after first attempting to reach a voluntary settlement out of court through its conciliation process.

In addition to monetary damages, the consent decree resolving the case provides for injunctive relief to prevent Yates Construction from further maintaining a racially hostile work environment or engaging in retaliation. The decree also requires the company to post its policy against racial harassment in the workplace; distribute the policy to employees; provide annual, company-wide training on racial harassment to its owners and supervisors; and report future verbal or written complaints of racial harassment or retaliation to the EEOC.

“The EEOC is glad that it was able to resolve this case in favor of Mr. McCants and the other African-American employee who testified that he was subjected to racial harassment,” Lynette A. Barnes, regional attorney of the EEOC's Charlotte District Office said. “Also, the injunctive relief that the EEOC obtained will help to ensure that there are no incidents of racial harassment at Yates Construction in the future.”

Tina Burnside, supervisory trial attorney for the EEOC’s Charlotte District, added, “The EEOC is committed to combating retaliation and ensuring that employees can complain about discrimination in the workplacewithout the fear of being disciplined or fired.”

The EEOC is responsible for enforcing federal laws against employment discrimination. Further information about the EEOC is available on the agency’s website at www.eeoc.gov.

U.S. Equal Employment Opportunity Commission

PRESS RELEASE
8-10-10

Elmer W. Davis To Pay $1 Million To Settle EEOC Race Discrimination Lawsuit

Roofing Company Charged with Racial Harassment, Discriminatory Job Assignments, and Failure to Promote African-American Employees

ROCHESTER, N.Y. - Elmer W. Davis, Inc., the largest commercial roofing contractor in New York State and one of the top 40 largest commercial roofing contractors in the United States, will pay $1 million to African-American employees to settle a race discrimination lawsuit brought by the U. S. Equal Employment Opportunity Commission (EEOC), the federal agency announced today. This is the largest EEOC settlement ever in Rochester.

The EEOC's lawsuit (Civil Action No. 07-CV-06434), filed in U.S. District Court for the Western District of New York in Rochester in 2007, charged that black employees at Elmer Davis were subjected to a pattern of race discrimination, including harassment, unfair work assignments, failure to be promoted, and retaliation for complaining about discrimination from at least 1993 through the present.

According to dozens of African-American employees, they were constantly subjected to racial slurs by their white foremen. Blacks were routinely referred to as "n----r," "lazy n-----rs," "sambo," "slave," and "monkey." Foremen also frequently made comments like, "All n----rs should get on a boat and go back to Africa." They were also exposed to nooses and racially offensive graffiti like "dirty n----r," "KKK" and swastikas written on the walls of the portable toilets at work sites.

The lawsuit also charged the roofing company with subjecting African-American employees to disparate treatment in job assignments, claiming that it generally reserved the most difficult, dirty and less desirable jobs for black workers, including "tear off" and "hot tar" jobs, often referred to as the "bull work," while whites were assigned to detail work and service trucks to conduct repairs.

African-American employees were routinely laid off first at the end of the roofing season and called back last in the beginning of the following season, while whites were laid off later and called back earlier.

The EEOC further charged that the company systematically excluded black employees from promotion opportunities, which it accomplished by using a subjective system of promotions without job announcements or an application process, and actively discouraging black employees from seeking promotions.

The EEOC alleged that Elmer Davis's conduct violated Title VII of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, religion, sex or national origin. The case was investigated by the Buffalo Local Office of the EEOC before it proceeded to court.

Elmer Davis will be bound by a five-year consent decree which, in addition to the $1 Million monetary relief for the victims of discrimination, enjoins the company from engaging in further race discrimination or retaliation. The decree requires Elmer Davis to hire an EEO Coordinator to provide training, monitor race discrimination complaints, and report to the EEOC on hiring, layoff and promotion. The decree has been submitted to U. S. District Court Judge Siragusa for approval.

"This settlement marks the end of decades of ugly and unlawful discrimination against African-American employees at Elmer Davis," said Spencer Lewis, district director for the EEOC's New York District Office. "No employee should have to endure slurs and other harassment in order to do his job. The EEOC will remain vigilant to protect workers from these types of abuses."

Trial Attorney Judith Biltekoff added, "This consent decree will not only right the wrongs perpetrated against the African-American employees at Elmer Davis, but also promote a race-neutral work environment for all employees going forward."

U.S. Equal Employment Opportunity Commission

PRESS RELEASE
8-3-10

Mobile Community Action Sued by EEOC for Retaliation

Mobile Area Non-Profit Corporation Unlawfully Fired Male Employee for Complaining About Sexual Harassment, Federal Agency Charged

BIRMINGHAM, Ala. – Management of a Mobile County, Ala., non-profit corporation unlawfully retaliated against a male employee because he complained about being sexually harassed by a female supervisor, according to a lawsuit filed on July 30 by the U.S. Equal Employment Opportunity Commission (EEOC).

According to the EEOC's lawsuit (Case No. CV-10-403) in the U.S. District Court for the Southern District of Alabama, Mobile Community Action, Inc., fired Donte Bumpers when he resisted sexually harassing behavior by a female supervisor. Bumpers was fired after he reported the sexual harassment and requested a transfer in a letter to Executive Director Jimmy Knight.

The EEOC filed suit after first attempting to reach a voluntary settlement. The agency is seeking back pay, compensatory and punitive damages as well as other relief, including a permanent injunction to prevent Mobile Community Action from retaliating against any employee for reporting harassment or discrimination.

"Unfortunately, we see allegations of retaliation far too often," said EEOC Birmingham District Director Delner Franklin-Thomas. "We will continue our efforts to let employers know that retaliation for complaining about discrimination violates the law."

C. Emanuel Smith, Regional Attorney for the EEOC's Birmingham District Office, said, "The Commission supports employees being able to complain about conduct believed to be discriminatory without fear of reprisal. Retaliation is illegal."

Mobile Community Action, Inc. operates a Head Start program and provides other community services to qualifying families in the Mobile area.

The EEOC enforces federal laws prohibiting employment discrimination. Further information about the EEOC is available on the agency's web site at www.eeoc.gov.



U.S. Equal Employment Opportunity Commission

PRESS RELEASE
7-19-10

Mike Enyart & Sons Sued by EEOC for Racial Harassment and Retaliation

Construction Company Fired Black Employee Because He Complained About Racial Harassment, Federal Agency Charged

BECKLEY, W.V. – A South Point, Ohio-based construction company condoned egregious racial harassment and illegally fired an employee who complained about the abusive treatment, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it announced today.

The EEOC charges in its lawsuit that Mike Enyart & Sons, Inc. subjected Mareo R. Allen, who is African-American, to a hostile work environment based on his race, when he worked for the company on a sewer line installation project in White Sulphur Springs, W.V. Co-workers and a foreman repeatedly used racially offensive slurs and epithets to Allen and other black persons, including "n----r," "black boy" "and colored boy," the EEOC said in its lawsuit filed in U.S. District Court for the District of West Virginia, Civil Action No. 5:10-cv-0921. The EEOC alleges that the harassment also included threatening conduct such as cutting Allen's belt with a knife while Allen was wearing it and showing Allen a swastika that had been spray-painted onto company equipment.

The company failed to take effective action to stop the pervasive harassment, the EEOC said. Instead, a company official told Allen that he could only remain employed if he agreed not to pursue his discrimination claims. When Allen refused to withdraw them, the company terminated him in retaliation for his opposition to the racial harassment, the EEOC charged in its lawsuit.

Such alleged conduct violates Title VII of the Civil Rights Act of 1964, which prohibits harassment based on race. Title VII also prohibits employers from retaliating against an employee who opposes racial harassment or discrimination. The EEOC attempted to reach a voluntary settlement before filing suit.

"It is appalling that the company not only condoned the vile and offensive racial epithets made to Mr. Allen, but actually warned him that he had to drop his complaints about the racial harassment in order to keep his job," said EEOC Regional Attorney Debra Lawrence of the EEOC's Philadelphia District Office, which oversees Pennsylvania, Delaware, West Virginia, Maryland and parts of New Jersey and Ohio. "No employee should have to endure racial slurs and threatening behavior as a condition of remaining employed."

In Fiscal Year 2009, the EEOC received 33,579 charge filings alleging race-based discrimination. Historically, race discrimination has accounted for the most frequent type of charge filing with EEOC offices nationwide. In Fiscal Year 2009, the number of retaliation charges filed with the EEOC surged to a record-high level of 33,613.

The EEOC enforces federal laws prohibiting employment discrimination. Further information about the EEOC is available on its web site at www.eeoc.gov.

U.S. Equal Employment Opportunity Commission

PRESS RELEASE
7-2-10

Silgan Containers Required to Pay $45,000 to Settle EEOC Race Discrimination Suit

North America's Largest Metal Food Can Supplier Fired Man Because of Race, Federal Agency Charged

CHICAGO – Silgan Containers Manufacturing Corporation, the largest manufacturer of metal food containers in North America, will pay $45,000 to settle a race discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced today. The EEOC filed the lawsuit against Silgan on behalf of an African-American man who suffered alleged discriminatory treatment that resulted in his termination from Silgan's Oconomowoc, Wis., facility.

In its lawsuit, the EEOC charged that Silgan violated federal civil rights law by intentionally delaying the hiring of Romardro Henderson and then firing him because of his race. According to the EEOC, after Henderson was finally hired, his immediate supervisor – who no longer works for Silgan – subjected Henderson to disparate and discriminatory treatment such as holding him to a higher standard on his work than non-black employees. Finally, the EEOC charged, Silgan fired Henderson for racial reasons after less than one month on the job.

Race discrimination violates Title VII of the Civil Rights Act of 1964. The EEOC filed suit, EEOC v. Silgan Containers Manufacturing Corporation, No. 09-C-782, in U.S. District Court for the Eastern District of Wisconsin in Milwaukee, after first attempting to reach a voluntary settlement out of court through its conciliation process.

U.S. Magistrate Judge William E. Callahan entered the consent decree resolving the lawsuit on July 1, 2010. In addition to providing monetary compensation to Henderson, the two-year decree resolving the lawsuit requires Silgan to notify the EEOC of any complaints of discrimination at its Oconomowoc plant for the next two years. Silgan must report to the EEOC information about its hiring practices at the Oconomowoc facility for the duration of the decree. The company must also train its managers, supervisors and human resources employees in Oconomowoc about their responsibilities under Title VII.

"This case demonstrates that racial discrimination in the American workplace is a serious and ongoing concern," said John Rowe, EEOC district director in Chicago. "Employment discrimination has a devastating effect on workers. Fortunately, we were able to alleviate that effect in this instance because Mr. Henderson took action on his own behalf by filing a charge with the EEOC."

EEOC Regional Attorney John Hendrickson said, "Once the EEOC filed its lawsuit and the trial team began to litigate this case, Silgan was quick to determine that accepting a meaningful settlement resolution was its best option. The consent decree entered by the court will help to ensure that all Silgan's employees enjoy equal access to employment opportunities."

The government's litigation effort was led by EEOC Supervisory Trial Attorney Gregory M. Gochanour and Trial Attorney Bradley S. Fiorito.

According to its website, Silgan is the largest manufacturer of metal food containers in North America, with net sales of $1.92 billion in 2009 and over 30 manufacturing facilities nationwide. Silgan is owned by Silgan Containers Corporation, which is a wholly owned subsidiary of Silgan Holdings Inc. of Stamford, Conn.

The EEOC is responsible for enforcing federal laws against employment discrimination. Further information is available at www.eeoc.gov.

U.S. Equal Employment Opportunity Commission

PRESS RELEASE
7-1-10

Cullman Company To Pay $100,000 To Settle EEOC Race Discrimination Lawsuit

Racially Hostile Work Environment Offends Black and White Employees at McGriff's Truck Facility

BIRMINGHAM, Ala. – McGriff Industries, Inc. and its subsidiary McGriff Transportation, Inc., which operated a truck transportation facility in Cullman, Ala., will pay $100,000 and furnish other relief to settle a racial harassment and retaliation lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced today.

According to the EEOC, certain employees and managers in the Cullman facility routinely used racially derogatory comments, slurs, and insults directed at or about African-Americans. The racial misconduct escalated to threats and intimidation, including a derogatory threat to cut one of the black employees. White and black employees were offended by the racial misconduct, but were rebuffed and retaliated against -- one employee was terminated and another had his work assignments changed -- when they complained.

Title VII of the Civil Rights Act of 1964 protects employees from employment discrimination because of their race, sex, religion or national origin and from retaliation for complaining about it. The EEOC filed suit in U.S. District Court for the Northern District of Alabama Northeastern Division (Civil Action 5:09-CV-01952-IPJ) after first attempting to reach a pre-litigation settlement.

The settlement, by consent decree entered by the court on June 22, 2010, provides for a total payment of $100,000 to Todd A. Roseborough, Sr., Paul Hogan and Aaron Greenwood. The decree also includes injunctive terms applicable to each of McGriff's offices, facilities and retail establishments in the state of Alabama. Among other requirements, McGriff must develop and implement effective anti-discrimination policies and procedures, and train its employees, supervisors and managers on the prohibitions against racial misconduct in the workplace. The company will develop a system for reporting, investigating and addressing complaints of workplace racial misconduct; hold all employees accountable for engaging in it; and hold supervisors and managers accountable for tolerating or failing to address such misconduct.

"This case is important because no employee should be subject to racism in the workplace and every employee can be offended by a racially hostile work environment," said EEOC Birmingham District Director Delner Franklin-Thomas. "We are pleased that McGriff's senior management is now taking an active role in promoting compliance with federal civil rights law."

EEOC Birmingham District Office Regional Attorney C. Emanuel Smith added, "The Commission will continue to litigate cases involving allegations of a racially hostile work environment. We encourage employers to be proactive and responsive to employee complaints about workplace derogatory conduct or comments."

The EEOC's Birmingham District Office is responsible for processing charges of discrimination, administrative enforcement, and the conduct of agency litigation in Alabama, Mississippi and Northern Florida, with Area Offices in Jackson, Miss., and Mobile, Ala.

The EEOC enforces federal laws prohibiting employment discrimination. Further information about the EEOC is available on its web site at www.eeoc.gov.

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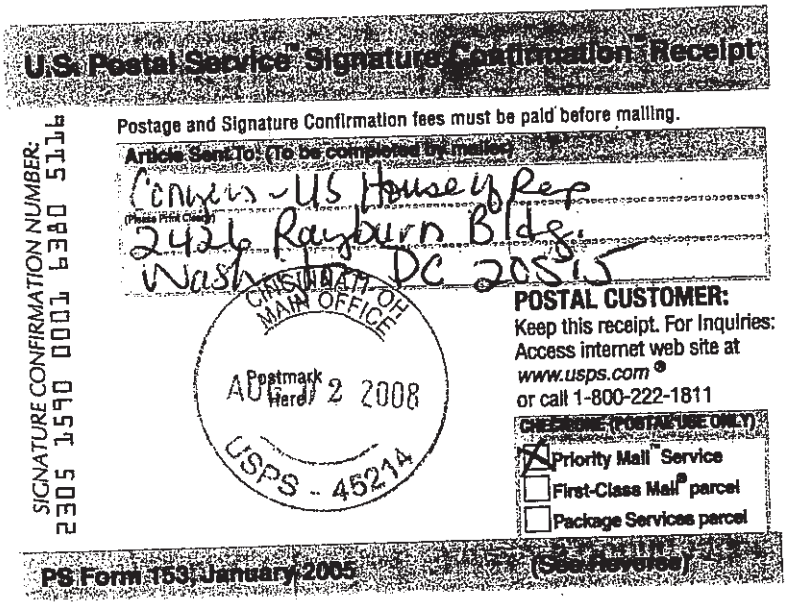

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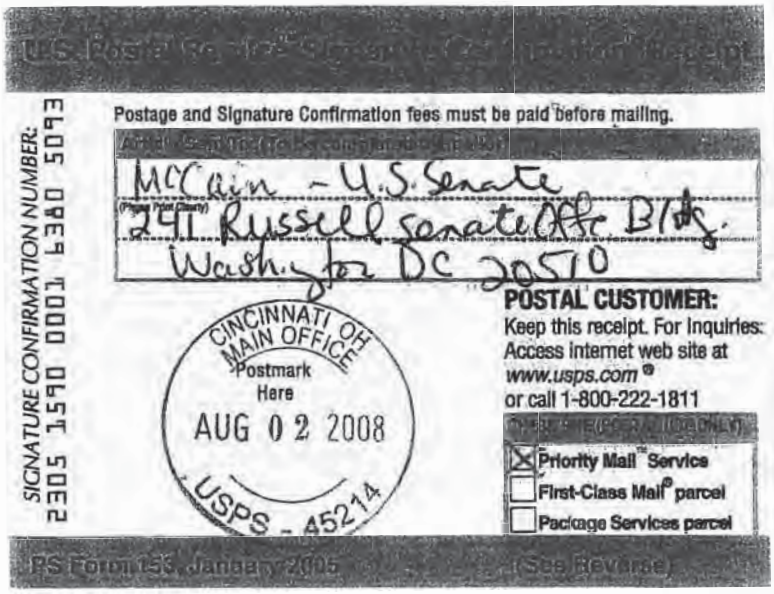
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JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Wednesday, September 30, 2009

Justice Department Files Lawsuit Challenging Conditions at Two Erie County, New York, Correctional Facilities

WASHINGTON – The United States has filed a lawsuit alleging that conditions at the Erie County Holding Center, a pre-trial detention center in Buffalo, N.Y., and the Erie County Correctional Facility, a correctional facility in Alden, N.Y, routinely and systematically deprive inmates of constitutional rights, the Justice Department announced. The lawsuit was filed in the U.S. District Court for the Western District of New York.

The lawsuit follows a nearly two year investigation, the findings of which were detailed in a letter sent to Erie County Executive Chris Collins on July 15, 2009. That letter documented evidence of numerous constitutional violations, including staff-on-inmate violence; inmate-on-inmate violence; sexual misconduct between staff and inmates; sexual misconduct among inmates; an inadequate system to prevent suicide and self-injurious behavior; inadequate medical and mental health care; and serious deficiencies in environmental health and safety.

The department's investigation revealed evidence of a number of serious violations of constitutional rights at the jail. For example, Erie County fails to protect inmates against known suicide risks and to provide constitutionally required mental health care. Since 2003, nine inmates have committed suicide, and at least 15 inmates have attempted to commit suicide or have taken steps that demonstrated suicidal ideation. Between 2007 and 2008, there were three suicides and at least 10 attempted suicides.

"Jails must provide for the basic medical and mental health needs of inmates and must keep them safe from attacks by other inmates and excessive force by staff. We have repeatedly sought the county's cooperation in working toward an amicable resolution in this matter, and we regret that the county's failure to cooperate compels us to litigate," said Loretta King, Acting Assistant Attorney General for the Justice Department's Civil Rights Division. "In light of the severity of the conditions, including multiple suicides and beatings, we must take action to ensure that the constitutional rights of those persons detained at the facilities, many of whom have not been convicted of any crime, are protected."

Kathleen M. Mehltretter, U.S. Attorney for the Western District of New York, stated, "Our purpose in bringing this action is to ensure that the facilities consistently maintain policies, procedures and practices that protect the well being and health of the inmates. Due to the county's lack of cooperation, we must seek court intervention to resolve these issues."

The Civil Rights Division is authorized to conduct such investigations under the Civil Rights of Institutionalized Persons Act of 1980 (CRIPA). This statute allows the federal government to identify and root out systemic abuses such as those discovered in Erie County. Under CRIPA, the Justice Department has investigated the conditions at nursing homes, mental health facilities, residences for persons with developmental disabilities, and juvenile justice facilities, as well as similar institutions.

The United States' findings letter to Erie County Executive Chris Collins is available at http://www.usdoj.gov/crt/split/documents/Erie_findlet_redact_07-15-09.pdf. Additional information about the Special Litigation Section of the Justice Department's Civil Rights Division can be found at www.usdoj.gov/crt/split/index.html.

09-1053 Civil Rights Division

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EXHIBIT 110

Circuit Court Judges

Alcorn, Tishomingo, Prentiss, Pontotoc, Lee, Itawamba & Monroe Counties(1st Circuit District)					FAX
Judge	**James L. Roberts**	**P.O. Drawer 1100**	**Tupelo 38802**	**(662)680-6075**	**(662)680-6078**
Ct. Rept.	Kim Bounds	P.O. Drawer 1100	Tupelo 38802	(662)680-6075	(662)680-6078
Ct. Rept.	Melanie Owen	P.O. Drawer 1100	Tupelo 38802	(662)680-6075	(662)680-6078
D. Ct. Admin.	Angela Stewart	P.O. Drawer 1100	Tupelo 38802	(662)680-6075	(662)680-6078
Law Clerk	Susan O. Carr	P.O. Drawer 1100	Tupelo 38802	(662)680-6013	(662)680-6078
Law Clerk II	Megan D. French	P.O. Drawer 1100	Tupelo 38802	(662)680-6013	(662)680-6078
Judge	**Paul S. Funderburk**	**P.O. Drawer 1100**	**Tupelo 38802**	**(662)680-6013**	**(662)680-6078**
Ct. Rept.	Sharen K. Sewell	P.O. Drawer 1100	Tupelo 38802	(662)680-6075	(662)680-6078
Ct. Rept.	Melanie Owen	P.O. Drawer 1100	Tupelo 38802	(662)680-6075	(662)680-6078
D. Ct. Admin.	Angela Stewart	P.O. Drawer 1100	Tupelo 38802	(662)680-6075	(662)680-6078
Law Clerk	Susan O. Carr	P.O. Drawer 1100	Tupelo 38802	(662)680-6013	(662)680-6078
Law Clerk II	Megan D. French	P.O. Drawer 1100	Tupelo 38802	(662)680-6013	(662)680-6078
Judge	**Thomas J. Gardner**	**P.O. Drawer 1100**	**Tupelo 38802**	**(662)680-6013**	**(662)680-6078**
Ct. Rept.	Mary Margaret Ferguson	P.O. Drawer 1100	Tupelo 38802	(662)680-6075	(662)680-6078
Ct. Rept.	Melanie Owen	P.O. Drawer 1100	Tupelo 38802	(662)680-6075	(662)680-6078
D. Ct. Admin.	Angela Stewart	P.O. Drawer 1100	Tupelo 38802	(662)680-6075	(662)680-6078
Law Clerk	Susan O. Carr	P.O. Drawer 1100	Tupelo 38802	(662)680-6013	(662)680-6078
Law Clerk II	Megan D. French	P.O. Drawer 1100	Tupelo 38802	(662)680-6013	(662)680-6078
Judge	**Jim S. Pounds**	**P.O. Box 316**	**Booneville 38829**	**(662)728-2365**	
Ct. Rept.	Karen Larson	P.O. Box 316	Booneville 38829	(662)728-2365	
Ct. Rept.	Melanie Owen	P.O. Drawer 1100	Tupelo 38802	(662)680-6075	(662)680-6078
D. Ct. Admin.	Angela Stewart	P.O. Drawer 1100	Tupelo 38802	(662)680-6075	(662)680-6078
Law Clerk	Susan O. Carr	P.O. Drawer 1100	Tupelo 38802	(662)680-6013	(662)680-6078
Law Clerk II	Megan D. French	P.O. Drawer 1100	Tupelo 38802	(662)680-6013	(662)680-6078

Hancock, Harrison & Stone Counties(2nd Circuit District)					FAX
Judge	**Lisa P. Dodson**	**P.O. Box 1461**	**Gulfport 39502**	**(228)865-4189**	**(228)865-4376**
Ct. Rept.	Robin Casano	P.O. Box 1461	Gulfport 39502	(228)865-1023	(228)865-4376
Ct. Rept.	Jamie Morgan	P.O. Box 1461	Gulfport 39502	(228)865-4016	(228)865-4376
Ct. Admn.	Rebecca Payne	P.O. Box 1461	Gulfport 39502	(228)865-4220	(228)865-4376
Ct. Admn.	Janice Malley	P.O. Box 1461	Gulfport 39502	(228)865-4104	(228)867-6536
Ct. Admn.	Shirley Valdez	P.O. Box 1461	Gulfport 39502	(228)865-4006	(228)865-1636
Law Clerk I	Constance Jordan	P.O. Box 1461	Gulfport 39502	(228)865-4006	(228)865-1636
Judge	**Jerry O. Terry**	**P.O. Box 1461**	**Gulfport 39502**	**(228)865-4104**	**(228)867-6536**
Ct. Rept.	Robin Casano	P.O. Box 1461	Gulfport 39502	(228)865-1023	(228)865-4376
Ct. Rept.	Cheryl Sablich	P.O. Box 763	Biloxi 39533	(228)865-4184	(228)867-6536
Ct. Admn.	Janice Malley	P.O. Box 1461	Gulfport 39502	(228)865-4104	(228)867-6536
Ct. Admn.	Shirley Valdez	P.O. Box 1461	Gulfport 39502	(228)865-4006	(228)865-1636
Staff Att.	Stephanie Casano	P.O. Box 1461	Gulfport 39502	(228)865-1038	(228)867-6536
Judge	**Roger T. Clark**	**P.O. Box 1461**	**Gulfport 39502**	**(228)865-4165**	**(228)865-1636**
Ct. Rept.	Patricia Bodin	P.O. Box 1461	Gulfport 39502	(228)865-1630	(228)865-1636
Ct. Rept.	Robin Casano	P.O. Box 1461	Gulfport 39502	(228)865-1023	(228)865-4376
Ct. Admn.	Janice Malley	P.O. Box 1461	Gulfport 39502	(228)865-4104	(228)867-6536
Ct. Admn.	Shirley Valdez	P.O. Box 1461	Gulfport 39502	(228)865-4006	(228)865-1636
Ct. Admin.	Mary Ladner	P.O. Box 1461	Gulfport 39502	(228)865-4165	(228)865-1636
Staff Att.	Stephanie Casano	P.O. Box 1461	Gulfport 39502	(228)865-1038	(228)867-6536
Judge	**Lawrence P. Bourgeois, Jr.**	**P.O. Box 1461**	**Gulfport 39502**	**(228)865-4262**	**(228)865-1636**
Ct. Rept.	Robin Casano	P.O. Box 1461	Gulfport 39502	(228)865-1023	(228)865-4376
Ct. Rept.	Angelle T. Webb	P.O. Box 366	Waveland 39576	(228)865-4261	(228)865-1636
Ct. Admn.	Rebecca Payne	P.O. Box 1461	Gulfport 39502	(228)865-4220	(228)865-4376
Ct. Admn.	Shirley Valdez	P.O. Box 1461	Gulfport 39502	(228)865-4006	(228)865-1636

Benton, Calhoun, Chickasaw, Lafayette, Marshall, Tippah & Union Counties(3rd Circuit District)					FAX
Judge	**Andrew K. Howorth**	**1 Courthouse Square, Suite 201**	**Oxford 38655**	**(662)234-4951**	**(662)236-0238**

EXHIBIT 111

Circuit Judges & Support Staff

Updated April 11, 2008

Alcorn, Tishomingo, Prentiss, Pontotoc, Lee, Itawamba & Monroe Counties

(1st Circuit District)

Judge	**James L. Roberts**	**P.O. Drawer 1100**	**Tupelo, MS 38802**	**(662)680-6075**	**(662)680-6078**
Ct. Rept.	Kim Bounds	P.O. Drawer 1100	Tupelo, MS 38802	(662)680-6075	(662)680-6078
Ct. Rept.	Melanie Owen	P.O. Drawer 1100	Tupelo, MS 38802	(662)680-6075	(662)680-6078
D. Ct. Admin.	Angela Stewart	P.O. Drawer 1100	Tupelo, MS 38802	(662)680-6075	(662)680-6078
Law Clerk	Susan O. Carr	P.O. Drawer 1100	Tupelo, MS 38802	(662)680-6013	(662)680-6078
Law Clerk II	Megan D. French	P.O. Drawer 1100	Tupelo, MS 38802	(662)680-6013	(662)680-6078
Judge	**Paul S. Funderburk**	**P.O. Drawer 1100**	**Tupelo, MS 38802**	**(662)680-6013**	**(662)680-6078**
Ct. Rept.	Sharen K. Sewell	P.O. Drawer 1100	Tupelo, MS 38802	(662)680-6075	(662)680-6078
Ct. Rept.	Melanie Owen	P.O. Drawer 1100	Tupelo, MS 38802	(662)680-6075	(662)680-6078
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Law Clerk	Susan O. Carr	P.O. Drawer 1100	Tupelo, MS 38802	(662)680-6013	(662)680-6078
Law Clerk II	Megan D. French	P.O. Drawer 1100	Tupelo, MS 38802	(662)680-6013	(662)680-6078

Wage and Hour Division (WHD)

Current Southeast Region News Releases

The following states fall under the SOUTHEAST REGION: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

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Links to Press Release from Previous Years:

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2010

- September 9, 2010
  FLSA 'hot goods' provision benefits South Florida employees as US Labor Department recovers more than $173,000 in back wages for 153 workers
- August 30, 2010
  US Labor Department recovers more than $213,000 in back wages for employees of electrical contractor in Aberdeen, NC
- August 26, 2010
  US Department of Labor recovers more than $433,000 in back wages for Walt Disney World employees
- August 25, 2010
  US Labor Department Wage and Hour Division staff to discuss federal labor laws at Mexican Consulate in Atlanta
- August 25, 2010
  Personal de la División de Salarios y Horas del Departamento de Trabajo de los EE. UU. hablará de leyes laborales federales en el Consulado Mexicano de Atlanta
- August 24, 2010
  L-3 Communications Vertex Aerospace in Jacksonville, Fla., to pay more than $166,000 in back wages following US Labor Department investigation
- August 17, 2010
  US Labor Department obtains nearly $1 million in back wages and interest for 135 H-1B workers of Smartsoft International
- August 11, 2010
  US Labor Department recovers more than $868,000 in back wages for Florida-based timeshare company employees
- August 3, 2010
  El Departamento del Trabajo de EE.UU. planea iniciativa de vigilancia y control agrícola en Condados de Buncombe y Henderson, NC
- August 2, 2010
  US Labor Department plans agricultural enforcement initiative in Buncombe and Henderson Counties, NC
- June 17, 2010
  US Labor Department announces new task force to focus on child labor and overtime violations in southern Alabama and Mississippi
- June 3, 2010
  Del Departamento de Trabajo de los EE. UU. a los trabajadores agropecuarios de Carolina del Norte: 'Los trabajadores jóvenes tienen derechos, y podemos ayudarlos'
- June 3, 2010
  US Department of Labor to North Carolina agricultural workers: 'Young workers have rights, and we can help'
- April 1, 2010
  US Department of Labor Wage and Hour Division focusing on low-wage workers at assisted living and group homes in Alabama and Mississippi
- March 25, 2010
  Tom Johnson Camping Center in North Carolina agrees to pay almost $145,000 in back wages following US Labor Department investigation
- March 18, 2010
  US Department of Labor sues Sullivan University in Louisville, Ky., to recover overtime wages owed to employees
- March 5, 2010
  Nashville, Tenn., landscaping company to pay more than $449,000 in back wages and overtime pay following US Department of Labor investigation
- February 5, 2010
  US Department of Labor ongoing initiative cites 5 retail establishments in South Florida for child labor violations
- January 21, 2010
  US Department of Labor cites 2 retail establishments in Northpark Mall, Ridgeland, Miss., for child labor violations
- January 15, 2010
  US Department of Labor cites 15 retail establishments in Hoover, Mobile and Montgomery, Ala., for child labor violations

2009

- November 17, 2009
  US Department of Labor obtains back wages for employees of automotive dealership with stores in Arcadia, Tarpon Springs and Venice, Fla.
- November 5, 2009

EXHIBIT 112

Tyson Foods found in violation of Fair Labor Standards Act

- October 22, 2009
  US Department of Labor petitions federal court to enforce judgment against Memphis restaurants
- October 9, 2009
  US Department of Labor recovers more than $350,000 for employees of Asian buffet restaurants in South Florida
- August 14, 2009
  U.S. Department of Labor recovers more than $44,000 for employees of Miami manufacturer Hoover Industries Wage and Hour Division invokes Section 15(a) of FLSA to obtain missing payment
- August 12, 2009
  U.S. Department of Labor recovers more than $63,000 in back wages for 25 employees of Atlanta-based Next Level Financial LLC
- August 12, 2009
  U.S. Department of Labor cites Alabama operator of residential group homes and assisted living facilities with overtime violations Magnolia Woods agrees to pay more than $300,000 in overtime violations and penalties
- August 10, 2009
  El Departamento de Trabajo de los Estados Unidos descubre violaciones al trabajo de niños y al trabajo agrícola extranjero y temporal en los campos de arándanos de los Condados de Bladen y Craven, N.C.
- August10, 2009
  U.S. Department of Labor uncovers child labor and migrant and seasonal farm labor violations on Bladen and Craven counties, N.C., blueberry farms
- August 5, 2009
  U.S. Department of Labor to offer free Recovery Act Prevailing Wage Conference from Aug. 25 to 27 in Orlando, Fla. Meeting will cover labor laws applicable to Recovery Act projects
- May 5, 2009
  U.S. Labor Department assesses Atlanta-based Demon Demo Inc. maximum child labor penalty following death of teen at demolition site
- March 6, 2009
  U.S. Department of Labor obtains more than $370,000 in back wages for employees of Carrollton, Ky., company
- January 22, 2009
  U.S. Labor Department finds child labor violations at malls in Fort Lauderdale, Miami, and West Palm Beach, Fla.

- Archived News Releases Jan. 2005 - Jan. 20, 2009
- Archived News Releases before 2005

Wage and Hour Division (WHD)

Archived Southeast Region News Releases Before 2005

- Caution: Information may be out of date.

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2004

- December 27, 2004
  Greeneville Corporation Pays Almost $85,000 in Back Overtime Wages to 127 Employees.
- November 30, 2004
  Canton, Miss., Logging Company Ordered to Pay Over $34,000 In Back Wages After U.S. Labor Department Files Suit.
- November 16, 2004
  EL DEPARTAMENTO DE TRABAJO DE LOS EE.UU. OFRECE SEMINARIOS GRATUITOS A CONTRATISTAS DE TRABAJO AGRÍCOLA DE FLORIDA Y A EMPLEADORES AGRÍCOLAS
- November 15, 2004
  U.S. Labor Department Offers Free Seminars to Florida Farm Labor Contractors and Agricultural Employers.
- November 15, 2004
  U.S. Labor Department Fines South Carolina Agricultural Employers for Labor Law Violations.
- November 12, 2004
  Nashville Restaurant Operator Pays Over $130,000 in Back Wages to 85 Employees.
- November 05, 2004
  Construction Company Pays $350,000 in Back Wages to Workers After U.S. Labor Department Files Lawsuit.
- October 28, 2004
  Atmore Bottling Plant Pays $15,000 Fine For Violating Federal Youth Employment Laws.
- October 25, 2004
  U.S. Department of Labor Offers Seminars to Preschool and Day Care Operators.
- October 25, 2004
  OPERADORES DE RESTAURANTES EN TENNESSEE TUVIERON QUE PAGAR RETROACTIVAMENTE MÁS DE $277,000 PARA COMPLETAR LOS SALARIOS DE 99 PERSONAS, EN CUATRO LUGARES DE TRABAJO
- October 25, 2004
  Tennessee Restaurant Operators Pay Over $277,000 in Back Wages to 99 Employees at Four Locations.
- October 8, 2004
  Plant City Bakery Ordered to Pay Employees Over $121,000 in Back Wages After U.S. Labor Department Files Lawsuit.
- August 26, 2004
  Following Department of Labor Investigation, Memphis Company Pays Over $103,000 in Back Wages to 67 Employees
- August 12, 2004
  U.S. Labor Department Recovers Over $87,000 in Back Wages For Tennessee Trucking Company Employees
- July 7, 2004
  U.S. Labor Department Recovers Over $135,000 In Back Wages for Employees of Morristown, Tenn., Company
- June 2, 2004
  Davie County Pays Over $50,000 in Back Wages To 38 Deputy Sheriffs
- June 2, 2004
  High Point Research Company Pays Over $50,000 In Back Wages to 63 Employees
- May 20, 2004
  Labor Department Reminds Alabama Construction Industry Employers and Teen Workers about "YouthRules!"
- May 13, 2004
  Boca Raton Company Pays Over $109,000 in Back Wages to 269 Employees
- April 27, 2004
  Tennessee Non-Profit Organization Pays Over $67,000 in Back Wages
- April 27, 2004
  Tire Retailer Pays Over $15,000 in Back Wages and Medical Expenses
- April 26, 2004
  Bolivar Healthcare Facility Pays Over $44,000 in Back Wages to 41 Employees
- April 16, 2004
  Mississippi Daycare Operator Pays Over $32,000 in Back Wages to 30 Employees
- April 16, 2004

Mississippi Daycare Operator Pays Over $32,000 in Back Wages to 30 Employees

- April 9, 2004
  Charlotte Medical Practice Pays Over $24,000 in Back Wages
- March 8, 2004
  Florida Company Pays Over $162,500 in Overtime Back Wages To Employees in 11 States
- March 8, 2004
  Hayesville Restaurant Operator Cited for Violations Of Federal Youth Employment Laws
- February 18, 2004
  U.S. Labor Department Fines Monroe County Farmer's Co-op
- February 18, 2004
  U.S. Department of Labor Cites Palm Beach County McDonald's Restaurant Operator for Violations of Youth Employment Laws
- February 14, 2004
  U.S. Labor Department Fines Operator of Dothan Amusement Arcade More Than $11,000 for Youth Employment Violations
- February 12, 2004
  FloU.S. Labor Department Recovers Over $180,000 in Back Wages for Hanna Steel Corporation Workers at Alabama and Illinois Plants
- February 10, 2004
  Florence Auto Service Shops Ordered to Pay Workers Over $38,000 in Back Wages
- January 14, 2004
  U.S. Labor Department, Gulf Citrus Growers Sign Agreement
- January 12, 2004
  U.S. Labor Department Offers Free Seminar for Migrant Farm Worker Housing Providers

2003

- November 24, 2003
  U.S. Labor Department's Wage and Hour Division Plants "Compliance Seeds" In Lawn and Grounds Maintenance Industry
- November 12, 2003
  U.S. Department of Labor Offers Free Seminars to Mississippi Preschool and Day Care Operators
- October 21, 2003
  South Carolinian Named to High Labor Post
- October 21, 2003
  John L. McKeon Named Regional Administrator of the Wage and Hour Division in Atlanta
- September 16, 2003
  U.S. Labor Department Recovers Over $223,000 in Back Wages for Chiquola Fabrics Employees
- August 26, 2003
  U.S. Labor Department Investigation Results In More Than $660,000 In Back Wages for East Tennessee Restaurant Workers
- August 11, 2003
  U.S. Department of Labor Secures More Than $41,000 In Overtime Back Wages for Car Wash Workers
- August 11, 2003
  U. S. Labor Department Fines Atlanta-area
- June 17, 2003
  U.S. Labor Department, Consulate of Mexico Launch Campaign to Assist Orlando's Latino Workers
- June 2, 2003
  U.S. Department of Labor Cites Jacksonville McDonald's Restaurant Operator for Child Labor Law Violations
- 7 de mayo de 2003
  Departamento Del Trabajo de los Estados Unidos y el Comite Interfaith del Sur de la Florida establecen convenio para ayudar a trabajadores de bajos ingresos
- May 6, 2003
  Labor Department Reminds Employers And Teen Workers And Parents About "YouthRules!"
- May 6, 2003
  U.S. Labor Department, South Florida Interfaith Committee for Worker Justice Establish Partnership to Help Low-wage Workers
- April 25, 2003
  Saltillo, Miss., Supermarket Assessed Over $22,000 in Child Labor Law Penalties
- April 8, 2003
  Labor Department Cites Conditions at Hardee County Migrant Housing; Urges Farm Labor Contractor's Certificate be RevokedAgency Issues Civil Money Penalties Totaling $25,900
- April 2, 2003
  Labor Department and Mercedes-Benz Reach Agreement on Back Wages for Vance, Ala., Paint Department Employees
- March 24, 2003
  Central Florida Melon Workers' Transportation, Housing and Wages To Be Focus of U.S. Department of Labor Initiative
- March 24, 2003
  Miami Nursing Service Pays Over $55,000 in Back Wages
- March 17, 2003

Oxford, Miss., Employer Agrees to Pay Over $177,000 in Back Wages to 81 Employees

2002

- 20020233.xml:
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- August 5, 2002
  Birmingham Supermarket Fined over $39,000 for Federal Child Labor Violations
- June 11, 2002
  Labor Department Obtains Temporary Restraining Order Against Memphis Company
- May 14, 2002
  Mississippi Employers Agree to Pay Nearly $22,000, Serve 18 Months Probation in Back Wage Case
- April 9, 2002
  Memphis Company Pays Back Wages After U.S. Labor Department Prevents Shipment of "Hot Goods"

2001

- UNIVERSITY OF TENNESSEE PRESENTS AWARD TO NASHVILLE WAGE AND HOUR OFFICE [11/09/01]
- LABOR DEPARTMENT FINES ROOFING COMPANY $34,000 FOLLOWING TEEN WORKER'S DEATH [02/14/01]

2000

- SANDERS APPOINTED KNOXVILLE ASSISTANT DISTRICT DIRECTOR FOR U.S. LABOR DEPARTMENT'S WAGE AND HOUR DIVISION [11/22/00]
- MERCHANT NAMED NASHVILLE DISTRICT DIRECTOR FOR U.S. LABOR DEPARTMENT'S WAGE AND HOUR DIVISION [11/20/00]
- OPP, ALABAMA., MANUFACTURER PAYS MORE THAN $75,000 IN BACK WAGES [11/14/00]
- CAMPBELL NAMED RALEIGH, N.C., DISTRICT DIRECTOR FOR U.S. LABOR DEPARTMENT'S WAGE AND HOUR DIVISION [11/13/00]
- U.S. DEPARTMENT OF LABOR RECOVERS MORE BACK WAGES FOR POULTRY WORKERS [11/03/00]
- BIRMINGHAM CONTRACTOR FINED $10,000 FOR CHILD LABOR VIOLATIONS [08/23/00]
- FARM LABOR CONTRACTOR SENTENCED TO A YEAR IN PRISON [08/08/00]

1997

- TUSCALOOSA, ALABAMA, MENTAL HEALTH CENTER PAYS $175,000 IN BACK WAGES [05/22/97]
- ATLANTA AREA RESTAURANT CHAIN OPERATOR TO PAY OVER $2 MILLION IN SETTLEMENT WITH U.S.LABOR DEPARTMENT [02/18/97]
- HIALEAH MANUFACTURER ORDERED TO PAY $98,000 IN U.S.LABOR DEPARTMENT SUIT [01/06/97]

1996

- WINN-DIXIE STORES ORDERED TO PAY NEARLY $257,000 IN U.S.LABOR DEPARTMENT SUIT [12/05/96]

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News Release

WHD News Release: [05/19/2010]
Contact Name: Rich Kulczewski
Phone Number: (303) 844-1302
Release Number: 10-0633-DEN

Salt Lake City-based Teleperformance USA pays almost $2 million in back overtime wages following US Department of Labor investigation

Settlement covers workers in Georgia, Idaho, Illinois, Indiana, New Mexico, Ohio, Pennsylvania, South Carolina, Texas and Utah

SALT LAKE CITY — Teleperformance USA, a Salt Lake City-based call center, has paid $1,978,147 in back wages to 15,862 workers for overtime violations under the Fair Labor Standards Act. The settlement followed a nationwide investigation conducted by the U.S. Department of Labor's Wage and Hour Division in Salt Lake City.

"The Labor Department will not hesitate to enforce federal law to the fullest extent possible when employers do not pay their employees all of the wages to which they are entitled," said Secretary of Labor Hilda L. Solis. "These workers received the back wages they earned and deserved."

The company, which provides over-the-telephone customer service for clients including Sprint Communications, Verizon Wireless and Dell Computers, has branches in Georgia, Idaho, Illinois, Indiana, New Mexico, Ohio, Pennsylvania, South Carolina, Texas and Utah.

The overtime violations occurred primarily because employees were not compensated for all hours worked when the company failed to pay for breaks that were less than 30 minutes in length, or for time spent by employees waiting for work areas to become available even though their shifts already had started. A small percentage of the employees for whom back wages were computed were misclassified as salaried exempt under the FLSA. Teleperformance USA cooperated fully and worked quickly and effectively to resolve all issues identified.

The FLSA requires that covered employees be paid no less than the federal minimum wage, currently $7.25 per hour, for all hours worked. It also requires that workers are paid time and one-half their regular rates of pay for hours worked over 40 in a single week and that employers maintain adequate and accurate records of employees' wages, hours and other conditions of employment.

For more information about the FLSA, call the Wage and Hour Division's toll-free helpline at 866-4US-WAGE (487-9243) or contact the division's Salt Lake City office at 801-524-5706. Information is also available on the Internet at http://www.dol.gov/whd.

News Release

WHD News Release: [08/10/2010]
Contact Name: Michael D'Aquino or Michael Wald
Phone Number: 404-562-2076 or x2078
Release Number: 10-0866-DAL

Houston-based construction company and subcontractors pay nearly $137,000 in back wages to 140 workers after US Labor Department investigation

DALLAS — Following an investigation by the U.S. Department of Labor's Wage and Hour Division, prime contractor Williams Brothers Construction in Houston and subcontractors Cimolai USA and Cosme have agreed to collectively pay $136,679 in back wages to 140 current and former construction employees for violations of the Fair Labor Standards Act, the Davis-Bacon Act and the Contract Work Hours and Safety Standards Act. The workers were performing work on the Margaret Hunt Hill bridge project over the Trinity River in Dallas.

"The Department of Labor is committed to vigorous enforcement of the law to ensure that all workers are paid their full wages and any accrued overtime pay," said Cynthia Watson, regional administrator for the Wage and Hour Division in the Southwest. "We are pleased that these employees have been paid the back wages they are entitled to receive."

The investigation by the division's Dallas District Office determined that Williams Brothers failed to properly pay overtime to its employees who worked on Texas Department of Transportation contracts receiving federal funding. Additionally, the company violated the FLSA by failing to include overtime pay for safety bonuses. As a result, Williams Brothers agreed and has paid a total of $101,650 to 122 employees.

The investigation of Cimolai USA found that the company failed to pay two salaried non-exempt employees overtime compensation totaling $952 in violation of FLSA. An investigation of Cosme found 16 workers were owed $34,077. They were paid less than DBA prevailing wage rates, and at time and one-quarter for hours worked over 40 in a workweek, instead of time and one-half as required by the CWHSSA. Back wages owed by both subcontractors have been paid in full.

Under the CWHSSA, employees working on federal contracts must receive time and one-half their regular rates of pay when they work more than 40 hours in a workweek and receive the mandatory health and welfare benefits they are entitled to receive. Under the DBA, employers are required to pay a minimum hourly wage plus an additional amount in health and welfare benefits that is stipulated in the work contract. Generally, the employer is required to pay the health and welfare benefits for the first 40 hours worked by the employees in a week.

The FLSA requires that covered employees be paid at least the federal minimum wage of $7.25 for all hours worked, plus time and one-half their regular rates of pay, including commissions, bonuses and incentive pay, for hours worked beyond 40 per week. Employers must also maintain accurate time and payroll records.

For more information about the DBA, CWHSSA or FLSA, call the Department of Labor's toll-free helpline at 866-4US-WAGE (487-9243) or the Wage and Hour Division's Dallas District Office at 817-861-2150. Information is also available on the Internet at http://www.dol.gov/whd.

News Release

WHD News Release: [07/28/2010]
Contact Name: Michael D'Aquino or Michael Wald
Phone Number: (404) 562-2076 or x2078
Release Number: 10-0999-ATL

US Labor Department investigation nets more than $1.3 million in back wages for 187 employees of GeoPharma in Largo, Fla.

Company missed 14 payroll periods, violated FLSA

TAMPA, Fla. — Following an investigation by the U.S. Department of Labor's Wage and Hour Division, GeoPharma Inc. has agreed to pay $1,360,098 in back wages to 187 employees for violations of the Fair Labor Standards Act.

"Employees have the right to expect that they will receive full pay on time for their work, and the Labor Department will not sit by while employers attempt to evade their responsibilities," said Secretary of Labor Hilda L. Solis.

The investigation, conducted by the Wage and Hour Division's district office in Tampa, determined that the company missed or was in arrears for 14 payroll periods from late 2009 through 2010. The FLSA requires that covered employers pay employees at least equal to the federal minimum wage for each hour worked, and wages are due on the regular payday for the pay period. In this case, the investigation revealed that the employer broke both provisions of the law at different times by not paying some wages at all and by not paying employees on time.

The dietary supplements and pharmaceutical manufacturing company operates six facilities in Largo, Fla. Employees affected by this investigation were involved in production, inventory control and shipping.

The FLSA requires that covered employees be paid at least the federal minimum wage of $7.25 for all hours worked, plus time and one-half their regular rates of pay, including commissions, bonuses and incentive pay, for hours worked beyond 40 per week. Employers must also maintain accurate time and payroll records.

For more information about the FLSA, call the division's toll-free helpline at 866-4US-WAGE (487-9243) or visit http://www.dol.gov/whd.

News Release

WHD News Release: [08/11/2010]
Contact Name: Michael D'Aquino or Michael Wald
Phone Number: 404-562-2076 or x2078
Release Number: 10-1084-ATL

US Labor Department recovers more than $868,000 in back wages for Florida-based timeshare company employees

JACKSONVILLE, Fla. — The U.S. Department of Labor has recovered $868,443 in back wages for 1,065 employees of Central Florida Investments, based in Orlando, Fla., following an investigation by the department's Wage and Hour Division.

Central Florida Investments operates timeshare resorts in Arizona, Florida, Mississippi, Missouri, Nevada, South Carolina, Tennessee, Utah and Virginia under the name Westgate Resorts. The investigation included all locations of the company.

"Employers should know that when workers are deprived of their rightful wages, the Labor Department will not hesitate to take action to recover those wages," said Secretary of Labor Hilda L. Solis. "It's not just the right thing to do, it's the law."

The investigation, conducted by the Wage and Hour Division's Jacksonville District Office, determined that employees who scheduled tours of timeshare properties for the company were not paid at least the federal minimum wage for all the hours they worked. Additionally, premium pay for the workers did not include commissions, and overtime work was incorrectly computed. The company also failed to keep accurate timecard records.

As a result of the investigation, the company agreed to correct the errors, make back payments and institute new recordkeeping procedures to ensure employees now are paid correctly according to federal law.

The Fair Labor Standards Act requires that covered employees be paid at least the federal minimum wage of $7.25 for all hours worked, plus time and one-half their regular rates of pay, including commissions, bonuses and incentive pay, for hours worked beyond 40 per week. Employers must also maintain accurate time and payroll records.

For more information about this investigation, call the Wage and Hour Division's Jacksonville District Office at 904-359-9292. For more information about the FLSA, call the department's toll-free helpline at 866-4US-WAGE (487-9243). Information is also available on the Internet at http://www.dol.gov/whd.

Dougherty *Amicus* Brief, in support of defendant's motion to reconsider

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BARBARA DOUGHERTY,	:	
Plaintiff,	:	
v.	:	CA No. 05-02336
TEVA PHARMACEUTICALS USA, INC.,	:	
Defendant.	:	

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BRIEF OF THE SECRETARY OF LABOR AS *AMICUS CURIAE*
IN SUPPORT OF DEFENDANT'S MOTION TO RECONSIDER THE
AUGUST 30, 2006 ORDER DENYING DEFENDANT'S MOTION
FOR JUDGMENT ON THE PLEADINGS AND/OR SUMMARY JUDGMENT

The Secretary of Labor ("Secretary") submits this brief as *amicus curiae* in support of Defendant's Motion to Reconsider this Court's August 30, 2006 Order ("Order") denying Defendant's Motion for Judgment on the Pleadings and/or Summary Judgment.[1] The Department respectfully submits that this Court should reconsider its Order denying Defendant TEVA Pharmaceuticals' ("TEVA") Motion and, based upon the reasons set forth below, should hold that the Department's regulation at 29 C.F.R. 825.220(d) does not bar Plaintiff Barbara Dougherty ("Dougherty") from settling her claims for past violations of the Family and Medical Leave Act ("FMLA" or the "Act"), 29 U.S.C. 2601 *et seq.*, pursuant to a valid release of claims.[2]

The Secretary's interest in participating in this action arises from her responsibility for administering the FMLA, including promulgating legislative rules under the Act. *See* 29 U.S.C. 2654. Pursuant to her statutory authority, the Secretary has promulgated regulations at 29 C.F.R. Part 825. The Secretary has a paramount interest in the correct interpretation of these regulations.[3]

ISSUE PRESENTED

The Secretary's regulation at 29 C.F.R. 825.220(d) states, in part, that "[e]mployees cannot waive, nor may employers induce employees to waive, their rights under FMLA." The question presented is whether this legislative rule barring waivers of FMLA rights by employees also prohibits settlements of FMLA claims based on past employer actions.

PROCEDURAL HISTORY

TEVA initially filed a Motion for Judgment on the Pleadings and/or Summary Judgment ("motion"), with an accompanying memorandum, on August 9, 2005. In May 2006, following this Court's appointment of counsel for Dougherty and the filing of an Amended Complaint, TEVA filed a supplement to its memorandum of law in support of the motion. By letter dated August 1, 2006, this Court, *sua sponte,* raised the issue of the application of the Department's regulation at section 825.220(d) to the release at issue in the case and requested that the parties submit supplemental briefing addressing the regulation. Supplemental briefs were filed by Dougherty and TEVA on August 9 and 15, 2006, respectively.

This Court ruled on TEVA's motion on August 30, 2006, noting that "the question of whether an employee can, as part of the severance agreement, waive his or her right to sue for violations of the FMLA appears to be a matter of first impression in this circuit." Slip op. at 10.[4] The Court began its analysis of the issue by noting that the FMLA is silent as to the waiver of claims under the Act, and that the Secretary has the authority to promulgate regulations under the FMLA. *Id.*; *see* 29 U.S.C. 2654.

This Court then analyzed the only two federal appellate court decisions that address this issue, *Faris v. Williams WPC-1, Inc.,* 332 F.3d 316 (5th Cir. 2003), and *Taylor v. Progress Energy, Inc.,* 415 F.3d 364 (4th Cir. 2005), *vacated* June 14, 2006. Slip op. at 11-14.[5] It rejected the distinction drawn by the Fifth Circuit in *Faris* between the application of section 220(d) to waiver of substantive rights and its application to proscriptive rights under the FMLA. *Id.* at 15-16; *see Faris,* 332 F.3d at 320-21.[6] This Court instead adopted the overly broad reading of both the first sentence of the regulatory text and the preamble discussion of the regulation set forth in the vacated decision in *Taylor*, holding

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that section 220(d) "prohibits an employee from waiving the right to sue for FMLA violations through a severance agreement." Slip op. at 17.

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ARGUMENT

SECTION 220(d) PROHIBITS ONLY THE PROSPECTIVE WAIVER OF FMLA RIGHTS

This Court's ruling, which would prohibit all settlements of FMLA claims that are not first approved by either a court or the Department, is erroneous as a matter of law.[7] It directly conflicts with the regulation itself, as well as with the Department's reasonable interpretation of its own regulation and its consistent practice since the Act's implementation. It also disregards longstanding case law construing virtually every other federal employment statute to encourage private settlements of claims, but to prohibit prospective waivers of statutory rights. Requiring federal court or Department supervision for the release of claims would prevent employers from settling claims with finality, and employees from obtaining the compensation due to them without the inevitable delay of filing a lawsuit or seeking Department "supervision."

A. Section 220(d) by its Terms Bars only Prospective Waivers

This Court's Order, following the Fourth Circuit's vacated opinion in *Taylor*, focused on the first sentence of section 220(d). By its terms, however, that first sentence regulates only the prospective waiver of FMLA rights and makes no mention of the settlement or release of claims. These terms are shorthand for a very important and well-understood dichotomy: the ability of an employee to settle disputes based on past employer misconduct versus the inability of an employee to agree to permit his employer to engage in future misconduct. As the Third Circuit recognized in *DiBiase v. SmithKline Beecham Corp.,* 48 F.3d 719 (3d Cir.), *cert. denied*, 516 U.S. 916 (1995), waiver of a claim of employment discrimination is based upon past conduct and is distinct from waiving the right to be free from discrimination in the future. *See* 48 F.3d at 729 (The district court's error was "in large part due to the conflation of the notion of a 'right' with the notion of an accrued 'claim.' A right to be free prospectively from certain forms of discrimination always is worth something; however, whether a person has accrued a claim based on a right depends entirely on what previously has occurred.").

This Court also followed the vacated *Taylor* opinion in focusing on the word "waiver" instead of on the word "rights" in the first sentence of the regulation. Slip op. at 16 n.10. It agreed with the mistaken conclusion in *Taylor* that the word "waiver" indicates that the regulation applies both prospectively and retrospectively. *Id.* The operative term in the regulation, however, is not "waiver" but "rights," which, as made clear by the remaining sentences in section 220(d), refers to an employee's future FMLA rights and not to claims based on past employer actions.[8]

The second sentence of section 220(d) clearly indicates that the regulation is intended to bar the bargaining away of employees' future FMLA rights, stating: "For example, employees (or their collective bargaining representatives) cannot 'trade off' the right to take FMLA leave against some other benefit offered by the employer." 29 C.F.R. 825.220(d). The regulation makes clear, therefore, that an employer could not, for example, offer a new employee six weeks of paid maternity leave in exchange for waiving her right to 12 weeks of unpaid FMLA-protected leave.

The final two sentences of the regulation set forth the only exception to the bar on waiving future FMLA rights. They begin, "This [bar] does not prevent an employee's voluntary and uncoerced acceptance . . . of a 'light duty' assignment while recovering from a serious health condition . . . ." 29 C.F.R. 825.220(d). Without this "carve out," the regulation would have prevented employees who were on FMLA leave from returning to work by voluntarily accepting a light-duty job, because the offer of such a position could be viewed as an inducement to waive their right to return to the same or an equivalent position. *See* 29 U.S.C. 2614(a)(1). The regulation goes on to make clear that when employees voluntarily accept offers of "light duty" positions, their right to restoration to the same or an equivalent position continues to run during the time that they fill the modified position. When read in its entirety, therefore, it is clear that section 220(d) addresses only prospective FMLA rights. *See Sekula v. FDIC,* 39 F.3d 448, 454 (3d Cir. 1994) (in interpreting a regulation, "[o]ne must look at the entire provision, rather than seize on one part in isolation").[9]

Section 220(d)'s prohibition against the prospective waiver of rights, but not the retrospective settlement of claims, is consistent with the established precedent in employment law disfavoring prospective waivers of rights, but encouraging settlement of claims. *See Alexander v. Gardner-Denver Co.*, 415 U.S. 36, 51-52 (1974) ("Although presumably an employee may waive his cause of action under Title VII as part of a voluntary settlement, . . . an employee's rights under Title VII are not susceptible of prospective waiver."); *Eisenberg v. Advance Relocation & Storage, Inc.,* 237 F.3d 111, 116-17 (2d Cir. 2000) ("Accordingly, a firm cannot buy from a worker an exemption from the substantive protections of the anti-discrimination laws because workers do not have such an exemption to sell, and any contractual term that purports to confer such an exemption is invalid."); *Adams v. Philip Morris, Inc.*, 67 F.3d 580, 584 (6th Cir. 1995) ("It is the general rule in this circuit that an employee may not prospectively waive his or her rights under either Title VII or the ADEA."); *Kendall v. Watkins*, 998 F.2d 848, 851 (10th Cir. 1993) ("In other words, an employee may agree to waive Title VII rights that have accrued, but cannot waive rights that have not yet accrued."), *cert. denied*, 510 U.S. 1120 (1994).

Accordingly, section 220(d) is a reasonable interpretation of the FMLA. As such, it is entitled to controlling deference. *See United States v. Mead Corp.,* 533 U.S. 218, 229 (2001) (when considering whether an agency's interpretation of the statute is permissible, "a reviewing court . . . is oblig[ated] to accept the agency's position if . . . the agency's interpretation is reasonable); *Chevron U.S.A. Inc. v. Natural Res. Def. Council, Inc.,* 467 U.S. 837, 844 (1984) (an agency's interpretation must be upheld unless it is "arbitrary, capricious, or manifestly contrary to the statute"); *Sommer v. The Vanguard Group,* 461 F.3d 397, 399 n.2 (3d Cir. 2006) (Department's FMLA regulations entitled to controlling deference); *Harrell v. United States Postal Serv.,* 445 F.3d 913, 927 (7th Cir. 2006) (controlling *Chevron* deference accorded to Department's reasonable interpretation of the FMLA's return-to-work medical certification provision as contained in a legislative rule), *petition for cert. filed,* 75 U.S.L.W. 3066 (U.S. Aug. 2, 2006) (No. 06-192).

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B. The Department's Reasonable Interpretation of Section 220(d) Is Entitled to Controlling Deference

Even if, contrary to the plain meaning of section 220(d), the regulation is deemed ambiguous, the Secretary's permissible interpretation of the regulation is entitled to controlling deference. *See Auer v. Robbins*, 519 U.S. 452 (1997); *see also Barnhart v. Walton*, 535 U.S. 212, 217 (2002) ("Courts grant an agency's interpretation of its own regulations considerable legal leeway."); *Facchiano Constr. Co. v. United States Dep't of Labor,* 987 F.2d 206, 213 (3d Cir.) ("[A]n administrative agency's interpretation of its own regulations receives even greater deference than that accorded to its interpretation of a statute."), *cert. denied*, 510 U.S. 820 (1993).[10] The regulation was never intended to restrict, nor has the Department ever interpreted it as restricting, the retrospective settlement of FMLA claims.[11] Rather, the Secretary, based on longstanding judicial precedent encouraging settlement of employment claims, *see, e.g., Carson v. Am. Brands, Inc.,* 450 U.S. 79, 88 n.14 (1981), has consistently interpreted section 220(d) to bar only the prospective waiver of FMLA rights and not the settlement of FMLA claims.

In this regard, this Court erred in concluding that the general reference in the preamble discussion of section 220(d) to the Fair Labor Standards Act ("FLSA") indicated the Department's intention to bar the private settlement of claims under the FMLA. *See* Slip op. at 16. Section 107(b)(1) of the FMLA authorizes the Secretary to "receive, investigate, and attempt to resolve complaints of violations of section 105 in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act." 29 U.S.C. 2617(b)(1). This provision provides the Secretary the authority to establish the same administrative complaint procedure that she utilizes under the minimum wage and overtime provisions of the FLSA. It clearly does not, however, require the Secretary to supervise all FMLA settlements -- a unique, judicially-imposed requirement under the FLSA.

Consistent with the authorization in section 107(b)(1) of the FMLA, the Secretary has established an administrative process pursuant to which the Wage and Hour Division investigates and attempts to resolve FMLA complaints in the same way that FLSA complaints are handled. When FMLA complaints are settled in the administrative process, the Secretary supervises those settlements in the same manner as she does settlements under section 16(c) of the FLSA. *See* 29 U.S.C. 216(c). Thus, where the FMLA and FLSA differ is not in the manner in which the Secretary supervises settlements, but rather in the scope of settlements that must be supervised.

The judicial doctrine establishing that FLSA rights cannot be waived or settled without federal court or Department approval is based on policy considerations unique to the FLSA, and the Department's general reference in the preamble to "other labor standards statutes such as the FLSA," 60 Fed. Reg. 2180, 2218 (Jan. 6, 1995), was by no means intended to engraft this unique aspect of FLSA law onto the FMLA.[12] Indeed, if the Department had wanted to link the FMLA and the FLSA in this regard, it would have referred only to the FLSA (and, more specifically, to its "supervised" settlement provision), as opposed to referring to "other labor standards statutes."

The FLSA is a broad remedial statute setting the floor for minimum wage and overtime pay. *See Barrentine v. Arkansas-Best Freight Sys., Inc.*, 450 U.S. 728, 740 (1981); *D.A. Schulte, Inc. v. Gangi,* 328 U.S. 108, 114-15 (1946); *Brooklyn Sav. Bank v. O'Neil*, 324 U.S. 697, 706-07 (1945); *Walton v. United Consumers Club, Inc.*, 786 F.2d 303, 306 (7th Cir. 1986); *Lynn's Food Stores, Inc. v. United States*, 679 F.2d 1350, 1353-54 (11th Cir. 1982). It was intended to protect the most vulnerable workers who lacked the bargaining power to negotiate a fair wage or reasonable work hours with their employers. *See Brooklyn Sav. Bank,* 324 U.S. at 706-07. Based on the courts' perception of the characteristics of the workers protected by the FLSA, it is virtually alone among federal employment statutes in its restriction on settlements.

Indeed, courts have rejected attempts to apply a "supervision" requirement to other employment statutes, including the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. 621 *et seq.*, which also includes an enforcement provision that is expressly based on the FLSA. *See* 29 U.S.C. 626(b) ("The provisions of this chapter shall be enforced in accordance with the powers, remedies, and procedures provided in sections 211(b), 216 (except for subsection (a) thereof), and 217 of [the FLSA] . . . ."). Courts consistently have refused to apply to ADEA claims the requirement that settlements must be approved by a court or supervised by an administrative agency. *See Coventry v. United States Steel Corp.,* 856 F.2d 514, 521 n.8 (3d Cir. 1988) ("We are unpersuaded, however, that the policy concerns of the FLSA that the Supreme Court sought to advance by its decisions in *Gangi* and *O'Neil* are present in ADEA cases such that a *per se* rule against releases is necessary."); *Runyan v. Nat'l Cash Register Corp.*, 787 F.2d 1039, 1043 (6th Cir.) (*en banc*) (noting that purpose of the FLSA was "to secure 'the lowest paid segment . . . a subsistence wage,'" whereas the ADEA was aimed at protecting "an entirely different segment of employees, many of whom were highly paid and capable of securing legal assistance without difficulty") (quoting *Gangi*, 328 U.S. at 116), *cert. denied*, 479 U.S. 850 (1986).[13] As the Supreme Court noted in *Gilmer v. Interstate/Johnson Lane Corp.*, 500 U.S. 20 (1991), "[N]othing in the ADEA indicates that Congress intended that the EEOC be involved in all employment disputes. Such disputes can be settled, for example, without any EEOC involvement." *Id.* at 28. Indeed, when Congress did intend to regulate ADEA settlements, it enacted a specific statutory provision for that purpose.[14] The FMLA, which was enacted after the OWBPA amended the ADEA, is notably devoid of any statutory provision restricting the voluntary settlement of claims.

The policy considerations underlying the FMLA are more akin to those underlying the ADEA and Title VII than the FLSA. The FMLA protects all segments of the workforce, from low wage workers to highly paid professionals. Also, unlike the FLSA, almost all claims under the FMLA are individual claims, generally brought by employees who have been terminated or denied reinstatement and are seeking damages and equitable relief. Thus, in these significant respects, the FMLA is more like Title VII and the ADEA, both of which permit unsupervised settlement of claims, than the FLSA. *See United States v. N.C.,* 180 F.3d 574, 581 (4th Cir. 1999) (in entering a consent decree under Title VII, "a district court should be guided by the general principle that settlements are encouraged"); *Rivera-Flores v. Bristol-Myers Squibb Caribbean*, 112 F.3d 9, 11 (1st Cir. 1997) ("Courts have, in the employment law context, commonly upheld releases given in exchange for additional benefits. Such releases provide a means of voluntary resolution of potential and actual legal disputes, and mete out a type of industrial justice. Thus, releases of past claims have been honored under [Title VII and the ADEA].") (emphasis added); *Gormin v. Brown-Forman Corp.*, 963 F.2d 323 (11th Cir. 1992) (collecting cases holding unsupervised settlement of ADEA claims to be valid).

This Court also erred when it concluded that the Department's preamble discussion of section 220(d) indicated that the Department "appeared to acknowledge that § 825.220(d) would prohibit soon-to-be-former employees from waiving their right to recover for violations of the FMLA that occurred during their employment." Slip op. at 15-16. Indeed, the Department's preamble discussion of section 220(d), like the regulation itself, focuses solely on the impact of the regulation on the prospective waiver of the rights to leave and reinstatement under the FMLA. *See Senger,* 2006 WL 2787852, at *3 (controlling deference to the Department's consistent interpretation of its own regulation as contained in the preamble, a Wage and Hour opinion letter, and the Department's *amicus* brief). The Department's silence as to the specific comments regarding the impact of the regulation on the settlement of FMLA claims in a severance agreement is properly viewed not as an

acknowledgment that such agreements are barred by the regulation, but instead as an indication that the Department viewed such agreements as being beyond the scope of section 220(d).

As the examples in the preamble make clear, the Department viewed section 220(d) as barring only the prospective waiver of rights. The first example (also included in the regulatory provision) is that of an employee who waives her FMLA right to return to her original position by accepting a light duty assignment. 60 Fed. Reg. at 2118-19. As discussed above, this is an explicit "carve out" to the bar on the prospective waiver of FMLA rights.

The second example, which involves early-out retirement programs, was added in direct response to a concern about the impact of section 220(d) on such programs, specifically a concern about the regulation's bar on the prospective waiver of rights. The Department made clear in the preamble that an employee may be required to waive her right to continue on FMLA leave (and to return to her position at the end of the leave) as the condition for participation in an early-out program. *See* 60 Fed. Reg. at 2219 ("[A]n employee on FMLA leave may be required to give up his or her remaining FMLA leave entitlement to take an early-out offer from the employer.").[15] This, however, presents no obstacle because, as the preamble notes, if an employee participates in such a program, the employee's "FMLA rights would cease because the employment relationship ceases, and the employee would not otherwise have continued employment." *Id.*[16]

Finally, the Department's consistent and long standing interpretation of section 220(d) as barring only the prospective waiver of FMLA rights is borne out by its actions. Since the passage of the FMLA, the Department has supervised only the settlement of FMLA claims arising in connection with complaints filed with the Wage and Hour Division. *Cf. Sekula*, 39 F.3d at 457 (deferring to an agency's consistent application of an ambiguous regulatory provision). The Department has never established a system for reviewing FMLA settlements in which no administrative complaint has been filed, something it clearly would have done had it intended section 220(d) to require such supervision.

In order to comply with such a requirement, the Department would have to allocate significant resources to establish a process for reviewing settlement of all FMLA disputes (including severance agreements) that are not pending in court. Adding the requirement of Department or court supervision will harm employees by delaying resolution of their cases. Moreover, the shifting of resources from complaint investigation to private party settlement supervision will result in delays for those employees who have filed complaints with, and are relying on, the Department to protect their rights under the FMLA. Such a reallocation would also lessen the resources available to pursue FLSA investigations, which would directly affect the Department's ability to protect the rights of vulnerable low-wage workers.

In sum, section 220(d) bars only the prospective waiver of FMLA rights and not the settlement of FMLA claims based on past employer actions. Even if this legislative rule is deemed to be ambiguous, however, the Department's permissible interpretation of its own regulation is entitled to controlling deference. *See Auer,* 519 U.S. at 462.

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CONCLUSION

For the reasons set forth above, the Secretary requests that this Court grant the Defendant's motion for reconsideration.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2006, one paper copy of the foregoing Brief for the Secretary of Labor as *amicus curiae* was served using Federal Express, postage prepaid, upon the following counsel of record:

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Footnotes

[1] On September 27, 2006, the Department of Labor ("Department") submitted a letter to this Court requesting permission to file an *amicus* brief by October 27, 2006, in support of Defendant's motion for reconsideration. The Court granted the Department's request via telephone on October 4, 2006 and, on October 25, 2006, granted the Department's request for additional time in which to file the brief up to, and including, November 3, 2006.

[2] The Department expresses no opinion on whether the release at issue in this case is valid under applicable state law.

[3] This Court, of course, has the inherent power to reconsider its August 30, 2006 Order in the interest of justice at any time prior to entry of a final judgment. *See United States v. Jerry,* 487 F.2d 600, 604-06 (3d Cir. 1973); *Deily v. Waste Mgmt.*, No. 00-1100, 2000 WL 1858717, at *1 (E.D. Pa. 2000); *Philadelphia Reserve Supply Co. v. Nowalk & Assocs., Inc.,* 864 F. Supp. 1456, 1460-61 (E.D. Pa. 1994). The interests of justice are served by reconsideration in this case because this Court based its order on an erroneous understanding of the Department's waiver regulation at 29 C.F.R. 825.220(d). In reaching its conclusion, this Court did not have the benefit of a full explication of the Department's interpretation of section 220(d) as set forth below.

[4] Whether a waiver of FMLA claims is barred by section 220(d) does not turn on whether it takes the form of a general release in a severance agreement or the settlement of a specific FMLA claim.

[5] This Court was aware of the Fourth Circuit's order vacating its opinion in *Taylor*. The Fourth Circuit did not give any reasons for the vacature. However, the sole basis for Progress Energy's petition for rehearing in *Taylor* was the panel's erroneous application of section 220 (d) to void the release in that case. The Department filed a brief as *amicus curiae* in support of Progress Energy's petition for rehearing on the ground that the Fourth Circuit misinterpreted the Department's waiver regulation when it held that an employee could not release in a separation agreement claims for violations of the FMLA that took place during the course of the employee's employment. Oral argument pursuant to the Fourth Circuit's grant of panel rehearing in *Taylor* took place on October 25, 2006, with the Department presenting argument as *amicus*.

[6] The Department agrees with the Fifth Circuit's decision in *Faris* to the extent that the court held that section 220(d) prohibits only the prospective waiver of FMLA rights. The court in *Faris* erred, however, in concluding that the prospective bar on waiver applied only to the waiver of substantive rights and not the waiver of proscriptive rights under the FMLA. *See* 332 F.3d at 320-21. Under the Fifth Circuit's reasoning, while an employee could not prospectively waive her right to take FMLA leave (a substantive right under the Act), she could prospectively waive her right to sue for discrimination for having taken such leave (a proscriptive right). The Department construes the regulation as barring the prospective waiver of any right under the FMLA.

[7] Contrary to the only appellate ruling on this issue (*Faris*), three other district courts have concluded that the regulation prohibits both the prospective waiver of FMLA rights and the settlement of FMLA claims. *See Brizzee v. Fred Meyer Stores, Inc.,* No. 04-1566, 2006 WL 2045857 (D. Or. July 17, 2006), *appeal docketed,* No. 06-35757 (9th Cir. Sep. 6, 2006); *Dierlam v. Wesley Jessen Corp.*, 222 F. Supp. 2d 1052 (N.D. Ill. 2002); *Bluitt v. EVAL Co. of Am., Inc.,* 3 F. Supp. 2d 761 (S.D. Tex. 1998). Other courts at both the appellate and district court level, however, have approved the validity of private settlements of FMLA claims without referring to the regulation. *See, e.g., Halvorson v. Boy Scouts of Am.,* 215 F.3d 1326 (6th Cir. 2000) (unpublished table decision); *Schoenwald v. ARCO Alaska, Inc.,* 191 F.3d 461 (9th Cir. 1999) (unpublished table decision); *Kujawski v. U.S. Filter Wastewater Group, Inc.*, No. 00-1151, 2001 WL 893918 (D. Minn. Aug. 7, 2001).

[8] Indeed, even the definitions of waiver cited by the court in *Taylor* implicitly acknowledge a distinction between 'claim' and 'right' by referring to them separately. *See Taylor*, 415 F.3d at 370 (citing definition of "waive" in Webster's Third New International Dictionary as reading, in part, "to relinquish voluntarily (as a legal right) . . . to refrain from pressing or enforcing (as a claim or rule)").

[9] The Fourth Circuit in its vacated opinion in *Taylor* did not refer to any portion of the regulatory text other than the first sentence. *See* 415 F.3d at 369-71.

[10] Indeed, as the Supreme Court noted in *Auer*, where the Secretary's position reflects "the agency's fair and considered judgment on

the matter in question," the fact that it is first articulated in a legal brief does not lessen the deference it should be accorded. 519 U.S. at 462; *see also Senger v. City of Aberdeen, S.D.,* ___ F.3d ___, 2006 WL 2787852, at *3 (8th Cir. 2006); *Belt v. EmCare, Inc.,* 444 F.3d 403, 415-17 (5th Cir.), *cert. denied*, No. 05-1658, 2006 WL 2795157 (Oct. 2, 2006); *United States v. Occidental Chem. Corp.,* 200 F.3d 143, 151-52 (3d Cir. 1999). Accordingly, the Department's interpretation as set out in this brief also is entitled to controlling deference.

[11] The Department has not issued any opinion letters directly addressing section 220(d). Two opinion letters issued under the interim regulations did, however, address the regulation. Both letters involved situations in which employees sought prospectively to waive their right to FMLA-protected leave. The Department's responses in each case made clear that the employees may not prospectively waive their FMLA rights. *See* Wage and Hour Division Opinion Letters FMLA-43 (Aug. 24, 1994) and FMLA-49 (Oct. 27, 1994), *available at* http://www.dol.gov/whd/opinion/fmlana_prior2002.htm.

[12] This Court specifically declined to determine whether court approval was required to settle an FMLA claim in litigation, noting that such a requirement was beyond the plain language of section 220(d). *See* Slip op. at 16 n.11.

[13] It should be noted that the ADEA enforcement provision specifically references section 216 of the FLSA, which provides the Department with authority to supervise settlements. See 29 U.S.C. 626(b). The FMLA enforcement provision lacks any reference to the FLSA "supervised" settlement provision. See 29 U.S.C. 2617(b)(1).

[14] By enacting the Older Workers Benefit Protection Act ("OWBPA"), Pub. L. No. 101-433, § 201, 104 Stat. 978, 983-84 (1990) (codified at 29 U.S.C. 626(f)), Congress regulated the settlement of ADEA claims by delimiting the elements necessary to establish a knowing and voluntary settlement under the statute. Even after the OWBPA, however, ADEA claims are still subject to unsupervised settlement, so long as the conditions set forth in 29 U.S.C. 626(f) are met.

[15] It should be noted that such early-out retirement programs normally require employees to execute a general release of claims related to their employment as a condition of participation in the program. The fact that the Department did not address the impact of the waiver bar on such releases in its preamble discussion of these programs is further indication that it viewed the settlement of FMLA claims as beyond the scope of the regulation.

[16] The problem with equating the waiver of FMLA rights with the settlement of FMLA claims in applying section 220(d) is made apparent in this statement. If, as is implicit in this Court's reasoning, the term "FMLA rights" encompasses the assertion of an FMLA claim based on past employer actions, then, by stating that FMLA rights cease with the employment relationship, the Department would have been indicating that an employee's ability to assert an FMLA claim also ends with the termination of her employment. Clearly, the Department never intended such a result; rather, it was referring only to an employee's future rights to continue on FMLA leave and return to her position, and not her right to file a claim based on past employer actions.

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U.S. Equal Employment Opportunity Commission

PRESS RELEASE
8-19-10

EEOC Sues Cognis Corporation For Retaliation

CHICAGO – Cognis Corporation, a worldwide supplier of chemicals and nutritional ingredients, violated federal law when it retaliated against employees at the company's Kankakee, Ill. plant, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it filed yesterday.

The EEOC alleged that Cognis terminated longtime employee Steven Whitlow after he refused to enter into a "last chance agreement." That agreement allegedly waived Whitlow's right to file a charge with any civil rights commission or other government agency. It also prospectively waived his right to pursue relief in any forum if Cognis decided to discharge him in the future, according to Chicago District Director John Rowe, who supervised the EEOC's administrative investigation.

Although Whitlow had at first signed the agreement, he later rescinded it because, as he explained to Cognis, he did not wish to waive his civil rights. Whitlow was immediately fired, the investigation indicated.. According to Rowe, other employees were also asked to sign last chance agreements that purported to waive their rights as a condition for keeping their jobs.

Retaliation violates Title VII of the Civil Rights Act of 1964. The EEOC filed suit after first attempting to reach a voluntary conciliation agreement out of court. The agency seeks compensatory and punitive damages for Whitlow in addition to an order barring future retaliation and other relief. The suit, captioned *EEOC v. Cognis Corporation,* C.D. Illinois No. 10-C-2182, was filed in federal district court in Urbana, Ill. and assigned to U.S. District Court Judge Michael P. McCuskey.

Rowe said, "We are always concerned when employers take measures which appear designed to prevent employees from making use of their rights under federal employment discrimination law. That problem is compounded when employees who resist these efforts face retaliation, including termination. That is sure to get our attention."

EEOC Chicago Regional Attorney John Hendrickson added, "Some employers seem not to have gotten the message embedded in today's suit filing: No one can stop employees from filing charges of discrimination with EEOC or take away rights to challenge future discrimination. Those who penalize employees for resisting such schemes are engaged in retaliation, pure and simple. The EEOC is vigilant about contesting any diminution of employees' right to complain of discrimination."

According to its website, Cognis Corporation, with headquarters in Cincinnati, Ohio, is owned by Cognis Group, which is headquartered in Monheim, Germany and employs over 5,000 people in approximately 30 countries, including seven U.S. states. Its operations in Illinois include the Cognis Corporation Kankakee Manufacturing Plant in Kankakee, Ill., and the Cognis Corporation LaGrange Nutrition & Health facility in LaGrange, Ill.

The EEOC enforces federal laws prohibiting discrimination in employment. Further information about the Commission is available on its web site at www.eeoc.gov.

The EEOC Chicago District Office is responsible for processing charges of discrimination, administrative enforcement, and the conduct of agency litigation in Illinois, Wisconsin, Minnesota, Iowa, and North and South Dakota, with Area Offices in Milwaukee and Minneapolis.

VOGEL DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

December 10, 2009

REQUEST FOR HIGH PRIORITY & URGENT ATTENTION!!!
APPROVAL FOR PUBLIC RELEASE

RESPONSE REQUESTED BY DECEMBER 30, 2009

VIA U.S. PRIORITY MAIL: SIGNATURE CONFIRMATION NO.2306 1570 0001 0442 8232
The United States White House
ATTN: U.S. President Barack Obama
1600 Pennsylvania Ave NW
Washington, DC 20500

VIA U.S. PRIORITY MAIL: SIGNATURE CONFIRMATION NO. 2306 1570 0001 0442 8263
U.S. Department of Justice
ATTN: Attorney General Eric H. Holder, Jr.
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

VIA U.S. PRIORITY MAIL: DELIVERY CONFIRMATION NO. 0306 3030 0002 5599 6687
U.S. Department of Labor
ATTN: Secretary Hilda L. Solis
Frances Perkins Building
200 Constitution Ave., NW
Washington, DC 20210

RE: UNITED STATES PRESIDENT BARACK OBAMA - CORRUPTION: PERSECUTION OF A CHRISTIAN AND COVER-UP OF HUMAN RIGHTS VIOLATIONS/DISCRIMINATION/PREJUDICAL PRACTICES AGAINST AFRICAN-AMERICANS; REQUEST FOR IMMEDIATE FIRING/TERMINATION OF U.S. SECRETARY OF LABOR HILDA L. SOLIS AND APPLICABLE DEPARTMENT OF LABOR OFFICIALS/EMPLOYEES; REQUEST FOR STATUS OF JULY 14, 2008 COMPLAINT; REQUEST FOR STATUS OF MAY 21, 2009 COMPLAINT AND SUBSEQUENT SUBMITTALS; *REQUEST FOR FINDINGS IN FMLA COMPLAINT OF JANUARY 16, 2009, AND EEOC COMPLAINT OF JULY 7, 2009*; ***IF APPLICABLE EXECUTION OF APPROPRIATE EXECUTIVE ORDER(S)*** AND **REQUEST DELIVERANCE OF FILES FOR REVIEW & COPYING IN THE CINCINNATI, OHIO WAGE & HOUR OFFICE AND EEOC OFFICE ON DECEMBER 22, 2009[1] - HEALTH CARE REFORM: SEE HOW THE OBAMA ADMINISTRATION HAS INTERFERED/BLOCKED NEWSOME'S HEALTH CARE OPTIONS AND DENIED HER MEDICAL ATTENTION SOUGHT UNDER THE FMLA - - WHAT TO EXPECT UNDER A GOVERNMENT-RUNNED HEALTH CARE PROGRAM[2]**

[1] Boldface, Italics, Underline, CAPs added for emphasis. Reference resources relied upon in the preparation of this document is the AMENDED COMPLAINT in *Michele Wiewall Curran v. Michael B. Mukasey, et al.*, United States District Court-District of Columbia, Civil Action No. 08-1559PLF; United States Department of Justice's recent PRESS RELEASES and lawsuits/settlements; Holy Bible (King James Version); Court Decisions, Congressional Decisions; Westlaw; LexisNexis and other legal resources.

[2] See "g" beginning at Page 111 of this correspondence of this instant correspondence to see how the Obama Administration has interfered with Newsome's medical care. Moreover, the United States Department's participation and condoning of Family Medical Leave Act ("FMLA") violations of Newsome's former employer (Wood & Lamping ["W&L"]) and the Wage & Hour's employees FALSIFYING information in its report for purposes of depriving Newsome rights secured to her under the FMLA.

EXHIBIT 114

ATTN: U.S. President Barack Obama
ATTN: Attorney General Eric H. Holder, Jr.
ATTN: Secretary of Labor Hilda L. Solis

REQUEST FOR HIGH PRIORITY & URGENT ATTENTION!!!
APPROVAL FOR PUBLIC RELEASE
RESPONSE REQUESTED BY DECEMBER 30, 2009

RE: UNITED STATES PRESIDENT BARACK OBAMA - **CORRUPTION:** PERSECUTION OF A CHRISTIAN AND COVER-UP OF HUMAN RIGHTS VIOLATIONS/DISCRIMINATION/PREJUDICAL PRACTICES AGAINST AFRICAN-AMERICANS; REQUEST FOR IMMEDIATE FIRING/TERMINATION OF U.S. SECRETARY OF LABOR HILDA L. SOLIS AND APPLICABLE DEPARTMENT OF LABOR OFFICIALS/EMPLOYEES; REQUEST FOR STATUS OF JULY 14, 2008 COMPLAINT; REQUEST FOR STATUS OF MAY 21, 2009 COMPLAINT AND SUBSEQUENT SUBMITTALS; *REQUEST FOR FINDINGS IN FMLA COMPLAINT OF JANUARY 16, 2009, AND EEOC COMPLAINT OF JULY 7, 2009*; *IF APPLICABLE EXECUTION OF APPROPRIATE EXECUTIVE ORDER(S)* AND REQUEST DELIVERANCE OF FILES FOR REVIEW & COPYING IN THE CINCINNATI, OHIO WAGE & HOUR OFFICE AND EEOC OFFICE ON DECEMBER 22, 2009[1] - **HEALTH CARE REFORM:** SEE HOW THE OBAMA ADMINISTRATION HAS INTERFERED/BLOCKED NEWSOME'S HEALTH CARE OPTIONS AND DENIED HER MEDICAL ATTENTION SOUGHT UNDER THE FMLA -- WHAT TO EXPECT UNDER A GOVERNMENT-RUNNED HEALTH CARE PROGRAM

Respectfully submitted this **10th** day of **December, 2009.**

VOGEL DENISE NEWSOME
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (601) 885-9536 or (513) 680-2922

Attachments: Exhibits I thru CXXXVIII

cc: *Selected U.S. Legislature/Congress Members (via e-mail)*
Selected United Nations Leaders (via e-mail)
Selected Churches/Religious Organizations (via e-mail)

Let your Light so SHINE before men/women and may you be a representative of Holiness in your everyday life. May your LIFE be a MIRROR that reflects the Image and Life of CHRIST!!

No weapon that is formed against thee shall prosper; and every tongue that shall rise against thee in judgment thou shalt condemn. This is the heritage of the servants of the LORD, and their righteousness is of me, saith the LORD. Isaiah 54:17

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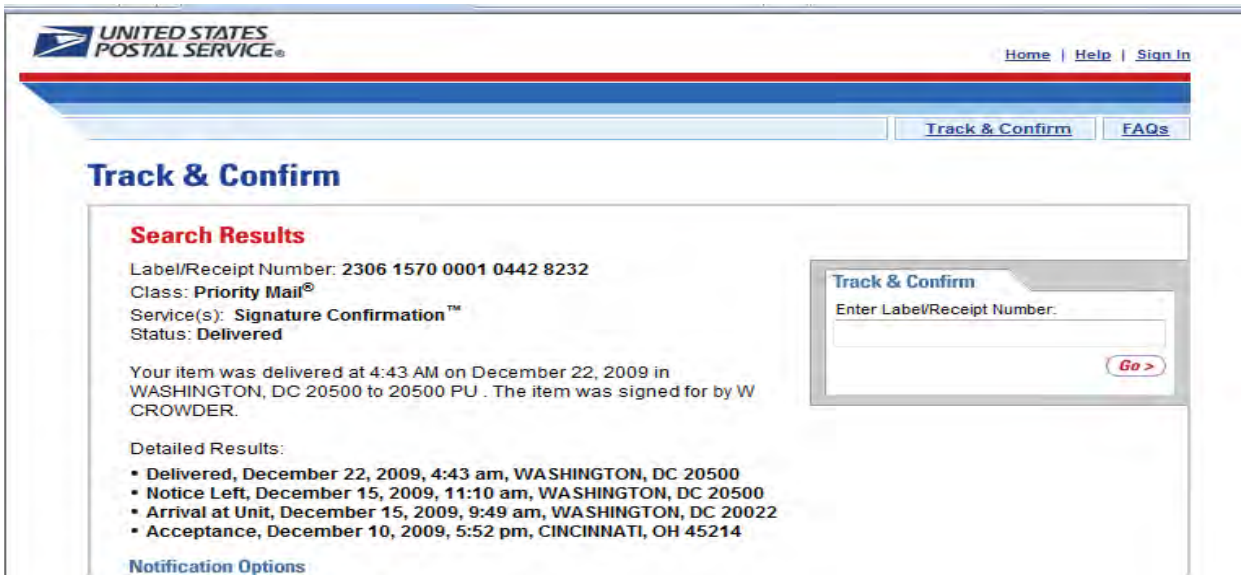
CXXXII.	132. Mississippi Rules of Professional Conduct – Rule 1.16: ***Declining or Terminating Representation***
CXXXIII.	133. Rules of Professional Conduct – Louisiana – Rule 1.16 ***Declining or Terminating Representation***
CXXXIV.	134. Kentucky Rules of Professional Conduct – Rule 1.2 at ***Criminal, Fraudulent and Prohibited Transactions***

CXXXV.	135. Ohio Rules of Professional Conduct – Rule 1.16: Declining or Terminating Representation
CXXXVI.	136. 11/04/09 – Letter from U.S. EEOC and Invoice (Beverly Clark)
CXXXVII.	137. SUPREME COURT DECISION – ***Myers, Administratrix v. United States***; 272 U.S. 52; 47 S.Ct. 21; 71 L.Ed. 160; 1926 U.S. LEXIS 35
CXXXVIII.	138. The **WILLIE LYNCH LETTER: THE MAKING OF A SLAVE!**

12/10/09 MAILING – Obama, Holder & Solis



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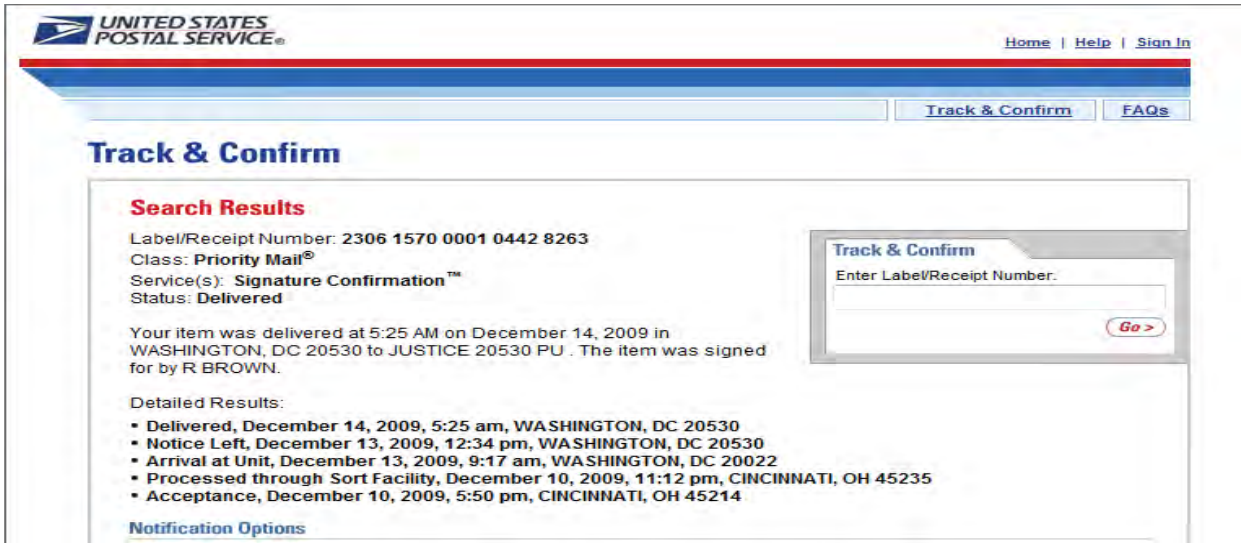
- **Notice Left, December 15, 2009, 11:10 am, WASHINGTON, DC 20500**
- **Arrival at Unit, December 15, 2009, 9:49 am, WASHINGTON, DC 20022**
- **Acceptance, December 10, 2009, 5:52 pm, CINCINNATI, OH 45214**

Notification Options



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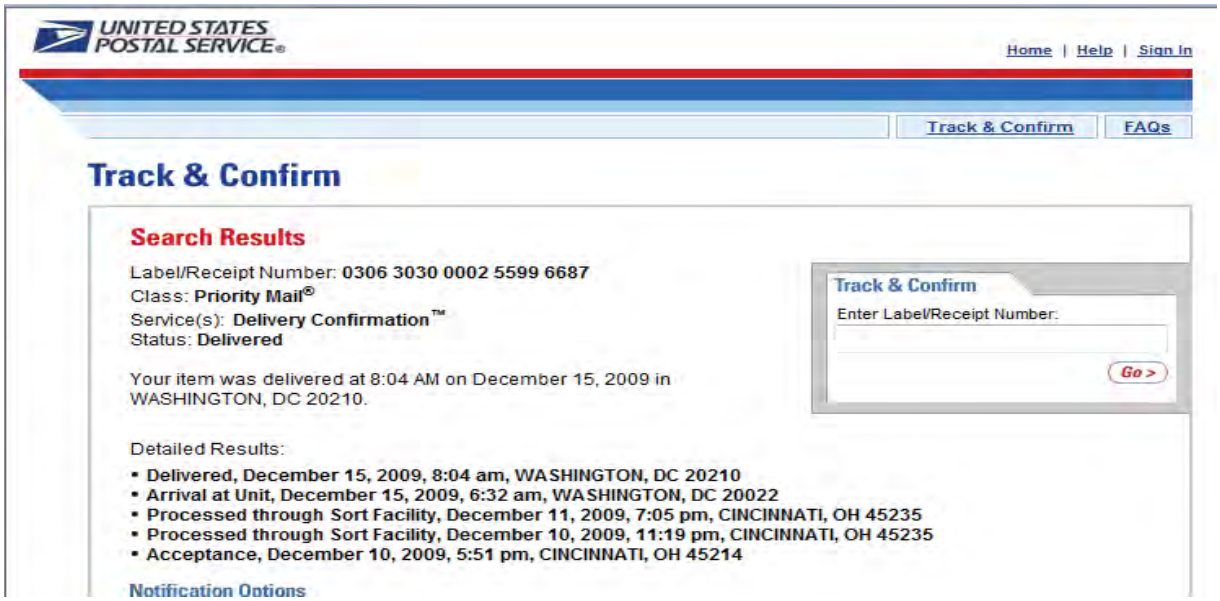
Detailed Results:

- **Delivered, December 14, 2009, 5:25 am, WASHINGTON, DC 20530**
- **Notice Left, December 13, 2009, 12:34 pm, WASHINGTON, DC 20530**
- **Arrival at Unit, December 13, 2009, 9:17 am, WASHINGTON, DC 20022**
- **Processed through Sort Facility, December 10, 2009, 11:12 pm, CINCINNATI, OH 45235**
- **Acceptance, December 10, 2009, 5:50 pm, CINCINNATI, OH 45214**

Notification Options



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- **Delivered, December 15, 2009, 8:04 am, WASHINGTON, DC 20210**
- **Arrival at Unit, December 15, 2009, 6:32 am, WASHINGTON, DC 20022**
- **Processed through Sort Facility, December 11, 2009, 7:05 pm, CINCINNATI, OH 45235**
- **Processed through Sort Facility, December 10, 2009, 11:19 pm, CINCINNATI, OH 45235**
- **Acceptance, December 10, 2009, 5:51 pm, CINCINNATI, OH 45214**

Notification Options

VOGEL DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

June 24, 2009

REQUEST FOR HIGH PRIORITY & URGENT ATTENTION!!!!
UNLAWFUL EVICTION SCHEDULED FOR 07/07/2009 AT 9:00 A.M.

VIA PRIORITY MAIL: SIGNATURE CONFIRMATION TRACKING NO. 23061570000105855266
The United States White House
ATTN: U.S. President Barack Obama
1600 Pennsylvania Ave NW
Washington, DC 20500

VIA PRIORITY MAIL: SIGNATURE CONFIRMATION TRACKING NO. 23051590000163805253
U.S. Department of Justice
ATTN: Attorney General Eric H. Holder, Jr.
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

RE: REQUES T FOR FEDERAL INVESTIGATION INTO HENLEY YOUNG JUVENILE DETENTION CENTER (A/K/A HINDS COUNTY YOUTH DETENTION CENTER); UPDATE ON ADDITIONAL MATTERS; SECOND REQUEST FOR RETURN OF MONIES EMBEZZLED;[1] AND REQUEST FOR STATUS

Dear President Obama and Attorney General Holder:

This is to confirm that I am in receipt of F. Michael Kelleher's, Special Assistant to the President and Director of Presidential Correspondence, le tter dated June 19, 2009. A copy of which is attached hereto at **EXHIBIT " A"** and incorporated herein by reference. PLEAS E ACCEPT THIS AS A "NEW" wherein I incorporate and implement the Complaints submitted to President Obama's and U.S. Attorney Eric Ho lder's attention on Ma y 21, 2009. As well as the July 14, 2008 Complaint submitted to President Barack Obama's (then Senator Obama) attention – in which a copy of said July Complaint was provided as Exhibit with May 21, 2009 Complaint.

In response to Mr. .Kelleher's letter, "*No the ISSUE**S** brought to President Obama's attention as of May 21, 2009, and his attention when he was Senator as of August 2, 2008,* ***have not*** *been addressed.*" President Obam a was provided with an update and official Com plaint **as recent** as last month on or about **May 21, 2009**; along with the demands and/or relief sought by me.

[1] Boldface, italics and/or underline added for em phasis. INSERTING pertinent info rmation so that it is within this letter rather than as an Exhibit – making such information readily available.

EXHIBIT 115

steer clear of addressing such issues. That the March 8, 2008 speech may have been given for political purposes/hype/damage control ONLY and there was NEVER any intent to make good on trying to address such issues. *America is aware that Barack Obama is the President of the United States and is not for one particular race; however, they are not IGNORANT of the fact that African-Americans and/or people of color are repeatedly being deprived Human/Civil Rights, Constitutional Rights, Equal Protection of the Laws, Due Process of Laws, Employment Opportunities, etc.* IT IS OBVIOUS THAT THE MEDIA/PRESS ARE STEERING CLEAR OF THIS SUBJECT – **April's question at the June 23, 2009 Press Conference was ignored in the post coverage on the major network stations**. Why? *Because our media want to distract from such sensitive topics and cover up such issues as it has done for years*. AGAIN – Foreign countries are not ignorant of these things. We need to handle our business over here first before we begin meddling in another country's affairs.

President Barack Obama and U.S. Attorney General Eric Holder acknowledge the need to deal with such RACIAL issues.

Here we go. Now will Obama and Holder deal with the issues provided herein as well as in the Complaints submitted to their attention?

President Barack Obama ENCOURAGES the public to keep him abreast of what is going on and to feel free to contact him. The question now, is HOW IS HIS ADMINISTRATION GOING TO DEAL WITH THE SUCH CRIMINAL AND RACIST ISSUES TIMELY BROUGHT TO HIS ATTENTION?????

Respectfully submitted this **24th** day of **June, 2009.**

ELECTRONIC COPY

VOGEL DENISE NEWSOME
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (601) 885-9536 or (513) 680-2922

cc: (w/o supporting Exhibits)

The New York Times
ATTN: Steven Greenhouse
620 8th Avenue Floor 1,
New York, NY 10018
Published: March 24, 2009

National Counsel of La Raza (NCLR) Headquarters Office
ATTN: Janet Murguía, President
Raul Yzaguirre Building
1126 16th Street, NW
Washington, DC 20036
Tel. (202) 785-1670

cc: (w/o Exhibits) – If interested Exhibits can be provided at a cost of approximately $100 (to cover time expended, costs, mailing)

ABC
World News with Charles Gibson
47 West 66th Street
New York, NY 10023

ABC
This Week with George Stephanopoulos
77 West 66th Street
New York, NY 10023

ABC
What Would You Do with John Quinones
77 West 66th Street
New York, NY 10023

CBS
Evening News Anchor – Katie Couric
513 West 57th Street
New York, NY 10019

CBS
Legal Correspondent – Trent Copeland
513 West 57th Street
New York, NY 10019

CBS
Anchor – Debbye Turner
513 West 57th Street
New York, NY 10019

NBC
Evening News Anchor – Brian Williams
30 Rockefeller Plaza
New York, NY 10112

NBC
News Anchor – Ann Curry
30 Rockefeller Plaza
New York, NY 10112

062409 MAILINGS - RECEIPTS FOR LETTERS (Obama & Holder)



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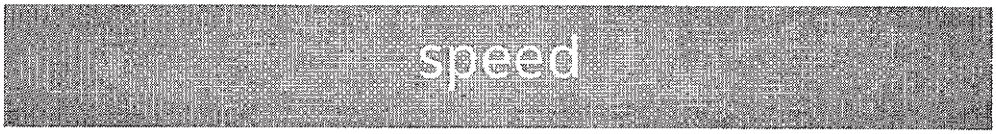
ZIP code or keyword Search



1 2 3

House speaker Pelosi re-elected



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Hinds County Constable Under Investigation

Hinds County Constable Jon Lewis is under investigation after being accused of collecting unauthorized court fines for his own personal use.
Full Story: WAPT-TV Jackson

Read Comments

Read Comments BOOKMARK EMAIL

Full Story: WAPT-TV Jackson

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Meet Mississippi Singles - View photos of singles in your area We're 100% free for everything!
DateHookup.com

Mississippi Job Listings - Found: 977 Jobs in your area. Make $15-$100+ / hour with bonuses!
www.career-finder.org/Mississippi

Comments

Showing posts 1 - 1 of 1

Frank Baltimore
Los Angeles, CA

May 9, 2006

#1 | Judge it! | Report Abuse | Reply »

This is my comments to the Jon Lewis Investigation. This is my story and letter to the Hinds County Board of Supervisors. I know Jon Lewis has been taking money his whole terms in office because his stolen money and property from me. I feel he should have criminal charges filed against him for his criminal behavior. No one wants to help me and every Law enforcement agency and offical have not done their jobs.

My name is Frank D. Baltimore Sr., Sr., I am a African American citizen who resided in Jackson Mississippi and was run out by threats made and Constitutional rights violations performed by Constable Jon Lewis against me. I currently reside in Los Angeles CA. I have experienced the racism of the south that I read about in history books and watched about of TV. I contacted the board of supervisors and the board's attorney back in 2004, 2005, and 2006. I have asked you to help me on numerous occasions to no avail from any board member. I am prepared to file a 1983 civil rights lawsuite for violations of my constitutional rights by Jon Lewis, and I will include the County of Hinds, and Hinds County Board of Supervisors also as defendants because I put you on notice of the violations caused by Jon Lewis and you having the power to investigate or inquire in to the matter and because the County funds apart of his training and that he was not properly trained to. I want to try to settle this in good faith before I file in the US Federal Courts. I am asking you to call for and add my complaint to your already internal investigation presently going on against Jon Lewis. He took my badges, stun gun, diamond earring, and $100 dollars in cash money from me, and never returned them to me to his present date.
Hinds County Constable Refutes Allegations
I have sent certified letter to him demanding him to return my property and money. He has refused, not responded, and sent the some of the certified letters back. This is one example of one I sent:
February04
Dear Jon E. Lewis, Hinds County Constable:
On October 30, 2003, while you were enforcing a simple eviction at 23 N. Hill Pkwy, Apt. F, Jackson, MS 39206, you willfully and deliberately without probable cause and without a search warrant illegally searched and seized the Personal Business property owned by Frank D. Baltimore, Sr., Damon Baltimore, and Baltimore Enterprises, who had and has a lawful legal right to the said property illegally seized.
This letter is a demand for you to return all said property seized by you on October 30, 2003, November 1, 2003, and November 2, 2003 dates. Please be advised that if the said property is not returned within 5 days, a civil lawsuit is prepared and will be filed against you in your official and individual capacities, the County of Hinds, and the County of Hinds Board of Supervisors for constitutional and civil rights violations of my 1st, 4th , 5th , 6th, and 14th amendments, discrimination, and other Federal and State amendments not mentioned herein.
Furthermore, criminal charges will also be filed against you for the violations of

Edwards Conditions

Weather (updated 43 min ago)

41°F Hi: 58°F Lo: 38°F Feels like: 44°F Visibility: 10 mi

See Tomorrow's Forecast »

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Edwards News

- Deadly Jackson shooting may have been over TV
- Clinton-area man dies in one-vehicle accident
- 2008 Blues Music Award nominations announced
- Housing agency helps woman stay in her home
- 3rd suspect arrested in eatery slaying
- Third suspect charged in Jackson homicide
- Buying new CD player may be cheaper than repair
- In her own words
- Mississippi College hosts Youth Evangelism Chal...
- Christmas Pilgrimage is Saturday
- This and That
- 342 JPS students opt to transfer within district

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Edwards Jobs

EXHIBIT 116

topix Your town. Your news. Your voice.

the Federal and State laws you committed. This letter is sent in good faith to settle the situation before legal action is taken. The following is a list of the items you searched, seized, and demanded:

- 1 Badge (Baltimore Enterprises- Chief Investigator)
- 1 Badge (Baltimore Enterprises- Fugitive Recovery Agent)
- 1 Stunner (Baltimore Enterprises)
- 1 $100 dollar bill
- 1 Diamond Earring

Sincerely,
Frank D. Baltimore, Sr.
Baltimore Enterprises
Chief Investigator

Showing posts 1 - 1 of 1

Type in your comments to post to the forum

Name (appears on your post)

Comments

Type the numbers you see in the image on the right:

7456

topix

Post Comment

Please note by clicking on "Post Comment" you acknowledge that you have read the Terms of Service and the comment you are posting is in compliance with such terms. Be polite. Inappropriate posts may be removed by the moderator. Send us your feedback.

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Recession depression	Jan 4	Gulfshore So...	1
People Magazine selects Picayune resident Tanya... (from Jan '08)	Jan 3	Larry	8
Mississippi girl t-shirts (from Oct '07)	Jan 3	jess	46
TASTE: Superstitions come with New Year's Day fare	Jan 1	Ken DeVaughn	1

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Edwards Dating

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Find my Match

Daily Horoscope for January 7

Virgo

If you're a typical Virgo you're usually fairly patient, but that isn't the case today. It's one of those days when people have an uncanny knack of getting under your skin and irritating the life out of you. What's more, the better you know them the more annoying you'll find them. It's a case of familiarity breeding contempt, so count to ten before going off pop. Then, if you're still angry, you can say so.

Get your Horoscope »

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Available at Sears

Sony 46 in. (Diagonal) Class LCD $2099.99

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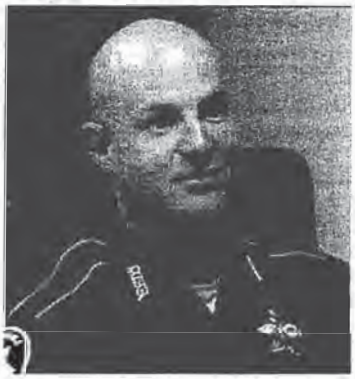
WLBT 3 On Your Side

Jackson 04/19/06

Supervisors Looking Into Constable's Methods



By Andrew Hasbun
andrew@wlbt.net

The Hinds County Board of Supervisor's is looking into the methods used by the county's constable. At issue, is how he collects his fees. The constable says he has done nothing wrong.

In a letter to the county administrator, Justice Court Clerk Patricia Woods accused Constable John Lewis of using questionable tactics.

"There is absolutely nothing criminal here, nothing wrong," said Constable Jon Lewis.

The clerk said Friday, April 7th, several defendants appeared at justice court to pay fines, but a judge wasn't present. A Utica man received a letter telling him to appear, but the man had already paid his speeding ticket in January.

After learning that, the clerk told her staff not to collect any fees from defendants who did not have outstanding warrants.

"I refuse to be a part of his collection process," said Woods in her letter to County Administrator Anthony Brister. "I cannot imagine how many letters were mailed or payments received at his home address."

"I am welcoming an investigation from the auditor's office. I would like it to be looked into very thoroughly," said Lewis.

Constable Lewis says the letter to the defendant about the speeding ticket was a mistake on his part, but he makes no apologies for using tough methods.

In one letter to a defendant, Lewis advised the man not to talk to anyone but him. He told the man not to call the court. Lewis tells defendants that because he says it helps ensure he collects his $35 service fee, which keeps the constable's operation running.

"I've learned that if you are weak, and you see weaknesses in the officer, they don't listen," said Lewis.

That $35 fee is tacked on if someone doesn't pay their fine and the constable has to serve a warrant. Lewis says he has lost thousands of dollars because of mishandled fees, and he won't let that continue.

The Board of Supervisors held an executive session meeting Monday to discuss the matter. Since justice court falls under the board's jurisdiction, the board's attorney will be investigating.

EXHIBIT 117

WAPT.com

Hinds County Constable Refutes Allegations

POSTED: 11:32 am CDT April 18, 2006
UPDATED: 9:18 am CDT April 19, 2006

JACKSON, Miss. -- Hinds County Constable Jon Lewis is firing back over allegations that he illegally collected a fee for his services.

The Hinds County Board of Supervisors called for an internal investigation into accusations that Lewis collected an unauthorized $35 fee for serving criminal and civil warrants.

Board president Doug Anderson said those fees are being collected without board approval.

But Lewis argues that accepting a fee is legal and said serving warrants is the way constables earn money.

"The investigation needs to go forward. I welcome a thorough investigation from the State Auditor's Office. I want them to do this. They need to come in and look. I want everyone of my filed looked at," said Lewis.

Anderson said no action will be taken until after the internal investigation is complete.

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WLBT 3 On Your Side

Hinds County 9/30/2008

Controversy in Constable Special Election

Posted: Sep 30, 2008 05:03 PM EDT

Updated: Oct 13, 2008 10:11 AM EDT

By Julie Straw
Julie@wlbt.net

It's a crowded race in the special election for Hinds County's District 3 Constable. Now there's allegations that four of the seven candidates are not eligible to run.

The Hinds County Election Commission is looking into allegations that four men vying for the job of District 3 Constable may not qualify.

"It's just very frustrating," said Connie Cochran, Election Commissioner for District 4. She says there are questions on whether the candidates live in the district they are running for. State law requires that they do. Joe Coleman, Chris Gray, Canera Jelks, and Clifton Page have all been asked to show proof of residency.

"But we can't just run people down to find out where they actually live. So there's still some questions about their residency," said Cochran.

County constable is a desirable position. For every warrant and summons the constable serves he makes $35. In a large county like Hinds the job can be quite lucrative. Constables also act as bailiffs in justice court and take on other law enforcement duties.

"You would hope that if somebody is running for an office in law enforcement that they would have the fortitude to speak honestly and declare where they live," said Cochran.

Coleman, Gray, Jelks, and Page's names are on the absentee ballots, but the voting machines have not yet been programmed. There's plenty of time before the November 4th election to change the ballot if new information comes to light.

"If there is some proof that they do not live in the third supervisor district their names will not appear on the machine ballots," said Cochran.

We tried contacting all seven candidates for District 3 constable. WLBT received only one statement from Canera Jelk's lawyer. Attorney Precious Martin gave us this statement: "He is homesteaded and legally resides in the district. There is no reason for his name not to be on the ballot. He lives in the district."

WorldNow

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Liberty Mutual

FAX COVER SHEET

Date: Wednesday, January 21, 2009

To: Denise Newsome

Fax #: 513-[redacted]

From: Cynthia [redacted]

Phone #: 1-800-[redacted]

Fax #:

Pages (including cover): 03

Notes: Please date and sign along with two witnesses and return to me at 603 334-8103.

Thank you.

EXHIBIT 118

NATIONAL LIABILITY FIELD CLAIMS MS
HELMSMAN MANAGEMENT SERVICES LLC
[redacted]

Telephone: (800) [redacted]
Fax: (603) [redacted]

Helmsman Management Services LLC

January 21, 2009

Denise Newsome
PO Box 14731
Cincinnati OH 45250

Claimant: Denise Newsome
Claim Number: [redacted]
Customer:
Date of Loss:

Dear Denise Newsome:

This will confirm our settlement of [redacted] dollars ([redacted]). Please read, sign in ink, and return the accompanying release.

On the line indicated:

"(1)" Fill in the date the release is signed.
"(2)" Write "I (or We) have read this release."
"(3)" Sign your full legal name.
"(4)" & "(5)" Have two witnesses write their names and addresses to verify your signature.

Our check will be issued when we receive the properly executed Release.

Please feel free to contact me if you have any questions. You can reach me at extension 715.

Sincerely,

CYNTHIA [redacted]

ENCLOSURE

[redacted]

128 East 5th Street, Apt. 5
Covington, Kentucky 41011
Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922 or (513) 852-6053

DENISE NEWSOME

Fax

FAXED
10/6/08 2:11pm

To: Gailen Bridges (859-431-3463)

From: Denise Newsome

Pages: 3 (including blank cover sheet)

Re: *October 2008 Rent Payment; Gary M. Martin, et al v. Newsome.*; Kenton County Circuit Court – Appeal Case No. 07-XX-00001; District Court Case No. 06-C-05059; Kentucky COA Case No. 2008-CA-000242

Date: 10/06/08

☐ **Urgent** ☑ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• **Comments:**

October 6, 2008 Letter to Kenton County Circuit Clerk – Rent Payment Into Escrow

EXHIBIT 119

DENISE NEWSOME

128 E. 5th Street – Covington, Kentucky 41011
Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

October 6, 2008

VIA PRIORTY MAIL – Delivery Confirmation
Honorable John C. Middleton
Kenton County Circuit Clerk
Kenton County Justice Center
230 Madison Avenue, 3rd Floor
Covington, KY 41011-1539

RE: OCTOBER 2008 RENT PAYMENT
Gary M. Martin, et al v. Newsome.; Kenton County Circuit Court – Appeal Case No. 07-XX-00001; District Court Case No. 06-C-05059

Dear Mr. Middleton:

Enclosed please find U.S. Postal Money Order No. **12250974745** in the amount of $675.00 for the October 2008 rent to be paid into the Court. Please provide me with the *Receipt* for payment in the self-addressed postage-paid envelope enclosed. This payment was mailed due to the problems you are aware of that I have been having with your office.

By copy of same, I am providing counsel with a copy of same.

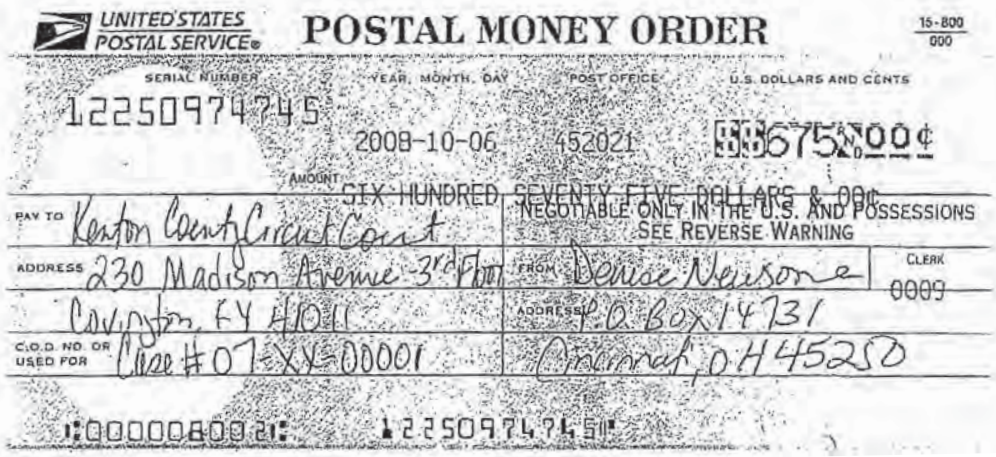
Should you have questions or comments, please do not hesitate to contact me at 513/680-2922 or (w) 513/852-6053.

With warmest regards,

Denise Newsome

Denise Newsome

Enclosures
cc: Gailen Bridges, Esq. (fax only)



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SERIAL NUMBER: 12250974745 | YEAR, MONTH, DAY: 2008-10-06 | POST OFFICE: 452021 | U.S. DOLLARS AND CENTS: $675.00

AMOUNT: SIX HUNDRED SEVENTY FIVE DOLLARS & 00¢

NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS
SEE REVERSE WARNING

PAY TO: Kenton County Circuit Court
ADDRESS: 230 Madison Avenue 3rd Floor
Covington, KY 41011
C.O.D. NO. OR USED FOR: Case #07-XX-00001

FROM: Denise Newsome
ADDRESS: P.O. Box 14731
Cincinnati, OH 45250

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ACCOUNT OF: OCT. 08 RENT PAYMT.

1.	rent escrow MCFO(K(Q2))	650.00
	TOTAL:	$650.00
	CHECK:	$650.00
	***DIFF:	0.00

*** Check Number: mo# 12250974745

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** MCFO=Money Collected for Others
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Commonwealth of Kentucky
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*** (M) CIVIL-OTHER ***

CASE NO: 07-XX-00001

RECEIVED FROM: DENISE NEWSOME
ACCOUNT OF: 0CT 08 RENT PAYMENT

1.	rent escrow MCFO(K(Q2))	25.00
	TOTAL:	$25.00
	CHECK:	$25.00
	***DIFF:	0.00

*** Check Number: MO # 12250974745

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Magnolia State has share of corruption

JERRY MITCHELL • JMITCHELL@CLARIONLEDGER.COM • DECEMBER 28, 2008

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The recent indictment of Illinois Gov. Rod Blagojevich has resurrected that state's stereotype as the ultimate place for backroom deals, bribes and corruption.



But in the past decade, Mississippi has had nearly twice the per capita rate of public officials convicted than Illinois.

Between 1998 and 2007, Mississippi saw the federal convictions of 212 public officials, causing the state to rank fourth nationally per capita in public corruption cases, trailing only North Dakota, Alaska and Louisiana.

The number of Mississippi's corruption convictions is substantial, but only tells part of the story, said Assistant U.S. Attorney John Dowdy of Jackson, who heads the criminal division for the Southern District of Mississippi.

"You take into account the number of cases prosecuted by the local district attorneys and the state attorney general, and you see there is a pattern of corruption with all levels of public office, from city to federal," he said.

The Corporate Crime Reporter puts Mississippi in second place in public corruption, just behind Louisiana.

The high rankings don't surprise Dowdy. "I do believe that is a fair representation of the true nature of corruption within public office in this state," he said. "It is a problem, and it has been historically."

Corruption has plagued Mississippi since the beginning, said David Sansing, professor emeritus of history at the University of Mississippi.

The only reason the state isn't ranked higher nationally in corruption is because most people get away with it, he said.

"The possibility of corruption is endemic to our system of government," he said. "We dare people to be crooked, we make it so easy for them. When the people govern, the people are given to take for themselves and cut corners, it's just endemic to our system of government."

What amazes Sansing most is not the amount of corruption but the "millions of honest, hard-working public servants who don't corrupt the system. Our system has endured wars,

CONVICTIONS
Top states with convictions of public officials per million residents per year

1. North Dakota - 8.3
2. Alaska - 7.9
3. Louisiana - 7.5
4. Mississippi -7.4
5. Montana - 6.4

Source: Department of Justice, Census Bureau, New York Times

CORRUPTION
Top 5 states ranked by corruption rate:

1. Louisiana -7.67
2. Mississippi - 6.66
3. Kentucky - 5.18
4. Alabama - 4.76
5. Ohio - 4.69

Source: Corporate Crime Reporter, based on U.S. Department of Justice's Public Integrity Section's 2006 report

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EXHIBIT 120

12/29/2008

depressions and natural disasters. It has endured because millions of public servants do it honestly and do it well. They don't get enough credit."

The fact Mississippi suffers from poverty and a lack of education "exposes our system to even more corruption," he said. "We don't pay our public officials enough money to live. Because we have always had corruption, the smart ones are able to get away with more than they might otherwise."

Because most Mississippians share the same political views "people don't run on issues," he said. "Even now, the politicians in Mississippi who get elected are those with strong dominant personalities like Theodore Bilbo."

The bombastic politician symbolized the corruption that has plagued Mississippi throughout the decades, repeatedly accused of taking bribes but never convicted.

He once announced his candidacy for governor after being released from jail for contempt for refusing to testify in a scandal.

"These strong-willed personalities can sweet-talk their way into public office," Sansing said. "And some of them who get there say, 'Now that I'm here, I can take what I can get.' "

Despite repeated scandals, voters kept re-electing Bilbo to office, first to the state Senate, next as lieutenant governor, then as governor and finally as a U.S. senator. In 1947, fellow senators barred him from taking his U.S. Senate seat after he supposedly took bribes for military contracts.

In the mid-1980s, Mississippi saw its most pervasive sweep of corruption prosecutions with the FBI's Operation Pretense, resulting in the convictions of 43 county supervisors and 11 vendors.

In Pontotoc County, the entire Board of Supervisors had to resign after pleading guilty to corruption charges.

In recent decades, the state has also seen the successful prosecutions of members of the Mississippi Senate, the Highway Commission, the Public Service Commission and the Jackson City Council.

Veteran journalist Bill Minor called then-federal prosecutor James Tucker a true hero for making sure authorities shone the light on the criminal deeds by public officials for three decades.

As a district attorney in southwest Mississippi, Dunn Lampton brought his share of public corruption charges. Seventeen of those public officials were removed from office.

"If the evidence is good, citizens will vote to convict corrupt officials," Lampton said.

When Lampton became U.S. attorney in 2001, "one of the first things he implemented in this office was a policy of zero tolerance for public corruption," Dowdy said. "We have stayed consistent throughout his term, and if a public corruption case was brought to this office, if in fact the evidence was there, we prosecuted it."

To comment on this story, call Jerry Mitchell at (601) 961-7064.



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Corporate Crime Reporter
18 Corporate Crime Reporter 3(1), January 19, 2004

REPORT RANKS STATES FROM MOST CORRUPT TO LEAST CORRUPT

Mississippi is the most corrupt state in the United States, and Nebraska is the least corrupt, according to a first-ever ranking of the states released last week by Corporate Crime Reporter.

According to the report, Public Corruption in the United States, the ten most corrupt states in the country are:

Mississippi, North Dakota, Louisiana, Alaska, Illinois, Montana, South Dakota, Kentucky, Florida, and New York.

The ten least corrupt states in the country are:

Nebraska, Oregon, New Hampshire, Iowa, Colorado, Utah, Minnesota, Arizona, Arkansas, and Wisconsin.

The 50 states were ranked by corruption rate -- the number of public corruption convictions in the state over a ten-year period (1993 to 2002) per 100,000 population.

The report is being released at a time when public corruption scandals are breaking out all over the country.

The former Governor of Illinois, George Ryan, has been charged with taking money, gifts and loans in exchange for handing out state contracts to his donors.

In Connecticut, three mayors and the state treasurer are in jail or heading to jail.

And the Governor of Connecticut is under siege in a soap opera of a corruption scandal.

The last three insurance commissioners in Louisiana have gone to jail for corruption.

"We need not just strong economies, but strong political economies -- reporters, citizen groups, prosecutors, judges, religious leaders -- who are willing to speak out about the rampant corruption in our midst," said Russell Mokhiber, editor of Corporate Crime Reporter and author of the report. "Connecticut, for example, has a strong economy and an educated citizenry. But its political economy has historically been weak, with little public debate about the level of corruption around it -- until federal prosecutors at the U.S. Attorney,s office in Hartford decided to force the issue out into the open."

Mokhiber called on Attorney General John Ashcroft to stop muzzling his line attorneys at the Public Integrity Section, which is in charge of combating public corruption.

"They want to speak out on the issue, to shed some light, but they are being muzzled in an election year," Mokhiber charged. (See At a Glance, Page 12)

Public Corruption in the United States(.pdf)

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DEMOCRACY NOW!
THE WAR AND PEACE REPORT

January 16, 2004

Mississippi's #1: Corporate Crime Reporter Ranks Most Corrupt State Governments



A new report examined the most corrupt state governments. The top 10? Mississippi, North Dakota, Louisiana, Alaska, Illinois, Montana, South Dakota, Kentucky, Florida and New York. [includes transcript]

As Connecticut Republican Gov. John Rowland face possible impeachment, we are going to take a look today at corruption within state governments.

Corporate Crime Reporter is releasing a report today titled "Public Corruption in the United States." The report ranks the 10 most corrupt states and the 10 least corrupt states.

The report is being released at a time when public corruption scandals are breaking out all over the country. The former Governor of Illinois, George Ryan, has been charged with taking money, gifts and loans in exchange for handing out state contracts to his donors. In Connecticut, three mayors and the state treasurer are in jail or heading to jail. And the Governor is under siege in a soap opera of a corruption scandal.

According to the report, the ten most corrupt states in the country are: Mississippi, North Dakota, Louisiana, Alaska, Illinois, Montana, South Dakota, Kentucky, Florida, and New York.

The ten least corrupt states in the country are: Nebraska, Oregon, New Hampshire, Iowa, Colorado, Utah, Minnesota Arizona, Arkansas, and Wisconsin.

- **Russell Mokhiber**, editor of the Corporate Crime Reporter.

RUSH TRANSCRIPT
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JUAN GONZALEZ: We're joined by "Corporate Crime Reporter" editor, Russell Mokhiber.

RUSSELL MOKHIBER: Good morning.

JUAN GONZALEZ: Good morning, Russell. Could you tell me what you found. What are the most corrupt states in the union and how did you arrive on it?

RUSSELL MOKHIBER: Well, actually the AP did a story this morning based on the report. The title is, "Image Problem, Louisiana, Not Number One in Corruption Anymore". And that's what we found. You know, the states that have the reputation of being the most corrupt, New Jersey, Louisiana, Illinois, Rhode Island, that's based on reputation, but we got a hold of a document from the Justice Department that has a statistical breakdown of public corruption convictions by state over the last ten years. So, no one has ever actually tried to rank the states to make a determination which is actually the most corrupt, reputation aside. And what we did was, we came up with a corruption rate by looking at the number of convictions over ten years for each state, per 100,000 population. And the most corrupt state in the union, according to our survey, is Mississippi, followed by North Dakota, Louisiana, Alaska and Illinois. New York comes in number ten--the tenth most corrupt.

The cleanest states in the union, the least corrupt, are Nebraska, Oregon, New Hampshire and Iowa, and Colorado. Those are the least corrupt five states. The other least corrupt fives from six through ten are Utah, Minnesota, Arizona, Arkansas, and Wisconsin. But two caveats on this; one is that these were convictions of public officials, state, federal and local in the states over ten years from 1993 to 2002, but not including 2003. The other thing is that--

JUAN GONZALEZ: It would depend in large measure also on how uncorrupt the prosecutors are who are conducting these cases.

RUSSELL MOKHIBER: One of the things the people at the Justice Department tell us is you can have an absolutely corrupt state, state-wide, through and through corrupt, and if there's not a US Attorney who wants to prosecute it, it's not going to show up. For example, in Hartford the whole corruption scandal was exposed by Governor Roland's opponent, Bill Curry, in the last election. But the press didn't pick up on it. And it took a couple of young assistant US Attorneys after the US Attorney in Hartford recused himself to go after the governor. The other thing is in Connecticut you have tens of millions of dollars of graft and illegal contracts and so forth that never create an uproar. What created the uproar was that the governor had a hot tub and cathedral ceilings put in his cottage in Litchfield, Connecticut and told everyone that he actually went and bought the hot tub and he paid for it. He lied to the public. So, you can get away with millions of dollars in corruption, but if you say you went and bought the hot tub and put it in and lie about it, then you are going to be impeached.

JUAN GONZALEZ: Any reaction from the state of Mississippi as to the most corrupt state in the union?

RUSSELL MOKHIBER: No, but we're waiting for Haley Barber and Trent Lott to weigh in. They're not happy. The AP Reporter in Mississippi is doing a story. Bill Curry, who lost twice to Roland after trying to expose the corruption says now that he thinks Connecticut is the most corrupt state in the union, but our survey shows them coming in at 31. So, maybe they're gaining ground. He calls Connecticut, "Louisiana with foliage". But the people in Louisiana are not at all happy. They admit they have a problem. The last three insurance commissioners in Louisiana have gone to jail. The agricultural commissioner is under indictment. They know they have a reputational problem, but they think they, too, have foliage, so they're upset with Curry's analysis. But seriously, one of the problems is, "Why did this happen in Connecticut?" Connecticut has a strong economy but a weak political economy. Politics in Connecticut are not very active. People pay attention to the economy, but not to the politics. One of the problems is we don't discuss public corruption. We discuss it when it blows up, but not as a generic problem. If you type in corruption into like a Google news engine, what comes up are a lot of stories from overseas.

JUAN GONZALEZ: Okay, well Russell, on that note, we thank you for being with us, and we'll keep—

RUSSELL MOKHIBER: The report is on www.corporatecrimereporter.com.

AMY GOODMAN: And you are holding a news conference today.

RUSSELL MOKHIBER: At 10:00 a.m.

AMY GOODMAN: At the National Press Club in Washington. Thanks for being with us. Russell Mokhiber of the "Corporate Crime Reporter."


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§ 97-9-125. Tampering with physical evidence.

(1) A person commits the crime of **tampering with** physical **evidence** if, believing that an official proceeding is pending or may be instituted, and acting without legal right or authority, he:

(a) Intentionally destroys, mutilates, conceals, removes or alters physical **evidence with** intent to impair its use, verity or availability in the pending or prospective official proceeding;

(b) Knowingly makes, presents or offers any false physical **evidence with** intent that it be introduced in the pending or prospective official proceeding; or

(c) Intentionally prevents the production of physical **evidence** by an act of force, intimidation or deception against any person.

(2) **Tampering with** physical **evidence** is a Class 2 felony.

Sources: Laws, 2006, ch. 387, § 13, eff from and after July 1, 2006.

EXHIBIT 121

119 S.Ct. 489 Page 1
525 U.S. 121, 119 S.Ct. 489, 142 L.Ed.2d 502, 67 USLW 4029, 136 Lab.Cas. P 58,497, 14 IER Cases 1057, 98 Cal. Daily Op. Serv. 9070, 98 Daily Journal D.A.R. 12,673, 98 CJ C.A.R. 6252, 12 Fla. L. Weekly Fed. S 32
(Cite as: 525 U.S. 121, 119 S.Ct. 489)

Briefs and Other Related Documents

Oral Argument Transcripts with Streaming Media

Judges and Attorneys

Supreme Court of the United States
Michael A. HADDLE, Petitioner,
v.
Jeanette G. GARRISON et al.
No. 97-1472.

Argued Nov. 10, 1998.
Decided Dec. 14, 1998.

At-will employee brought action against his employer and two of its officers for alleged violation of civil rights conspiracy statute, claiming that employer and officers conspired to have him fired from his job in retaliation for obeying federal grand jury subpoena and to deter him from testifying at federal criminal trial. The United States District Court for the Southern District of Georgia granted defendants' motion to dismiss for failure to state a claim. On appeal, the United States Court of Appeals for the Eleventh Circuit affirmed. After granting certiorari, the Supreme Court, Chief Justice Rehnquist, held that employee was "injured in his person or property" and, thus, could state claim for damages under civil rights conspiracy statute.

Reversed and remanded.

West Headnotes

[1] Conspiracy 91 7.5(2)

91 Conspiracy
91I Civil Liability
91I(A) Acts Constituting Conspiracy and Liability Therefor
91k7.5 Conspiracy to Interfere with Civil Rights
91k7.5(2) k. Rights or Privileges Involved. Most Cited Cases
At-will employee who alleged that his employer and two of its officers conspired to terminate him in retaliation for obeying federal grand jury subpoena and to deter him from testifying at federal criminal trial was "injured in his person or property" and, thus, could state claim for damages under civil rights statute prohibiting conspiracies to intimidate or retaliate against witnesses in federal court proceedings, though employee had no constitutionally protected interest in continued employment. 42 U.S.C.A. § 1985(2, 3).

[2] Conspiracy 91 7.5(2)

91 Conspiracy
91I Civil Liability
91I(A) Acts Constituting Conspiracy and Liability Therefor

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EXHIBIT 122

91k7.5 Conspiracy to Interfere with Civil Rights
91k7.5(2) k. Rights or Privileges Involved. Most Cited Cases

Plaintiff need not suffer an injury to a constitutionally protected property interest in order to state a claim for damages under civil rights statute prohibiting conspiracies to intimidate or retaliate against witnesses in federal court proceedings. 42 U.S.C.A. § 1985(2, 3).

[3] Conspiracy 91 7.5(2)

91 Conspiracy
91I Civil Liability
91I(A) Acts Constituting Conspiracy and Liability Therefor
91k7.5 Conspiracy to Interfere with Civil Rights
91k7.5(2) k. Rights or Privileges Involved. Most Cited Cases

Fact that employment at will is not "property" for purposes of the Due Process Clause does not mean that loss of at-will employment may not injure employee in his person or property for purposes of stating claim for damages under civil rights statute prohibiting conspiracies to intimidate or retaliate against witnesses in federal court proceedings. U.S.C.A. Const.Amend. 14; 42 U.S.C.A. § 1985(2, 3).

[4] Conspiracy 91 7.5(2)

91 Conspiracy
91I Civil Liability
91I(A) Acts Constituting Conspiracy and Liability Therefor
91k7.5 Conspiracy to Interfere with Civil Rights
91k7.5(2) k. Rights or Privileges Involved. Most Cited Cases

Harm occasioned by third-party interference with at-will employment relationship may give rise to claim for damages under civil rights statute prohibiting conspiracies to intimidate or retaliate against witnesses in federal court proceedings. 42 U.S.C.A. § 1985(2, 3).

*****489 *121** *Syllabus* FN*

FN* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.,* 200 U.S. 321, 337, 26 S.Ct. 282, 50 L.Ed. 499.

Petitioner, an at-will employee, filed this action for damages against respondents alleging, *inter alia,* that they conspired to have him fired in retaliation for obeying a federal grand jury subpoena and to deter him from testifying at their upcoming criminal trial for Medicare fraud, and that their acts had "injured [him] in his person or property" in violation of 42 U.S.C. § 1985(2). In dismissing the suit for failure to state a claim, the District Court relied on Circuit precedent holding that an at-will employee discharged pursuant to a conspiracy proscribed by § 1985(2) has suffered no actual injury because he has no constitutionally protected interest in continued employment. The Eleventh Circuit affirmed.

Held: The sort of the harm alleged by petitioner-essentially third-party interference with at-will employment relationships-states a claim for damages under § 1985(2). ****490** In relevant part, the statute proscribes conspiracies to "deter, by force, intimidation, or threat, any ... witness in any [federal] court ... from attending such court, or from testifying to any matter pending therein, ... or to injure [him] in his person or property on account

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of his having so attended or testified," § 1985(2), and provides that if conspirators "do ... any act in furtherance of ... such conspiracy, whereby another is injured in his person or property, ... the party so injured ... may" recover damages, § 1985(3). The Eleventh Circuit erred in concluding that petitioner must suffer an injury to a "constitutionally protected property interest" to state a claim. Nothing in the language or purpose of the proscriptions in the first clause of § 1985(2), nor in its attendant remedial provisions, establishes such a requirement. The gist of the wrong at which § 1985(2) is directed is not deprivation of property, but intimidation or retaliation against witnesses in federal-court proceedings. The terms "injured in his person or property" define the harm that the victim may suffer as a result of the conspiracy to intimidate or retaliate. Thus, the fact that employment at will is not "property" for purposes of the Due Process Clause, see *Bishop v. Wood,* 426 U.S. 341, 345-347, 96 S.Ct. 2074, 48 L.Ed.2d 684, does not mean that loss of at-will employment may not "injur[e] [petitioner] in his person or property" for § 1985(2)'s purposes. Such harm has long been, and remains, a compensable injury under tort law, and there is no reason to ***122** ignore this tradition here. To the extent that the terms "injured in his person or property" refer to such tort principles, there is ample support for the Court's holding. Pp. 491-493.

132 F.3d 46, reversed and remanded.

REHNQUIST, C.J., delivered the opinion for a unanimous Court.
Charles C. Stebbins, III, Augusta, GA, for petitioner, by Matthew D. Roberts, Washington, DC, for the U.S. as amicus curiae, by special leave of the Court.

Phillip A. Bradley, Atlanta, GA, for respondents.

For U.S. Supreme Court briefs, see:1998 WL 425991 (Pet.Brief)1998 WL 425980 (Pet.Brief)1998 WL 438497 (Resp.Brief)1998 WL 552375 (Resp.Brief)1998 WL 608353 (Resp.Brief)1998 WL 668138 (Reply.Brief)1998 WL 778630 (Resp.Supp.Brief)

Chief Justice REHNQUIST delivered the opinion of the Court.

Petitioner Michael A. Haddle, an at-will employee, alleges that respondents conspired to have him fired from his job in retaliation for obeying a federal grand jury subpoena and to deter him from testifying at a federal criminal trial. We hold that such interference with at-will employment may give rise to a claim for damages under the Civil Rights Act of 1871, Rev.Stat. § 1980, 42 U.S.C. § 1985(2).

According to petitioner's complaint, a federal grand jury indictment in March 1995 charged petitioner's employer, ***123** Healthmaster, Inc., and respondents Jeanette Garrison and Dennis Kelly, officers of Healthmaster, with Medicare fraud. Petitioner cooperated with the federal agents in the investigation that preceded the indictment. He also appeared to testify before the grand jury pursuant to a subpoena, but did not testify due to the press of time. Petitioner was also expected to appear as a witness in the criminal trial resulting from the indictment.

Although Garrison and Kelly were barred by the Bankruptcy Court from participating in the affairs of Healthmaster, they conspired with G. Peter Molloy, Jr., one of the remaining officers of Healthmaster, to bring about petitioner's termination. They did this both to intimidate petitioner and to retaliate against him for his attendance at the federal-court proceedings.

Petitioner sued for damages in the United States District Court for the Southern District of Georgia, asserting a federal claim under 42 U.S.C. § 1985(2) and various state-law claims. Petitioner stated two grounds for relief

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under § 1985(2): one for conspiracy ****491** to deter him from testifying in the upcoming criminal trial and one for conspiracy to retaliate against him for attending the grand jury proceedings. As § 1985 demands, he also alleged that he had been "injured in his person or property" by the acts of respondents in violation of § 1985(2) and that he was entitled to recover his damages occasioned by such injury against respondents jointly and severally.

Respondents moved to dismiss for failure to state a claim upon which relief can be granted. Because petitioner conceded that he was an at-will employee, the District Court granted the motion on the authority of *Morast v. Lance,* 807 F.2d 926 (1987). In *Morast,* the Eleventh Circuit held that an at-will employee who is dismissed pursuant to a conspiracy proscribed by § 1985(2) has no cause of action. The *Morast* court explained: "[T]o make out a cause of action under § 1985(2) the plaintiff must have suffered an actual injury.***124** Because Morast was an at will employee, ... he had no constitutionally protected interest in continued employment. Therefore, Morast's discharge did not constitute an actual injury under this statute." *Id.,* at 930. Relying on its decision in *Morast,* the Court of Appeals affirmed. Judgt. order reported at 132 F.3d 46 (1997).

[1] The Eleventh Circuit's rule in *Morast* conflicts with the holdings of the First and Ninth Circuits. See *Irizarry v. Quiros,* 722 F.2d 869, 871 (1st Cir.1983), and *Portman v. County of Santa Clara,* 995 F.2d 898, 909-910 (C.A.9 1993). We therefore granted certiorari, 523 U.S. 1136, 118 S.Ct. 1838, 140 L.Ed.2d 1089 (1998), to decide whether petitioner was "injured in his property or person" when respondents induced his employer to terminate petitioner's at-will employment as part of a conspiracy prohibited by § 1985(2).

Section 1985(2), in relevant part, proscribes conspiracies to "deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified." [FN1] The statute provides that if one ***125** or more persons engaged in such a conspiracy "do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, ... the party so injured ... may have an action for the recovery of damages occasioned by such injury ... against any one or more of the conspirators." § 1985(3).[FN2]

> FN1. Section 1985(2) proscribes the following conspiracies: "If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws."
>
> FN2. Section 1985(3) contains the remedial provision granting a cause of action for damages to those harmed by any of the conspiracies prohibited in § 1985. See *Kush v. Rutledge,* 460 U.S. 719, 724-725, 103 S.Ct. 1483, 75 L.Ed.2d 413 (1983) (listing the various conspiracies that § 1985 prohibits).

Petitioner's action was dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6) because, in the Eleventh

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Circuit's view, he had not suffered an injury that could give rise to a claim for damages under § 1985(2). We must, of course, assume that the facts as alleged in petitioner's complaint are true and that respondents engaged in a conspiracy prohibited by § 1985(2). Our review in this case is accordingly confined to one question: Can petitioner state a claim for damages by alleging that a conspiracy proscribed by § 1985(2) induced his employer to terminate his at-will employment? FN3

> FN3. We express no opinion regarding respondents' argument that intimidation claims under § 1985(2) are limited to conduct involving force or threat of force, or their argument that only litigants, and not witnesses, may bring § 1985(2) claims. We leave those issues for the courts below to resolve on re- mand.

****492** [2][3] We disagree with the Eleventh Circuit's conclusion that petitioner must suffer an injury to a "constitutionally protected property interest" to state a claim for damages under § 1985(2). Nothing in the language or purpose of the proscriptions in the first clause of § 1985(2), nor in its attendant remedial provisions, establishes such a requirement. The gist of the wrong at which § 1985(2) is directed is not deprivation of property, but intimidation or retaliation against witnesses in federal-court proceedings. The terms "injured in his person or property" define the harm that the victim may suffer as a result of the conspiracy to intimidate or retaliate. Thus, the fact that employment at will is not "property"for ***126** purposes of the Due Process Clause, see *Bishop v. Wood,* 426 U.S. 341, 345-347, 96 S.Ct. 2074, 48 L.Ed.2d 684 (1976), does not mean that loss of at-will employment may not "injur[e] [petitioner] in his person or property" for purposes of § 1985(2).

[4] We hold that the sort of harm alleged by petitioner here-essentially third-party interference with at-will employment relationships-states a claim for relief under § 1985(2). Such harm has long been a compensable injury under tort law, and we see no reason to ignore this tradition in this case. As Thomas Cooley recognized:

> "One who maliciously and without justifiable cause, induces an employer to discharge an employee, by means of false statements, threats or putting in fear, or perhaps by means of malevolent advice and persuasion, is liable in an action of tort to the employee for the damages thereby sustained. *And it makes no difference whether the employment was for a fixed term not yet expired or is terminable at the will of the employer.* " 2 Law of Torts 589-591 (3d ed.1906) (emphasis added).

This Court also recognized in *Truax v. Raich,* 239 U.S. 33, 36 S.Ct. 7, 60 L.Ed. 131 (1915):

> "The fact that the employment is at the will of the parties, respectively, does not make it one at the will of others. The employe has manifest interest in the freedom of the employer to exercise his judgment without illegal interference or compulsion and, by the weight of authority, the unjustified interference of third persons is actionable although the employment is at will." *Id.,* at 38, 36 S.Ct. 7 (citing cases).

The kind of interference with at-will employment relations alleged here is merely a species of the traditional torts of intentional interference with contractual relations and intentional interference with prospective contractual relations. See Restatement (Second) of Torts § 766, Comment***127** *g,* pp. 10-11 (1977); see also *id.,* § 766B, Comment *c,* at 22. This protection against third-party interference with at-will employment relations is still afforded by state law today. See W. Keeton, D. Dobbs, R. Keeton, & D. Owen, Prosser and Keaton on Law of Torts § 129, pp. 995-996, and n. 83 (5th ed.1984) (citing cases). For example, the State of Georgia, where the acts underlying the complaint in this case took place, provides a cause of action against third parties for wrongful interference with employment relations. See *Georgia Power Co.* v. *Busbin,* 242 Ga. 612, 613, 250 S.E.2d 442, 444 (1978) ("[E]ven though a person's employment contract is at will, he has a valuable contract right

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which may not be unlawfully interfered with by a third person"); see also *Troy v. Interfinancial, Inc.,* 171 Ga.App. 763, 766-769, 320 S.E.2d 872, 877-879 (1984) (directed verdict inappropriate against defendant who procured plaintiff's termination for failure to lie at a deposition hearing).[FN4] Thus, to the extent that the terms "injured in his person or property" in § 1985 refer to principles of tort law, see 3 W. Blackstone, Commentaries on ****493** the Laws of England 118 (1768) (describing the universe of common-law torts as "all private wrongs, or civil injuries, which may be offered to the rights of either a man's person or his property"), we find ample support for our holding that the harm occasioned by the conspiracy here may give rise to a claim for damages under § 1985(2).

> FN4. Petitioner did bring a claim for tortious interference with his employment relation against respondents in Georgia state court, but that claim was dismissed on summary judgment and the dismissal affirmed on appeal. The ultimate course of petitioner's state-law claim, however, has no bearing on whether he can state a claim for damages under § 1985(2) in federal court.

The judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

U.S.,1998.
Haddle v. Garrison
525 U.S. 121, 119 S.Ct. 489, 142 L.Ed.2d 502, 67 USLW 4029, 136 Lab.Cas. P 58,497, 14 IER Cases 1057, 98 Cal. Daily Op. Serv. 9070, 98 Daily Journal D.A.R. 12,673, 98 CJ C.A.R. 6252, 12 Fla. L. Weekly Fed. S 32

Briefs and Other Related Documents (Back to top)

- 1998 WL 778630, 141 L.Ed.2d 787 (Appellate Brief) SUPPLEMENTAL BRIEF OF RESPONDENTS JEANETTE G. GARRISON; £HLM, INC. (F/K/A HEALTHMASTER, INC.); £ AND CHRISTOPHER GARRISON (Nov. 9, 1998)
- 1998 WL 668138 (Appellate Brief) PETITIONER'S REPLY BRIEF (Sep. 28, 1998)
- 1998 WL 552375 (Appellate Brief) BRIEF ON THE MERITS OF RESPONDENTS JEANETTE G. GARRISON; £HLM, INC. (F/K/A HEALTHMASTER INC.); £ AND CHRISTOPHER GARRISON (Aug. 27, 1998)
- 1998 WL 608353 (Appellate Brief) BRIEF ON THE MERITS OF RESPONDENT G. PETER MOLLOY, JR. (Aug. 27, 1998)
- 1998 WL 425991 (Appellate Brief) PETITIONER'S BRIEF ON THE MERITS (Jul. 29, 1998)
- 1998 WL 425983 (Appellate Brief) MOTION FOR LEAVE TO FILE A BRIEF AS AMICI CURIAE AND BRIEF AMICI CURIAE FOR THE NATIONAL EMPLOYMENT LAWYERS ASSOCIATION AND GOVERNMENT ACCOUNTABILITY PROJECT IN SUPPORT OF PETITIONER (Jul. 27, 1998)
- 1998 WL 425980 (Appellate Brief) PETITIONER'S RESPONSE TO RESPONDENTS' MOTION TO DISMISS WRIT OF CERTIORARI (Jul. 24, 1998)
- 1998 WL 425987 (Appellate Brief) BRIEF OF AMICUS CURIAE NATIONAL WHISTLEBLOWER CENTER IN SUPPORT OF PETITIONER (Jul. 24, 1998)
- 1998 WL 425995 (Appellate Brief) MOTION FOR LEAVE TO FILE A BRIEF AS AMICUS CURIAE AND BRIEF FOR THE LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW AS AMICUS CURIAE IN SUPPORT OF PETITIONER (Jul. 24, 1998)
- 1998 WL 430030 (Appellate Brief) BRIEF FOR THE UNITED STATES AS AMICUS CURIAE SUPPORT-

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ING PETITIONER (Jul. 24, 1998)
• 1998 WL 438497 (Appellate Brief) MOTION TO DISMISS WRIT OF CERTIORARI AS IMPROVIDENTLY GRANTED (Jul. 20, 1998)
• 1998 WL 34081067 (Appellate Petition, Motion and Filing) Brief in Opposition of Respondents Jeanette G. Garrison, HLM, Inc. (f%61k%61a Healthmaster, Inc.) and Christopher Garrison (Apr. 09, 1998) Original Image of this Document (PDF)
• 1998 WL 34081080 (Appellate Petition, Motion and Filing) Respondent G. Peter Molloy's Response to Petition for a Writ of Certiorari (Apr. 08, 1998) Original Image of this Document (PDF)
• 1998 WL 34081028 (Appellate Petition, Motion and Filing) Petition for a Writ of Certiorari (Mar. 05, 1998) Original Image of this Document with Appendix (PDF)

Oral Argument Transcripts with Streaming Media (Back to top)

• 1998 WL 799188 (Oral Argument) Oral Argument (Nov. 10, 1998)

Judges and Attorneys(Back to top)

Judges | Attorneys

Judges

• Rehnquist, Hon. William H.
Supreme Court of the United States
District of Columbia
Litigation History Report | Judicial Reversal Report | Profiler

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Litigation History Report | Profiler

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Commonwealth of Kentucky
Kenton County
Karen Lunn
Circuit Court Clerk

Receipt Number: 04-0003160A
DATE: 12/04/2006
TIME: 03:41 PM
*** (J) CIRCUIT CIVIL-FILING ***

CASE NO: 06-CI-03270

RECEIVED FROM: DENISE NEWSOME
ACCOUNT OF: NEWSOME VS MARTIN

1.	Civil Filing Fee (Q)	80.00
2.	AOC Fee (1)	20.00
3.	Court Technology MCFO(K(CT))	10.00
4.	Library Fee (L)	3.00
5.	Attny Fee MCFO(K(Q))	5.00
	TOTAL:	$118.00
	CHECK:	$118.00
	***DIFF:	0.00

*** Check Number 1064

Prepared By: Karen Lunn/CMH

Balance Due($):
Next Due Date:

MCFO=Money Collected for Others
CS=Charge for Service

Page 1 of 1

EXHIBIT
123

12/14/06 1 30 413

AOC-216 Doc. Code: PFD Rev. 9-02 Page 1 of 1 Commonwealth of Kentucky Court of Justice www.kycourts.net KRS 383.200	FORCIBLE DETAINER COMPLAINT	Case No. 06-C-5059 Court, District County Kenton

Provide Name and Address for both Plaintiff (Landlord) and Defendant (Tenant)

LANDLORD/PLAINTIFF

Name: Gary & Bernice Martin & Dennis & Betty Annellen
Address: dba GMM Properties

FILED
2006 DEC -4 P 3:51
KENTON CIRCUIT/DISTRICT COURT
BY [illegible] D.C.

VS.

TENANT/DEFENDANT

Name: Denis Newsome & all occupants
Address: 128 E 5th St. Covington Ky 41011 apt 5

Comes the Plaintiff and for his/her complaint states that:

1. On the 1ST day of Oct, 2006, Defendant(s) contracted to lease apt located at 128 E 5th St apt 5, Cov Ky 41011 under a [X] written OR [ ] oral lease with Plaintiff as lessor;
2. Under the lease terms, Defendant(s) agreed to pay $ 675 per [ ] day [ ] week [X] month, payable on the 1ST day of each [ ] week [X] month [ ] year as rent;
3. Defendant(s) has/have breached the lease by not paying rent for the [ ] day [ ] week [X] month [ ] year of Nov 06 in the amount(s) of $ 675 and has/have not paid late fees for the [ ] day [ ] week [X] month [ ] year of 11/06 in the amounts of $ 60.
4. Defendant(s) has/have breached the lease because of the following: non payment of rent
5. Plaintiff gave Defendant(s) written notice to vacate on 11/17, 2006. Defendant(s) has/have not vacated.

WHEREFORE, Plaintiff alleges Defendant(s) unlawfully and forcibly detain the premises, and demand(s) possession of the premises be delivered to Plaintiff, as well as any and all other relief to which he/she may be entitled. I hereby certify I am the owner/attorney of the above-named property.

[signature] for PLT
~~Landlord~~/Attorney

859-431-2222
Phone Number

Subscribed and sworn to before me this 4 day of Dec, 2006. My commission expires: November 22, 2007.

Linda L. Powers
Signature

Notary Public, State of KY at Large
Title

FILED
KENTON CIRCUIT/DISTRICT COURT
OCT 10 2008
JOHN C. MIDDLETON
BY_____D.C.

COMMONWEALTH OF KENTUCKY
CIRCUIT COURT OF KENTON COUNTY, KENTUCKY

DENISE NEWSOME — PLAINTIFF

vs.

CIVIL ACTION NO. 06-CI-03270

GARY M. MARTIN, BERNICE MARTIN, DENNIS DONNELLAN, and BETTY DONNELLAN, d/b/a GMM PROPERTIES — DEFENDANTS

PLAINTIFF'S RESPONSE TO OCTOBER 1, 2008 ORDER; PLAINTIFF'S NOTICE OF INTENT TO BRING LEGAL ACTIONS AGAINST STATE OF KENTUCKY; COUNTY OF KENTON, KENTUCKY; APPLICABLE JUDGE(S) EXCEEDING JURISDICTIONAL POWERS; AND APPLICABLE PARTIES[1] - DUTY TO MITIGATE DAMAGES

TO:	Honorable Gregory M. Bartlett Vice-Chief Regional Circuit Judge and Kenton County Circuit Court (in individual and official capacity) 230 Madison Avenue, Suite 701 Covington, Kentucky 41011	**COURTESY COPY TO:**	Honorably Jack Conway Office of the Attorney General on behalf of the State of Kentucky (in his individual and official capacity) 700 Capitol Avenue, Suite 118 Frankfort, Kentucky 40601
COURTESY COPY TO:	Honorable John D. Minton Jr. (Chief Justice) and Kentucky Supreme Court (in individual capacity and official capacity) 700 Capitol Avenue – Room 231 Frankfort, Kentucky 40601	**COURTESY COPY TO:**	Defendants and/or their Counsel of Record (in their individual and official capacity)

COMES NOW Plaintiff, Denise Newsome ("Plaintiff") and ***without*** waiving any claims and/or relief sought in her timely filed pleadings (i.e. Recusal pleading, Motions for Findings, etc.) presently before this Court and files this her *Notice of Intent to Bring Legal Actions Against (1) the State of Kentucky; (2) County of Kenton, Kentucky; (3) Applicable Judge(s) exceeding without jurisdictional authority and/or abuse of powers; (4) and any/all Applicable Parties,* in the applicable

[1] Boldface, Italics, Underline, etc. in this pleading has been added for emphasis. Plaintiff relied upon research and materials obtained from Westlaw, and other legal sources in preparation of this pleading.

EXHIBIT 124

Court of law pursuant to the United States Constitution, Kentucky Constitution, Civil Rights Act, 42 U.S.C. § 1985; 42 U.S.C. 1986; 42 U.S.C. 1988; and any/all applicable statutes/laws governing the claims and relief permissible to be sought. In support thereof, the Plaintiff states:

1. This instant pleading is submitted in good faith and is not provided for purposes of delay, hindering proceedings, obstructing the administration of justice, increasing the cost of litigation or depriving parties of protected rights governed under the Constitution, Civil Rights Act, and/or statutes/laws governing proceedings before this Court.

2. Due to the **URGENT** and present duress, oppression, hardships, etc. encountered, and presently suffered by the Plaintiff, she is submitting this instant pleading for filing in good faith and reserves the right to amend said pleading.

3. On October 9, 2008, one of Defendants attorney, Gailen W. Bridges, contacted the Plaintiff at her place of employment and advised her that she needed to return to her residence in that her belongings were being placed on the street. Plaintiff immediately left her place of employment to attend to this emergency. Defendants counsel, as well as those noticed through this instant pleading were aware and/or should have known that Defendants and their attorney(s) along with the assistance of court Judges would act in such criminal manner which violated the Constitutional and Civil Rights of the Plaintiff wherein the Plaintiff has been injured and/or harmed and property and possessions subject to theft. Moreover, the Defendants and their counsel engaged in unlawful entry, trespassing, unlawful invasion, burglary, theft, deprivation of protected rights, and many other unlawful actions in the carrying out of such deeds.

4. Gailen W. Bridges advised the Plaintiff that he and his clients were acting no behalf of an Order obtained by Judge Ruttle. Defendants, Bridges, Judge Ruttle and others knew and/or should have known that Judge Ruttle had no jurisdiction to grant any such order or unlawful removal and/or eviction of the Plaintiff's property, neither did she have the jurisdiction and/or power to execute such Order and the Defendants, Kenton County Sheriff's Department, Bridges or any other

cohorts having no power to exercise and/or act upon any such Order they assert was rendered by Judge Rutte.

5. **NOTICE IS HEREBY GIVEN** that on October 9, 2008, Plaintiff spoke with Officer Craig (sp?) of the Covington Police Department who refused to take a criminal report requested by the Plaintiff. Plaintiff notifying that she would seek additional information from his superior and again request that her report be taken. As a matter of law and her rights, Plaintiff believes she is entitled to file criminal report. It was brought to Plaintiff's attention by said Officer, that the Covington Police Department was contacted and Plaintiff was advised by Officer Craig that he was not to take her report. Plaintiff made known concerns of such conspiracy and Defendants counsel and others engaging in actions with the Covington Police Department to keep her from filing her Complaint.

6. **NOTICE IS HEREBY GIVEN** that Defendants, their counsel, Judge Ruttle, the Kenton County Sheriff's Department and their cohorts knew and or should have known that any such actions to execute and/or act upon any Order by Judge Ruttle and/or any Judge lacking jurisdiction was clearly criminally and civilly wrong and opened those participating in such wrongs liable for legal damages rendered the Plaintiff. There lies no immunity for any persons who engaged in such criminal acts committed against the Plaintiff:

KENTUCKY COURTS:

> *Lynch v. Johnson,* 420 F.2d 818 (C.A.6.Ky.,1970) - Defense of judicial immunity is a very broad one but it does not afford any protection to judge acting in clear absence of jurisdiction nor does it protect him in nonjudicial activities.
>
> *Morgan v. Dudley,* 57 Ky. 693 (Ky.,1858) - A judicial officer, acting within the jurisdiction conferred on him by law, is not liable for errors of judgment, unless the result of malice or corruption.
>
> *Hollon v. Lilly,* 38 S.W. 878 (Ky.,1897) - A judge acting within his jurisdiction, is not liable to a suit for damages, however illegal or erroneous his acts may be, in the absence of a malicious or corrupt motive.

Pepper v. Mayes, 81 Ky. 673 (Ky.,1884) - No person is liable in a civil action for what he has done as a judge while acting within the limits of his jurisdiction.

Sparks v. Character and Fitness Committee of Kentucky, 818 F.2d 541 (C.A.6.Ky.,1987) - Except for acts in "clear absence" of jurisdiction, judicial immunity is absolute.

Reed v. Taylor, 78 S.W. 892 (Ky.,1904) - While a judicial officer will be protected against suits for damages resulting from erroneous judgment, yet where he acts maliciously, or beyond his jurisdiction, his office is no protection.

Allsup v. Knox, 508 F.Supp. 57 (E.D.Ky.,1980) - A judge will not be deprived of immunity because action he took was in error, was done maliciously, or was in excess of his authority; rather, he will be subject to liability only when he has acted in a clear absence of all jurisdiction.

Revill v. Pettit, 60 Ky. 314 (Ky.,1861) - One holding a judicial office may be prosecuted in damages for any acts done by him in excess of his proper jurisdiction.

King v. Cawood, 3 S.W.2d 616 (Ky.,1928) - Judge acting illegally and without jurisdiction becomes trespasser and is liable.

OTHER COURTS:

Stump v. Sparkman, 98 S.Ct. 1099 (U.S.Ind.,1978) - Judge will not be deprived of immunity because action he took was in error, was done maliciously, or was in excess of his authority; rather, he will be subject to liability only when he has acted in clear absence of all jurisdiction.

7. **NOTICE IS HEREBY GIVEN** that Defendants, their Counsel, Judge Ruttle, the Kenton County Sheriff's Department and other willing participants and/or cohorts in the criminal and wrongs rendered the Plaintiff knew that Judge(s) were acting without jurisdiction to execute such Order. Plaintiff filed this instant lawsuit prior to any action Defendants may assert they filed in the District Court before Judge Ruttle. Therefore, jurisdiction was only invested in this instant lawsuit and the Kenton County District lawsuit was void and/or null. Defendants, their counsel, Judge Ruttle and others involved in this instant lawsuit and or the proceedings involving the Plaintiff in this State,

knew and/or should have known that the Kenton County District Court lacked jurisdiction. However, failed to deter any such unlawful/illegal and criminal acts of said Judge(s), Defendants, their counsel, the Kenton County Sheriff's Department and any other willing participants and/or cohorts:

JURISDICTIONAL ISSUES

Exclusive Jurisdiction Vested in Another Court.

> 63C Am.Jur2d Prohibition ~43: ***Exclusive Jurisdiction Vested in Another Court*** - A court may be restrained by prohibition from interfering with the exclusive jurisdiction acquired by another court by reason of its being the first court to assume and exercise such jurisdiction in the particular case[2] if both cases are predicated on the same cause of action, between the same parties, and brought in courts of competent jurisdiction of the same state[3]. . . In jurisdictions in which this view prevails, the aggrieved party must raise the defense of former suit pending by an appropriate pleading in the second suit and by an appeal from the decision of the court in that suit, rather than a writ of prohibition.[4]

KENTUCKY LAW:

> *Hawes v. Orr,* 73 **Ky.** 431 (1874) - The **court first acquiring** jurisdiction has a right to go on until it has performed its office in reference to the subject-matter in litigation, and will not allow itself to be ousted of its jurisdiction or permit the thing in litigation to be wrested from it, so that it cannot execute its judgment.
>
> *Akers v. Stephenson,* 469 S.W.2d 704 (Ky.,1970) - Where parties and subject matter are the same, once court of concurrent jurisdiction has begun exercise of jurisdiction over case, its authority to deal with action is exclusive and ***no other court of concurrent jurisdiction may interfere with pending proceedings***.
>
> *Riddle v. Howard,* 357 S.W.2d 705 (Ky.,1962) - When a court of competent jurisdiction acquires jurisdiction of subject matter of a case, its authority and control continue until final disposition, and, as a matter of principle and comity, *another court of concurrent jurisdiction will recognize the prior jurisdiction and* ***will not*** *interfere by taking over the same case*; but to apply

---

[2] *State ex rel. Burtrum v. Smith,* 206 SW2d 558.
[3] *State ex rel. Phillips v. Polcar,* 50 Ohio St2d 279, 4 Ohio Ops 3d 445, 364 NE2d 33
[4] *State ex rel. Dickison v. Court of Common Pleas,* 28 Ohio St2d 179, 57 Ohio Ops 2d 411, 277 NE2d 210.

such rule it is essential that the first action shall afford the parties in the second action an adequate and complete opportunity for the adjudication of their rights.

Delaney v. Alcorn, 193 S.W.2d 404 (Ky.,1946) - Where two actions between the same parties, on the same subject, and to test the same rights, are brought in different courts having concurrent jurisdiction, ***the court which first acquires jurisdiction***, its power being adequate to the administration of complete justice, retains jurisdiction and may dispose of the whole controversy without interference by any court of coordinate power.

OTHER COURTS:

State ex rel. Phillips v. Polcar, 50 Ohio St.2d 279, 364 N.E.2d 33 (Ohio 1977) - (n. 3) As between courts of concurrent jurisdiction, tribunal whose power is first invoked by institution of proper proceedings acquires jurisdiction, to the exclusion of all other tribunals, to adjudicate upon whole issue and to settle rights of the parties.

Buck v. Colbath, 70 U.S. 334 (U.S.Minn.,1865) - The rule that, among courts of concurrent jurisdiction, that one which first obtains jurisdiction of a case has the exclusive right to decide every question arising in the case, is subject to some limitations, and is confined to suits between the same parties or privies seeking the same relief or remedy, and to such questions or propositions as arise ordinarily and properly in the progress of the suit first brought, and does not extend to all matters which may by possibility become involved in it.

8. **NOTICE IS HEREBY GIVEN** that the Plaintiff had a legal and binding Injunction and Restraining Order executed by this Court in the above action as well as an Order to pay her rent into escrow in which she did. Plaintiff was not delinquent in any such rental payments and was complying with the laws of the State of Kentucky as well as those under the Constitution (Kentucky and United States), Civil Rights Act and any and applicable laws governing said matters. Defendants Counsel being provided with a copy of Plaintiff's October rent payment. See **EXHIBIT "I"** attached hereto and incorporated by reference.

9. **NOTICE IS HEREBY GIVEN** the Plaintiff believes the acts of Defendants, their Counsel, Judge(s) and other cohorts is driven by racial prejudices, conspiracies, discrimination, etc. –

in which the evidence will show that those in the position to deter such actions and or condoned such acts were influenced by a **white** *majority*. Plaintiff is African-American.

10. **NOTICE IS HEREBY GIVEN** that the Plaintiff prior to the October 9, 2008, criminal acts of Defendants, their counsel, the Kenton County Sheriff's Department and any/all other will participants and/or cohorts failed to serve and notify the Plaintiff that any such actions were about to take place against her. Thus, deprive the Plaintiff of equal protection of the laws, due process of laws and rights secured/guaranteed under the Kentucky Constitution, United States Constitution and any all applicable laws governing said matters.

11. **NOTICE IS HEREBY GIVEN** that prior to the October 9, 2008, criminal actions rendered against the Plaintiff, she was not served with any papers or required to attend any court hearing regarding the criminal acts the Defendants, their counsel, Kenton County Sheriff's Department and any other cohorts that engaged in the CONSPIRACY to infringe upon the protected rights of Plaintiff.

12. **NOTICE IS HEREBY GIVEN** that as a direct and proximate result of the October 9, 2008, Plaintiff has sustained additional injury/harm.

13. **NOTICE IS HEREBY GIVEN** that the Plaintiff has been heavily prejudiced in this lawsuit and deprived of rights secured and/or guaranteed under the Constitution (Kentucky and United States), Civil Rights Act and other statutes/laws governing said matters which warrants the United States Legislature/Congress' intervention in that this Court is either ignorant and/or attempting to play ignorant in its understanding of the statutes/laws governing the Plaintiff's rights and legal actions.

14. **NOTICE IS HEREBY GIVEN** that the Plaintiff is in receipt of this Court's Order executed on October 1, 2008, in the above referenced matter; however, Plaintiff **will not** waive any such rights secured to her under the United States Constitution, Kentucky Constitution, Civil Rights Act and/or the applicable statutes/laws in responding to said Order in that the laws are clear that she

is not required to do so since this Court clearly lacks jurisdiction in that the Plaintiff has filed a Complaint with the United States Legislature/Congress seeking its intervention as guaranteed to her under the Constitution.

15. **NOTICE IS HEREBY GIVEN** through this instant pleading that this shall serve as *additional* and sufficient notice that those noticed herein are those in the position having power to prevent or aid in preventing the wrongs complained of in this instant lawsuit as well as their knowledge (or should have known) of conspiracy to deprive the Plaintiff rights secured to her under the Constitution (Kentucky and U.S.), Civil Rights Act and other governing statututes/laws; however, neglected or refused to prevent or aid in the preventing of such wrongs pursuant to 42 U.S.C. 1986, which states in part:

> **Every** person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, *and having* ***power*** *to prevent or* ***aid*** *in* ***preventing*** *the commission of the same,* ***neglects*** *or* ***refuses*** *so to do,* if such wrongful act be committed, **shall be liable** *to the party injured,* or his legal representatives, *for all damages caused by such wrongful act*, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; . . .

16. **NOTICE IS HEREBY GIVEN** through this instant pleading that the record evidence in this instant lawsuit supports a conspiracy by parties to deprive the Plaintiff of her Constitutional rights, Civil Rights as well as rights secured to her under the statutes/laws governing this instant lawsuit. Therefore being in violation of Plaintiff's Constitutional (Kentucky and U.S.) as well as 42 U.S.C. § 1985 (Conspiracy to Interfere With Civil Rights) which states in part:

> **(2) Obstructing justice; intimidating party, witness, or juror**
> . . . or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or

class of persons, to the equal protection of the laws;

> **(3) Depriving persons of rights or privileges**
> If two or more persons in any State or Territory conspire . . . for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; . . in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

17. **NOTICE IS HEREBY GIVEN** through this instant pleading that the above referenced persons noticed have been timely, properly and adequately placed on notice that the Plaintiff will seek file the applicable lawsuit in vindication of her rights being violated pursuant to 42 U.S.C. 1988 (Proceedings in Vindication of Civil Rights) which states in part:

> **(a) Applicability of statutory and common law**
> The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of titles 13, 24, and 70 of the Revised Statutes for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty.

18. **NOTICE IS HEREBY GIVEN** that the record evidence in this instant lawsuit will support that this Court has been placed on notice that the Plaintiff has filed an Official Complaint

with the United States Legislature/Congress; therefore, this Court lacks any jurisdiction to continue to act until the U.S. Legislature/Congress has rendered its findings and/or conclusions:

> *Clark v. Board of Ed. of Shelbyville, Ky.*, 350 F.Supp. 149 (E.D.Ky.,1972) - Courts **may not** *invade the domain of the legislature*; **where a plaintiff is asking for legislative relief or relief** which would encroach on the legislative process the courts *are* ***without*** power to act.
>
> *Avey Drilling Mach. Co. v. Lukowsky*, 261 S.W.2d 432 (Ky.,1953) - Court **has no** *constitutional authority* to sit in judgment on proposed legislation, when legislative body is proceeding within scope of its governmental or corporate power, as no justiciable question arises until after enactment or passage of such ordinance or resolution.
>
> *State of Ohio ex rel. Erkenbrecher v. Cox*, 257 F. 334 (S.D.Ohio.W.Div.,1919) - The judicial department of the government **cannot** interfere with the proceedings of either the executive department or the legislative department with respect to matters committed by the Constitution to their charge.
>
> *Berry v. American Express Pub., Corp.*, 381 F.Supp. 2d 1118 (2005) – Where source of legal authority is statutory and not constitutional, Congress retains ability to create and direct law, so long as it is consistent with constitutional principles, and it is particularly important for court to follow that directive.
>
> *Nixon v. Administrator of General Services*, 408 F.Supp. 321 (1976) – Congressional power to investigate, although limited to areas in which Congress possesses legislative authority, is both broad and integral to the legislative process.
>
> *McGrain v. Daugherty*, 47 S.Ct. 319 (U.S. Ohio 1927) – Congress may inquire into private affairs and compel disclosures only in so far as to make express powers effective.
>
> *Marcello v. U.S.*, 196 F.2d 437 (1952) – A congressional inquiry may be as broad as the legislative purpose requires.
>
> *Taylor v. Com. Ex rel. Dummit*, 202 S.W.2d 992 (Ky. 1947) – The Legislature may enact any statute it deems necessary for the public interest, unless prohibited by constitutional provisions and in exercise of that authority may frame its enactments and express its intention and purpose as it sees proper.

19. Judge Gregory M. Bartlett in his October 1, 2008 Order clearly states, "On August 18, 2008, the Plaintiff filed a written Response to the Motion to Dismiss. In that Response, she objected to the hearing and stated that she had filed an official complaint with the United States Congress. Moreover, the Plaintiff stated in her Response that she would not be attending the Motion Docket on August 18, 2008."

Clearly the actions of Judge Bartlett is unconstitutional and clearly infringes upon the Plaintiff's Constitutional and Civil Rights. Moreover, encroaches on the legislative powers of the United States Legislature/Congress which is clearly prohibited under the laws of Kentucky and/or applicable statutes/laws governing said matters:

> *Manning v. Sims,* 213 S.W.2d 577 (Ky.,1948) - The sharp separation of powers of government ***must*** *be* *preserved* carefully by the courts, and judicial powers ***must*** ***not*** **be** ***permitted*** to ***encroach*** upon *legislative powers*. Const. § 27.
>
> *Sidell v. Hill,* 357 S.W.2d 318 (Ky.,1962) - *Judicial* ***encroachment*** upon other branches of government *is* ***unconstitutional***.
>
> *Sullivan v. Brawner,* 36 S.W.2d 364 (Ky.,1931) - Court ***may*** ***not*** assume legislative function.

Neither does Judge Bartlett has the jurisdictional powers to overstep, oversee or continue to move this case forward because he is not happy and/or patient to await the rulings/findings of the United States Legislature/Congress in his efforts to help his friend and colleague who represent the Defendants in this instant lawsuit. His actions to clearly ignore and deprive the Plaintiff rights secured under the Constitution and Civil Rights Act is clearly prohibited by statutes/laws. Judge Bartlett lacks the power to control and usurp authority over the United States Legislature/Congress' handling of this matter because he is not satisfied with the pace at which it is going. He is clearly out of line and clearly in violation of judicial powers afforded him under the Constitution of the State of Kentucky as well as the United States Constitution.

> *Smith v. Southern Bell Tel. & Tel. Co.,* 104 S.W.2d 961 (Ky.,1937) - Courts **cannot** compel or control exercise of legislative functions

within constitutional limits.

> *Doe v. McMillan,* 93 S.Ct. 2018 (U.S.D.C.,1973) - *A court **has no** authority to oversee judgment of a congressional committee* in regard to what matter to include in reports prepared within the legislative sphere or to impose liability on its members if the court disagrees with their legislative judgment. U.S.C.A.Const. art. 1, § 6, cl. 1.
>
> *Conrad v. Lexington-Fayette Urban County Government,* 659 S.W.2d 190 (Ky.,1983) - Legislative action of any governing body is subject to very limited judicial review.

20. Judge Bartlett's haste may also be contributed to his knowledge that the United States Legislature/Congress will not knowingly permit the unconstitutional and civil rights violations rendered the Plaintiff:

> *Raney v. Stovall,* 361 S.W.2d 518 (Ky.,1962) - That legislature may make wrong decision is no reason for invasion by judiciary of exclusive domain of legislature; and court must assume that *Senate* **will *not* knowingly** *permit violations of constitutional provisions*.
>
> *Rivers v. Roadway Exp., Inc.,* 114 S.Ct. 1510 (U.S. Ohio 1994) – Congress has the power to amend the statute it believes the Supreme Court has misconstrued and may, within broad constitutional bounds, make that change retroactive and thereby under perceived undesirable past consequences of misinterpretation of its work product, but such change must be implemented through legislation to have force of law.

Thus, any actions by Judge Bartlett to usurp authority and speed the process along and take control of this lawsuit by continuing to enter sham/frivolous Orders in which he is aware he lacks jurisdiction and in further efforts of depriving the Plaintiff justice as well as the applicable investigations in which she seeks is clearly erroneous, unconstitutional and in violation of Plaintiff's Constitutional and Civil Rights guaranteed her.

> *Smith v. Southern Bell Tel. & Tel. Co.*, 104 S.W.2d 961 (Ky.,1937) - Courts **cannot** compel or control exercise of legislative functions within constitutional limits.

21. Neither this Court nor the Defendants in this instant lawsuit has been prejudiced by the Plaintiff's pursuit of justice and exercise of her rights under the Constitution to have the United

States Legislature/Congress intervene in this lawsuit and neither does Judge Bartlett or the Defendants to this lawsuit has asserted and/or provided any facts, evidence or legal conclusions to sustain that they would be prejudice by the United States Legislature/Congress' intervention in this matter. Moreover, neither Judge Bartlett or the Defendants in this instant lawsuit contest the fact that Plaintiff is entitled to seek the relief she has sought with the United States Legislature/Congress.

> *Manning v. Sims,* 213 S.W.2d 577 (Ky.,1948) - The sharp separation of powers of government must be preserved carefully by the courts, and *judicial powers* ***must not*** *be permitted to* ***encroach*** *upon legislative powers*. Const. § 27.
>
> *Dalton v. State Property and Buildings Commission,* 304 S.W.2d 342 (Ky.,1957) - State constitution is not a grant of power but is a limitation on legislative power, and such department of government possesses and may exercise within constitutional limits all legislative powers as it sees fit and may enact any law not expressly or impliedly prohibited by the state or federal constitutions.

22. This Court has exceeded its jurisdiction, is acting without jurisdiction over this matter and may not assume the legislative function in this matter over the United States Legislature/Congress:

> *Sullivan v. Brawner,* 36 S.W.2d 364 (Ky.,1931) - Court ***may not*** assume legislative function.
>
> *Raney v. Stovall,* 361 S.W.2d 518 (Ky.,1962) - That legislature may make wrong decision is no reason for invasion by judiciary of exclusive domain of legislature; and court must assume that *Senate* ***will not knowingly permit*** *violations* ***of constitutional*** *provisions.*

23. **NOTICE IS HEREBY GIVEN** that the proper pleading requesting the recusal of Judge Bartlett is presently pending before this Court; moreover, the Kentucky Court of Appeal issued the proper ruling to support that a ruling by this Court on Plaintiff's pending motions is warranted. Timely appeals were brought and the applicable pleadings filed; to no avail. Therefore, due to Judge Bartlett's ignorance and/or defiance of the laws, the Plaintiff has moved the United States Legislature/Congress for intervention as afforded to her under the Constitution and/or governing

statutes/laws. *Plaintiff need not reargue the Kentucky Court of Appeals' ruling because any intelligent person and/or lawmaking/legislative body will be able to conclude that she is entitled to the findings/facts/evidence/conclusions* sought through her **pending** motions. Moreover, that Plaintiff is not required to waive any protected rights she has entertain the "*kangaroo*" hearings Defendants, Defendants' counsel and Judge Bartlett has attempted to get her to appear before in efforts of getting her to waive rights secured/guaranteed under the Kentucky Constitution as well as the United States Constitution and Civil Rights Act.

> *Dean v. Bondurant,* 2005-SC-000872-D , SUPREME COURT OF KENTUCKY, 193 S.W.3d 744; 2006 Ky. LEXIS 163, June 7, 2006 - An attorney's contribution to a judge's campaign was not alone a basis for judicial recusal, but state supreme court justice recused himself; he received numerous contributions from attorneys in firm that was a party, contributions in aggregate were not minimal, and his impartiality could be reasonably questioned under Ky. Sup. Ct. R. 3.130, 4.300.

24. Neither this Court nor the Defendants to this action would be prejudice by the United States Legislature/Congress' intervention and initiating an investigation to determine whether or not Plaintiff's Constitutional and Civil Rights have been violated; moreover, whether there have been criminal and civil wrongs rendered the Plaintiff in the handling of matters before this Court which infringes upon the protected rights of Plaintiff.

25. With no disrespect to this Court, a reasonable mind may conclude from Judge Bartlett's actions that he is using the judicial process to enhance is personal ego, insecurities and inadequacies and suffers from the "god complex" that so many judges fall victim to in placing themselves above the laws of this State of Kentucky and the United States.

26. This actions of this instant Court and/or Judge Bartlett is an embarrassment and a disgrace to the legal/judicial profession and clearly such unconstitutional actions by said Court does not only impact the Plaintiff, but the public at large because such uncensored actions by Judge

Bartlett clearly sends the message that he can infringe upon and/or make a mockery of the Constitution and Civil Rights that the public relies upon.

> In *Hargis v. Parker,* Ky., 85 S.W. 704 (1905), a case decided only fourteen years after the adoption of Section 110 of the 1891 Constitution, our predecessor court wrote:
>
> *If it be true that the . . . court* ***is proceeding without jurisdiction****, it is not substantial justice that it should be allowed. . . as it might do at its discretion, subject the parties* ***to enormous expense*** *in defending the case, even if it went no further than a trial of the question of jurisdiction, and say to them, "Your remedy is solely by appeal if you have been wronged." We think [Section 110] of the Constitution, though it be deemed only declaratory of the common law on the subject, confers the power and jurisdiction on this court to intervene by the writ of prohibition to stay the inferior courts of the state from proceeding out of their jurisdiction.* ***It may issue whether or not there is an appeal.***

27. **NOTICE IS HEREBY GIVEN** that Judge Bartlett continues to commit both civil and criminal wrongs in the handling of the above referenced matter (i.e. a) acting beyond jurisdiction; b) abuse of authority/power; and c) his conduct is actuated by malice, corrupt, illegal, unethical motives, etc.). Therefore, any such defense that would frivolously assert under "immunity" is null and/or void. The record evidence in this instant action will sustain the actions of Judge Bartlett has opened this Court, the State of Kentucky, County of Kenton and others to liability.

> *Bryant v. Crossland,* 182 Ky. 556, 1918 Ky. LEXIS 403 - **HN3** - . . . This principle, however, **does not** extend to make a judicial officer immune from damages for **illegal** acts, *which result in injuries* to others or **deprive them of their legal rights**, when his acts are without the scope and limits of his jurisdiction. It follows that if his illegal acts are without the scope and limits of his jurisdiction, **he is liable**, if damages result to others from such acts, whether he is **actuated** by **malice, corrupt** and impure **motives** or not. In the last state of case, the fact that his **motives** are impure and bad are considered, only, as aggravating the damages. When the judge acts illegally, without the limits of his jurisdiction, he becomes a trespasser, and is liable in damages as such. Also see, *Cox v. Perkins,* 299 Ky. 470, 1945 Ky. LEXIS 449 at **HN4**; *King v. Cawood,* 223 Ky. 291, 1928 Ky. LEXIS 317 at **HN1**.

Liability of Judges:

Pepper v. Mayes, 81 Ky. 673, 1884 Ky. LEXIS 29 – HN 2: Where a judicial officer has **jurisdiction of the person** and of the **subject-matter** he is **exempt** from suit by a **private individuals** for damages *so long as he acts within his jurisdiction* and in a **judicial capacity. HN3** - Whenever the State of Kentucky **confers** judicial powers upon an individual, it **confers** them with full **immunity** from private suits. In effect, the State says to the officer that these duties are **confided** to his judgment; that he is to exercise his judgment fully, **freely,** and without favor, and he may exercise it without fear; that the duties concern individuals, but they concern more especially the welfare of the State and the peace and **happiness** of society; that ***if he shall fail*** in a **faithful discharge** of *them* ***he shall be called to account as a criminal***. . . Also see *McBurnie v. Sullivan,* 152 Ky. 686, 1913 Ky. LEXIS 698 at **HN4**.

McBurnie v. Sullivan, 152 Ky. 686, 1913 Ky. LEXIS 698 at **HN5:** There are *two* distinct classes of cases to which the principle of judicial protection does not apply: **First**, where a person having special or limited judicial authority ***does any act beyond*** the scope of his authority. **Second**, where, although acting within the limits of his jurisdiction, ***he is actuated by malice or corrupt motives***. The rule not only applies to the highest judge in the state or nation, but it also applies to the lowest officer who sits as a court and tries petty causes, and **it applies** not in respect to their judgments merely, but ***to all processes awarded by them for carrying their judgments into effect***.

Ayars v. Cox, 73 Ky. 201, 1874 Ky. LEXIS 30 -**HN4** - . . .There are two distinct classes of cases to which that principle of judicial protection does not apply: first, where a person having a special or limited **judicial authority** does any act beyond the scope of his authority; and secondly, where, although acting within the limits of his jurisdiction, he is **actuated** by malicious or **corrupt motives.** In either case the judge or magistrate renders himself liable as a trespasser to the party injured. Also see, *Revill v. Pettit,* 60 Ky. 314, 1860 Ky. LEXIS 82 at **HN6**.

Henry v. Commonwealth, 126 Ky. 357, 1907 Ky. LEXIS 52 - **HN9** - A judicial officer, from the highest to the **lowest** grade, . . .an officer exercising . . . power is not punishable for any honest mistake of judgment in the exercise of that power, but only for an abuse of his power in proceeding from a **corrupt** or other improper **motive.**

> *Stephens v. Wilson*, 115 Ky. 27, 1903 Ky. LEXIS 67 - **HN5** - If an officer executes a warrant of arrest, invalid on its face, he is liable in damages for false imprisonment. Where, therefore, it appears on the face of the process that the magistrate issuing it has not **jurisdiction of the person** of the plaintiff or the **subject-matter** of the suit, the officer executing it is a trespasser, and is liable in action for damage for false imprisonment. It has been said, indeed, that an officer is bound, or will be presumed, to know the jurisdiction of the court, whose officer he is, and that, if he acts in obedience to a precept which the court has no jurisdiction to issue, he will not be protected in false imprisonment. **HN6** - Where an inferior court has no jurisdiction of the **subject-matter,** or, having it, has not **jurisdiction of the person** of the defendant, all its proceedings are absolutely void. Neither the members of the court nor the plaintiff (if he procured or assented to the proceedings) can derive any protection from them, when prosecuted by a party aggrieved thereby. If a mere ministerial officer executes any process, upon the face of which it appears that the court which issued it had not jurisdiction of the **subject-matter,** or of the person against whom it is directed, such process will afford him no protection for acts done under it.

28. The record evidence will sustain that neither the October 1, 2008 Order of this Court nor the Defendants Motion(s)/Pleadings filed in this instant lawsuit can be sustain by evidence, facts or legal conclusions to support the relief sought and/or granted. The record is silence as to the evidence, facts and legal conclusions relied upon by this Court and Defendants. Moreover, clearly fails to rebut the evidence, facts and legal conclusions presented by the Plaintiff. The record evidence will support and sustain that the Plaintiff timely, properly and adequately filed objections to Defendants' Motion to Amend Answer and to Compel her Deposition. See **EXHIBIT "II"** – Plaintiff's Response/Objection to Defendants' Motion to Amend Answer and to Compel Plaintiff's Deposition - attached hereto and incorporated by reference as if set forth in full herein.

29. The record evidence will sustain that Plaintiff timely, properly and adequately presented rebuttal pleadings to those of Defendants in which she sought to preserve her rights secured under the Constitution (Kentucky and United States) and the Civil Rights Act. Moreover, said rebuttal pleadings provided sufficient arguments and issues to sustain her argument and/or defense to the Defendants' pleadings and/or this Court's rulings and/or handling of this matter. For

instance see **EXHIBIT "III"** – Plaintiff's Response to Defendants' Amended Notice of Motion for Dismissal for Failure to Comply With Order of Court ("PRDANOMFD")– attached hereto and incorporated by reference as if set forth in full herein. Said pleading which clearly provided rulings form the Supreme Court of Kentucky clearly showing that "FINAL JUDGMENT" (at Exhibit A of PRDANOMFD) by this Court is required; as well as the Kentucky Court of Appeals acknowledging that "Neither order finally adjudicated any rights of the parties and we are of the opinion that it is immaterial that the order would also address appellant's motion for findings pursuant to CR 52. . . ." (at Exhibit B of PRDANOMFD). On **June 5, 2007**, Plaintiff took the time to file a timely Request for Entry of Final Judgment With Findings of the Court (see at Exhibit C of PRDANOMFD). To no avail. To date – **WELL OVER A YEAR** and Judge Bartlett has done nothing but allow the Defendants and their counsel, in whom he is good friends and a former colleague of his, continue to file pleadings in violation of Rule 11 and the Code of Professional Conduct, etc. governing attorneys for the purposes of subjecting the Plaintiff to harassment, annoyance, oppression, delay, hindering proceedings, obstructing the administration of justice, deprivation of Civil and Constitutional Rights, needless increase in the costs of litigation, etc.

30. **NOTICE IS HEREBY GIVEN** that the record evidence will support that the Plaintiff filed a timely, proper and adequate pleading, notifying this Court of her right to a jury trial on the issues. However, this Court has deprive the Plaintiff of this Constitutional Right as well. A right secured under the Kentucky Constitution as well as the United States Constitution.

31. A reasonable mind given the facts, evidence and legal conclusions provided herein as well as in Plaintiff's pleadings filed in this instant lawsuit, may conclude that she would suffer irreparable injury/harm had she not sought the intervention of the United States Legislature/Congress. Moreover, the Plaintiff believes that an investigation into this matter will yield criminal and civil violations on behalf of all of the Defendants, their counsel and others (such as

Judge Bartlett) to support conspiracy leveled against the Plaintiff to deprive her rights secured under the Constitution as well as the Civil Rights Act.

> *Hodge v. Coleman,* 244 S.W.3d 102 (Ky. 2008) – (n. 7) – A court may grant a writ of mandamus without showing of irreparable harm, provided a substantial miscarriage of justice will result if the lower court is proceeding erroneously, and correction of the error is necessary and appropriate in the interest of orderly judicial administration; it may be observed that in such a situation the court is recognizing that if it fails to act the administration of justice generally will suffer the great and irreparable injury.

32. **NOTICE IS HEREBY GIVEN** that the Plaintiff is protected under the statutes/laws governing deposition/discovery when the evidence, facts and legal conclusions presented sustains that such demand made by party seeking deposition is made in bad faith, malicious, oppressive, etc. Plaintiff had a duty to protect her well being and not subject herself to addition malicious activities and/or criminal and civil wrongs the Defendants had initiated against her, and thus has acted in her best interest sought to protect herself from any additional injury/harm the Defendants and their counsel were seeking:

> *Pendleton Bros. Vending, Inc. v. Commonwealth Finance & Admin. C...*, **758 S.W.2d 24 -HN 6:** The deposition discovery rules are to be accorded broad and liberal treatment. The limitations on fishing expeditions relate only to discovery being conducted in **bad faith** or in such a manner to needlessly annoy, embarrass, or oppress the person subject to the inquiry. The limitations are those defined by relevancy, privilege, and similar legal considerations, and not by any requirement that a party must be prepared to prove his case at the time when he files suit. The limitations on filing suit are those imposed upon an attorney by Fed. R. Civ. P. 11 which requires a belief formed after reasonable inquiry that the pleading is well-grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law. A summary judgment is only proper after a party has been given ample opportunity to complete discovery, and then fails to offer controverting evidence.

> *Volvo Car Corp. v. Hopkins*, 860 S.W.2d 777, 1993 Ky. LEXIS 109 - HN3 - A protective order against **discovery** is appropriate only upon proof that it is being conducted in **bad faith** or in such manner to **annoy, embarrass,** or **oppress** the person subject to the inquiry.

Leasor v. Redmon, 734 S.W.2d 462, 1987 Ky. LEXIS 228 - **HN2** - The duty of a lawyer, both to his client and to the legal system, is to represent his client zealously within the bounds of the law, which includes disciplinary rules and enforceable professional regulations. The advocate may urge any permissible construction of the law favorable to his client, without regard to his professional opinion as to the likelihood that the construction will ultimately prevail. His conduct is within the bounds of the law, and therefore permissible, if the position taken is supported by the law or is supportable by a **good faith** argument for an extension, **modification,** or **reversal** of the law. ***However, a lawyer is not justified in asserting a position in litigation that is frivolous***.

33. **NOTICE IS HEREBY GIVEN** that she will seek at least:

a) **$15,000.00 per day for the time she is deprived her residence** *(and/or an amount permissible by statutes laws)* in damages of and against Judge Ruttle, Judge Bartlett and/or Judges/Justices aware of the criminal and civil wrongs being rendered Plaintiff for each day she is denied access to her residence located at 128 East 5th Street – Apartment 5, Covington, Kentucky 41011, in that she has a right as a matter of laws/statutes and the Constitution (Kentucky and United States) and the Civil Rights Act to reside there and/or a place of her choice free of unlawful/illegal, discriminatory, criminal, etc. actions as that taken against her;

b) **$20,000.00 per day for the time she is deprived her residence** *(and/or an amount permissible by statutes laws)* in damages of and against the City of Covington, County of Kenton and/or the State of Kentucky and/or its representatives aware of the criminal and civil wrongs being rendered Plaintiff for each day she is denied access to her residence located at 128 East 5th Street – Apartment 5, Covington, Kentucky 41011, in that she has a right as a matter of laws/statutes and the Constitution (Kentucky and United States) and the Civil Rights Act to reside there and/or a place of her choice free of unlawful/illegal, discriminatory, criminal, etc. actions as that taken against her;

c) **$50,000.00 per day for the time she is deprived her residence** *(and/or an amount permissible by statutes laws)* in damages of and against the Defendants, their counsel and/or their representatives aware of the criminal and civil wrongs being rendered Plaintiff for each day she is denied access to her residence located at 128 East 5th Street – Apartment 5, Covington, Kentucky 41011, in that she has a right as a matter of laws/statutes and the Constitution (Kentucky and United States) and the Civil Rights Act to reside there and/or a place of her choice free of unlawful/illegal, discriminatory, criminal, etc. actions as that taken against her;

d) Plaintiff will be seeking punitive damages in excess of **$1,000,000.00**; injunctive relief, **return of her residence** and the rights secured under the Fair Housing Act (*to live where she chooses and not be threatened, harassed, coerced, unlawfully removed/evicted*) and/or other governing laws, equitable relief and any/all other relief permissible by laws. Said relief will be sought of and against persons/parties liable for the criminal and civil wrongs complained of herein. The statutes/laws are clear that the statute of limitation begins to run upon the commission of **each** *overt act.*

WHEREFORE, PREMISES CONSIDERED, the Plaintiff will seek any and all applicable relief (monetary against the applicable parties which the laws allow) as well as nonmonetary (injunctive relief, etc.) to correct the wrongs and injustices rendered her.

Respectfully submitted this **10th** day of **October, 2008**.

DENISE NEWSOME
Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

CERTIFICATE OF SERVICE[5]

The undersigned hereby certifies that a true and correct copy of the forgoing pleading was mailed via U.S. Mail first-class mail on:

Honorable Gregory M. Bartlett
Vice-Chief Regional Circuit Judge and
Kenton County Circuit Court (in individual and official capacity)
230 Madison Avenue, Suite 701
Covington, Kentucky 41011

Honorable John D. Minton Jr. (Chief Justice) and
Kentucky Supreme Court (in individual capacity and official capacity)
700 Capitol Avenue – Room 235
Frankfort, Kentucky 40601

Honorably Jack Conway
Office of the Attorney General on behalf of the
State of Kentucky (in his individual and official capacity)
700 Capitol Avenue, Suite 118
Frankfort, Kentucky 40601

James M. West, Esq.
Martin & West, PLLC
157 Barnwood Drive, Suite 201
Edgewood, Kentucky 41017
COUNSEL FOR DEFENDANTS AND ON BEHALF
OF THOSE REPRESENTING DEFENDANTS IN THIS LAWSUIT

Dated this **10th** day of **October, 2008**.

Denise Newsome
DENISE NEWSOME

[5] Courtesy copies to the United States Congress/Legislature.

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

DENISE NEWSOME

FACSIMILE

To:	**Representative Geoff Davis (202) 225-0003**	**From:**	Denise Newsome
		Pages:	50 (including blank cover page)
Re:	***Criminal Actions of October 9, 2008, and Complaint Submitted For Filing With The FBI***	**Date:**	10/21/08

☑ **Urgent** ☑ **For Review** ☐ **Please Comment** ☑ **Please Reply** ☐ **Please Recycle**

URGENT – URGENT – URGENT
RESPONSE REQUESTED

Congressman Davis:

In follow up to my telephone conversation with Ryan (sp?) in your office, the following is pertinent information I believe you need to know regarding what is taking place under your watch:

1. There is a legal and binding Injunction and Restraining Order pending in the Civil Action I filed against the Landlords, their representatives, etc. pending in the Kenton County Circuit Court; Civil Action No. 06-CI-03270. This is for my residence located at :

   128 East 5th Street – Apartment 5
   Covington, Kentucky 41011

2. There is a legal and binding Order instructing me to pay monies into escrow which I have been doing and will continue to do in that this matter is still pending as a matter of law. The October Rent was received and Receipt issued to support payment. I will be paying the November 2008 rent into escrow. While I may not be there, as a matter of law, I am entitled to the residence that was unlawfully/illegally seized. Therefore, in keeping with this Order, I will be paying the November 2008 rent into escrow until my civil lawsuit is resolved.

3. A **CRIMINAL** COMPLAINT has been filed with the FBI Louisville, Kentucky Office. Copy is attached for your record. **(Document No. 1)**.

4. Judge Ruttle **lacked** jurisdiction to execute the *Eviction Notice: Warrant for Possession* used to commit the criminal/civil wrongs rendered me on October 9, 2008. Said Warrant for Possession is **NULL** and **VOID** and as a matter of law, cannot be enforced and/or acted upon. Those committing the crime was fully aware of this; however, elected to break the laws anyhow. There was **no prior** Notice to me notifying of the intent take my apartment prior to the October 9, 2008, invasion, etc. (in violation of my Constitutional Rights, Civil Rights, Fair Housing Act, etc.) I was contacted at me place of employment **after** the crime had been committed. **IMPORTANT TO NOTE:** Look at the copy of the Warrant for Possession attached. I obtained a copy from the Sheriff's Department and clearly on the back of the document filed with the Sheriff's Office, the Deputy notes his knowledge of the pending Injunction & Restraining Order in place. **(Document No. 2)**.

5. Kentucky was listed as **No. 3** as one of the most corrupt states as it relates to public officials. One can see after the October 9, 2008 incident, why it ranked so high on this list. **(Document No. 3** attached).

6. That one of the Landlords' attorney, James West, worked with Judge Bartlett before Bartlett took the bench. Bartlett is the Judge assigned my civil lawsuit. The proper pleadings have been filed seeking his recusal; however, he continues to sit as well as **ignore** instructions by the Kentucky Court of Appeals

EXHIBIT 125

which requires him to enter final judgment on pleadings pending before him – pleadings requiring him to produce findings based on facts, evidence and legal conclusions relied upon, as requested through timely pleadings demanding such. To date pleadings are still pending.

7. Due to the Constitutional and Civil Rights violations, a formal Complaint was submitted to the United States Legislature/United States Congress in July 2008, with the original going to Senator Leahy (as Chair of the Judiciary Committee in the Senate), Congressman John Conyers (as Chair of the Judiciary of the House) and others. From my conversation today, this matter is still pending. I sought to bring the action to the United States Legislature/Congress upon my conversation with an attorney with one of the top civil rights organizations in this country in that there were concerns of conspiracies and repeat infringement upon my rights. CLEARLY THE STATE COURTS ARE **WITHOUT** JURISDICTION TO ACT NOW THAT THE U.S. LEGISLATURE/CONGRESS HAS BEEN REQUESTED TO INTERVENE. No, those crooks thought they were running things, however, to their disappointment, as a party to the action, I had the right to seek intervention and clearly took the ball out of their court **WAY/PRIOR** to the October 9, 2008 criminal acts.

8. I have contacted the NAACP and others and requesting exposure of the criminal actions rendered me and knowledge of public officials engaging in such criminal actions. I am pushing to bring public exposure to these practices in that I believe they have gone on way too long against African-Americans and/or people of color while those in positions to stop such criminal/civil wrongs do nothing.

9. I cannot see that much of a difference to what O.J. Simpson did and the incident on October 9, 2008, when my residence was unlawfully, illegally seized by force (**I'm sure guns/weapons were brought**). *Who knows what might have happened to my life had I been home. It is obvious they meant to do bodily injury/harm. Definitely a **HATE** CRIME.* Moreover, they knew they had no legal authority to seize my property or residence. Not only that, my property was stolen and then dumped on the street – thieves leaving some of the items they could not get away with. I am CONFIDENT an investigation will find that the methods in which they went about unlawfully/illegally seizing my residence (failing to notify, failing to follow legal requirements/procedures), they knew that they were committing criminal acts. *No their just going to come in and take what they want and think that there wouldn't be any legal ramifications* – Clear violations under the Fair Housing Act, Constitution, Civil Rights and other governing statutes/laws. *From my understanding and feedback received, Mr. Bridges (one of the attorneys for Landlords) has been committing such criminal/civil wrongs for **quite a long** time. Now his criminal acts has run its course and prison is where he and those who engaged in criminal acts belong.*

10. Property/Possessions that could be salvaged has been stored pending the **criminal** charges I have filed as well as **civil** lawsuit I am looking to file against the perpetrators of such criminal/civil wrongs. I will be seeking the entire amount of monies that is supposed to be in escrow that Judge Ruttle appears to have ordered be given to the Landlords. Again an Order which is NULL/VOID in that Judge Ruttle had no jurisdiction and/or authority to do so. Any taking and issuing of monies in escrow based on an Order entered by her would be in furtherance of the criminal acts she has engaged in; moreover, acts to willfully, maliciously, etc. commit fraud upon the Court through such deceptive practices – obstruction of justice, conspiracy, etc.

I am ***demanding*** justice, arrests of the criminals (Landlords, their attorneys, judges, etc.) involved, the return of my residence **IMMEDIATELY** – I will work with the NAACP and others who are sharing an interest in getting my keys and my safety. However, I have filed timely and legal charges for this crime and **DEMAND IMMEDIATE** prosecution thereof. The criminals need to be arrested and given their day in court; however, they should not be allowed to continue to walk the street believing and/or thinking they are above the law.

Should you have any questions, I can be reached at (513) 680-2922 as well as the above mailing address.

Sincerely,

Denise Hensome

FACSIMILE

TO: Gailen W. Bridges, Esq. **(859) 431-3463**

CC: GMM Properties/Owners **(859) 341-6115**

FROM: Denise Newsome

RE: **GOOD FAITH REQUEST** – ***For The Withdrawal of Complaint Your Clients' Complaint Filed in the District Court of Kenton County, Kentucky***: MARTIN, GARY ET AL VS NEWSOME, DENISE ET AL; Case No. 06-C-05059

DATE: December 6, 2006

Dear Mr. Bridges:

I am in receipt of the Complaint (Case No. 06-C-5059) you have filed in the District Court of Kenton County, Kentucky on behalf of your clients, Gary & Bernice Martin and Dennis & Betty Donnellan d/b/a GMM Properties.

At this time, I am in *good faith* requesting that you file the applicable Motion to Withdraw the Complaint you have filed on behalf of your clients *before* **2:00 p.m.** on **Thursday, December 7, 2006.** If you have not done so by this time (I will call the District Court to determine whether or not this has been done), I will move the District Court through my Motion to Dismiss to do so.

At the time of your filing your clients' Complaint, there was an action already pending in the Circuit Court of Kenton County, Kentucky (Case No. 06-CI-03270) in which a *Notice-Motion for Order to Deposit Money* and the supporting applicable *Memorandum of Points and Authorities* was also filed, which address the issue regarding any rent money your clients may assert is owed them. The relief sought in my Complaint exceeds the jurisdictional limits of the District Court of Kenton County, Kentucky – as you and your clients very well know in that you and your clients were in receipt and/or should have been in receipt of the Complaint that I submitted to the attention of Gary Martin. Moreover, you and your clients were put on notice of my moving forward in filing a Complaint against them.

Therefore, even to file a counter-complaint (which I should not be required to waste the time in doing since my Complaint was filed before your clients' – however, will do so if you refuse to withdraw your clients' Complaint), the District Court would have to dismiss your clients' action because the relief sought through my Complaint in Circuit Court exceeds the jurisdictional limits of the District Court. Through my Motion to Dismiss, if required to file, the Court will require that a consolidation with the Circuit Court be granted (if permissible). By now your client(s) should be in receipt of the *Complaint*, *Notice-Motion for Order to Deposit Money* and the *Memorandum of Points and Authorities* that I filed on **Monday, December 4, 2006**, at approximately **3:41 p.m.** As your clients and you are probably aware by now, that the issue regarding rent payment (nonpayment of rent), is

EXHIBIT 126

pending before the Circuit Court. Again, further supporting the need for you to withdraw your clients' Complaint.

Please file the applicable pleading to withdraw your clients' Complaint ***immediately***. Otherwise, I will notify the District Court of my pending Complaint in Civil Court that was pending before the filing of your clients' Complaint. Please keep in mind that your clients will have **20 days** to answer the Complaint I have filed. Moreover, ***NOTIFICATION*** *has been served with the Summons to aid them in how their responsive pleading to the Complaint is to be prepared unless they waive such right.* If I believe the responsive pleadings are frivolous and presented to hinder, obstruct and delay justice in this matter, I will seek/move for sanctions against *both* you and your clients. Your clients are also required to file a responsive pleading to my *Motion for Order to Deposit Money* unless they elect to waive such right.

I will check with the District Court on tomorrow about 2:00 p.m. to determine whether you have filed the applicable pleading to withdraw your clients' Complaint. If not, I will file the applicable Motion to Dismiss on **Friday, December 8, 2006**, or **Monday, December 11, 2006.**

While I saw the man claiming to be Gary Martin on Monday, December 4, 2006, on my way to the Courthouse to file my Complaint and other pleadings, I gathered from the time of the filing of your clients' Complaint, he must have rushed to your office after seeing me heading to the Court to tell you of such. Then you all decided to make a *mad dash* to the Court to try and beat me in filing a Complaint. However, failed in your attempt.

PLEASE TAKE NOTICE, that if the applicable pleading is not filed by you or your clients in the District Court of Kenton County, Kentucky withdrawing their Complaint by tomorrow at 2:00 p.m., I will through the applicable pleading request a dismissal of their action and request that the District Court **sanction** *both* you and your clients for the such actions in that you and your clients knew that their Complaint was frivolous and *that you and your clients were in possession of applicable information to make a fair and informed decision (based on evidence in your possession) as to whether or not legal action should have been filed against me*. Moreover, I will provide the applicable documentation to support you and your clients' effort to beat me to the Court and file a Complaint. The date/time stamp – **P 3:51** - on the Complaint filed by you on behalf of your clients and the date/time stamp provided on my payment receipt – **3:41 PM** - I believe will support this. See copies of your clients' date/time stamp (which I circled on the copy) and the date/time stamp on my payment receipt for the filing of my Complaint (which I have circled on the copy). In a race, timing is important. You and your clients lost out in beating me in filing by approximately 10 minutes – I had been to the Court and out about the time you and/or your client(s) made it.

Furthermore, there is no excuse for the conduct that you have exhibited in trying to get your clients' Complaint filed and other conduct that you have displayed in the handling of this matter. You are supposed to be an attorney and practicing under the Code of Ethics; however, I find that you actions in the handling of this matter are truly an embarrassment to the legal profession. While you are entitled to represent you client, under the Code of Ethics your decisions are supposed to be in good faith, not to impede, delay and/or obstruct the administration of justice by filing such frivolous Complaint or serving frivolous letter notifying of eviction wherein you knew and/or should have known had no legal basis to support issuance and/or filing.

TO:	Gailen W. Bridges, Esq. **(859) 431-3463**
CC:	GMM Properties/Owners **(859) 341-6115**
FROM:	Denise Newsome
RE:	**GOOD FAITH REQUEST** – ***For The Withdrawal of Complaint Your Clients' Complaint Filed in the District Court of Kenton County, Kentucky***
DATE:	December 6, 2006

I trust that you will allow wisdom (if you have that) to prevail and that you will withdraw your clients' Complaint ***immediately***.

A copy of this correspondence will be provided with my Motion to Dismiss (if required to file) of your clients' Complaint. *Please keep in mind that I will be seeking sanctions against your and your clients as well as attorney fees at approximately **$115.00** hourly and other applicable costs.*

Should you have any questions or concerns, please do not hesitate to contact me at (H) 513/680-2922 or (W) 513/852-6053.

Sincerely,

Denise Newsome

Denise Newsome
Post Office Box 14731
Cincinnati, Ohio 45250
(H) 513/680-2922 or (W) 513/852-6053

12/14/06 130 413

AOC-216 Doc. Code: PFD Rev. 9-02 Page 1 of 1 Commonwealth of Kentucky Court of Justice www.kycourts.net KRS 383.200	**FORCIBLE DETAINER COMPLAINT**	Case No. 06-C-5059 Court. District County Kenton

Provide Name and Address for both Plaintiff (Landlord) and Defendant (Tenant)

LANDLORD/PLAINTIFF

Name: Gary + Bernice Martin + Dennis + Betty Donnellan
Address: dba GMM Properties

FILED
2006 DEC -4 P 3:51
KENTON CIRCUIT/DISTRICT COURT
COVINGTON, KY 41011
BY D.C.

VS.

TENANT/DEFENDANT
Name: Denise Newsome + all occupants
Address: 128 E 5th St. Covington Ky 41011 apt 5

Comes the Plaintiff and for his/her complaint states that:

1. On the 1ST day of Oct, 2006, Defendant(s) contracted to lease apt located at 128 E 5th St apt 5, Cov Ky 41011 under a [X] **written** OR [ ] **oral lease** with Plaintiff as lessor;
2. Under the lease terms, **Defendant(s) agreed to pay** $ 675 per [ ] day [ ] week [X] month, payable on the 1ST day of each [ ] week [X] month [ ] year as rent;
3. Defendant(s) has/have breached the lease by not paying rent for the [ ] day [ ] week [X] month [ ] year of Nov 06 in the amount(s) of $ 675 and has/have not paid late fees for the [ ] day [ ] week [X] month [ ] year of 11/06 in the amounts of $ 60.
4. **Defendant(s) has/have breached** the lease because of the following: non payment of rent
5. Plaintiff gave Defendant(s) written notice to vacate on 11/17, 2006. Defendant(s) has/have not vacated.

WHEREFORE, Plaintiff **alleges** Defendant(s) unlawfully and forcibly detain the premises, **and demand(s)** possession of the premises be delivered to Plaintiff, as well as any and all other relief to which he/she may be entitled. I hereby certify I am the owner/attorney of the above-named property.

Plaintiff/Attorney for Plf

859-431-2222
Phone Number

Subscribed and sworn to before me this 4 day of Dec, 2006. My commission expires: November 22, 2007.

Linda A. Powers
Signature
Notary Public, State of KY at Large
Title

Commonwealth of Kentucky
Kenton County
Karen Lunn
Circuit Court Clerk

Receipt Number: 04-0003[illegible]A
DATE: 12/04/2006
TIME: 03:41 PM
*** (1) CIRCUIT CIVIL-FILING ***

CASE NO: 06-CI-03270

RECEIVED FROM: DENISE NEWSOME
ACCOUNT OF: NEWSOME VS MARTIN

1.	Civil Filing Fee (Q)	80.00
2.	AOC Fee (1)	20.00
3.	Court Technology MCFO(K(CT))	10.00
4.	Library Fee (L)	3.00
5.	Access Fee MCFO(K(Q))	5.00
	TOTAL:	$118.00
	CHECK:	$118.00
	***DIFF:	0.00

*** Check Number: 1964

Prepared By: Karen Lunn/CMH

Balance Due($):

Next Due Date:

MCFO=Money Collected for Others
CS=Charge for Services

Page [illegible] of 1

VOID VOID VOID

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*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	2648
RECIPIENT ADDRESS	8593416115
DESTINATION ID	
ST. TIME	12/06 22:11
TIME USE	03'25
PAGES SENT	5
RESULT	OK

FACSIMILE

TO: Gailen W. Bridges, Esq. **(859) 431-3463**

CC: GMM Properties/Owners **(859) 341-6115**

FROM: Denise Newsome

RE: **GOOD FAITH REQUEST** – ***For The Withdrawal of Complaint Your Clients' Complaint Filed in the District Court of Kenton County, Kentucky***: MARTIN, GARY ET AL VS NEWSOME, DENISE ET AL; Case No. 06-C-05059

DATE: December 6, 2006

Dear Mr. Bridges:

I am in receipt of the Complaint (Case No. 06-C-5059) you have filed in the District Court of Kenton County, Kentucky on behalf of your clients, Gary & Bernice Martin and Dennis & Betty Donnellan d/b/a GMM Properties.

At this time, I am in *good faith* requesting that you file the applicable Motion to Withdraw the Complaint you have filed on behalf of your clients *before* **2:00 p.m.** on **Thursday, December 7, 2006.** If you have not done so by this time (I will call the District Court to determine whether or not this has been done), I will move the District Court through my Motion to Dismiss to do so.

At the time of your filing your clients' Complaint, there was an action already pending in the Circuit Court of Kenton County, Kentucky (Case No. 06-CI 03270) in which a *Notice-Motion for Order to Deposit Money* and the supporting applicable *Memorandum of Points and Authorities* was also filed, which address the issue regarding any rent money your clients may assert is owed them. The relief sought in my Complaint exceeds the jurisdictional limits of the District Court of Kenton County, Kentucky – as you and your clients very well know in that you and your clients were in receipt and/or should have been in receipt of the Complaint that I submitted to the attention of Gary Martin. Moreover, you and your clients were put on notice of my moving forward to filing a Complaint against them.

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	2647
RECIPIENT ADDRESS	8594313463
DESTINATION ID	
ST. TIME	12/06 22:08
TIME USE	02'03
PAGES SENT	5
RESULT	OK

FACSIMILE

TO: Gailen W. Bridges, Esq. **(859) 431-3463**

CC: GMM Properties/Owners **(859) 341-6115**

FROM: Denise Newsome

RE: **GOOD FAITH REQUEST** – ***For The Withdrawal of Complaint Your Clients' Complaint Filed in the District Court of Kenton County, Kentucky***: MARTIN, GARY ET AL VS NEWSOME, DENISE ET AL; Case No. 06-C-05059

DATE: December 6, 2006

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At the time of your filing your clients' Complaint, there was an action already pending in the Circuit Court of Kenton County, Kentucky (Case No. 06-CI-03270) in which a *Notice-Motion for Order to Deposit Money* and the supporting applicable *Memorandum of Points and Authorities* was also filed, which address the issue regarding any rent money your clients may assert is owed them. The relief sought in my Complaint exceeds the jurisdictional limits of the District Court of Kenton County, Kentucky – as you and your clients very well know in that you and your clients were in receipt and/or should have been in receipt of the Complaint that I submitted to the attention of Gary Martin. Moreover, you and your clients were put on notice of my moving forward in filing a

U.S. PRESIDENT BARACK OBAMA: THE DOWNFALL/DOOM OF THE OBAMA ADMINISTRATION – Corruption/Conspiracy/Cover-Up/Criminal Acts Made Public

1 message

Wed, Jul 14, 2010 at 6:09 PM

To: bhobama@who.eop.gov, contact@whitehouse.gov, contact@who.eop.gov, askdoj@usdoj.gov, contact@usdoj.gov, solis.hilda@dol.gov, clintonhr@state.gov, sf.nancy@mail.house.gov, AmericanVoices@mail.house.gov, jrbiden@who.eop.gov, vdnewsome@gmail.com, mrobama@who.eop.gov, jtbiden@who.eop.gov, remanuel@who.eop.gov, roger.oneil@nbcuni.com, keith.miller@nbc.com, dawna.friesen@nbc.com, ned..colt@nbcuni.com, pat.dawson@nbc.com, mark.potter@nbc.com, peter.alexander@nbc.com, marc.graboff@nbcuni.com, mark.mullen@nbcuni.com, chris.jansing@msnbc.com, michael.okwu@nbc.com, jim.miklaszewski@nbcuni.com, carl.rochelle@nbcuni.com, victoria.corderi@nbc.com, mike.taibbi@nbc.com, sandy.cummings@nbcuni.com, keith.morrison@nbc.com, hotnews@minglecity.com, joy@minglecity.com, tavis@tavistalks.com, linda.blake@gmail.com, tom@blackamericaweb.com, david.starr@reachmediainc.com, jacque_reid@yahoo.com, wanique@wrfg.org, abdul@wrfg.org, melody.paris@emba.gsu.edu, racaffey@cbs.com, jeanross@cbsradio.com, brenda.bowden@cbsradio.com, rob@starttakingcontrol.com, mhanson@joynerradio.com, lyoung@radio-one.com, jamesjohnson@radio-one.com, hmazer@radio-one.com, kgoehring@radio-one.com, freemajj@aol.com, tkirkland@wufoam.com, andre@wdkx.com, wdkx@wdkx.com, keokktiqgm@cablelynx.com, nativemusic@ktnnonline.com, stationmanager@ktnnonline.com, troylittle@ktnnonline.com, sundayharmony@hotmail.com, generalmanager@ktnnonline.com, programs@kabf.org, cfro-psa@coopradio.org, programs@coopradio.org, hiddenfromhistory@yahoo.ca, kucr@ucr.edu, ljvdb3@ucr.campuscwix.net, walter@kucr.org, dangelo@sbccd.cc.ca.us, sam@kgnu.org, joanne@kgnu.org, maeve@kgnu.org, joel@kgnu.org, liz@kgnu.org, aaron@kgnu.org, theresa@kgnu.org, cupadmin@up.net, gm@wcupfm.com, wcupprod@up.net, msknnb@yahoo.com, debbiewagner@clearchannel.com, bobfeinman@clearchannel.com, rupertpacheco@clearchannel.com, melissasantacruz@clearchannel.com, gary_chavez@hotmail.com, samuel_a@casinosun.com, nnn@nativenews.net, agonzales@nativenews.net, harlan@nativeamericacalling.com, myoungdeer@nativeamericacalling.com, sbraine@nativeamericacalling.com, tgatewood@nativeamericacalling.com, kunm@kunm.org, kynr@yakama.com, ronn@yakama.com, reggie@yakama.com, ron@kyuk.org, david@kyuk.org, angela@kyuk.org, kenny@kyuk.org, peter@kyuk.org, cartert@savstate.edu, mcclainm@savstate.edu, geneh@mrbi.net, news@wkcr.org, arts@wkcr.org, africanradio@hotmail.com, communications@ciut.fm, b.burchell@ciut.fm, ken.stowar@ciut.fm, r_burd@ciut.fm, babaehmama@yahoo.ca, dray.perenic@utoronto.ca, jesseheretic@yahoo.com, martin.shoichet@utoronto.ca, radrev@ciut.fm, taylor@ciut.fm, karibuni@ciut.fm, rasta@ciut.fm, newspeak@ciut.fm, januaryinfo@yahoo.com, info@wokbradio.com, bevjohnson@clearchannel.com, timdavies@clearchannel.com, timspencer@clearchannel.com, bojay@clearchannel.com, ralphsaliemo@clearchannel.com, jjones@clearchannel.com, frankgilbert@clearchannel.com, wpkn@wpkn.org, betweenthelines@snet.net, sharris@snet.net, donnawilson@bloomberg.net, ethorpe@nccu.edu, dmorrrow@nccu.edu, bhhudson@nccu.edu, kpierce@nccu.edu, chantalwinston@nccu.edu, ubilliner@nccu.edu, t.hemphill@wgiv1370.com, earljones@clearchannel.com, tonycoles@clearchannel.com, sonyablakey@clearchannel.com, effierolfe@clearchannel.com, tywansley@clearchannel.com, davidsnoble@clearchannel.com, kendenton@clearchannel.com, melissaciunci@clearchannel.com, jenniferrodi@clearchannel.com, craigmorton@clearchannel.com, angelamartin@clearchannel.com, johnhannah@clearchannel.com, wmarketing@aol.com, charissewitherspoon@clearchannel.com, jamesmeeks@clearchannel.com, eddielong@clearchannel.com, info@thebeat.com, Curtis@thebeat.com, neil@thebeat.com, jaxon@thebeat.com, nira@thebeat.com, kidcarson@thebeat.com, goillradio@gmail.com, bioncefoxx@clearchannel.com, genielavine@clearchannel.com, jenaebraden@clearchannel.com, kenardkarter@clearchannel.com, kriskelley@clearchannel.com, darrendavis@clearchannel.com, info@chu.fm, erin@chuo.fm, programming@chuo.fm, music@chuo.fm, sonyango@yahoo.com, blackonblack@canada.com, johnakpata@storm.ca, melody@wvon.com, bridget@wvon.com, lamont@wvon.com, sharon@wvon.com,

EXHIBIT 127

vuanita@wvon.com, monews74@hotmail.com, sonny@wvon.com, moosedogyork@yahoo.com, roland@wvon.com, santita@wvon.com, cliff@wvon.com, matt@wvon.com, perri@wvon.com, dorothy@wvon.com, corey@wvon.com, terry@wvon.com, garvin@wvon.com, emilie@wvon.com, parry_williams@metronetworks.com, yourgospelsister@wvon.com, paul@wvon.com, warren@wvon.com, geneen@wvon.com, javonne@wvon.com, bonnie@wvon.com, pierce126@aol.com, ztwins@aol.com, cucollective@aol.com, gm@wbai.org, pbochan@wbai.org, burnardwhite@aol.com, jsantiago@wbai.org, asears@wbai.org, sundaynews@wbai.org, sobrien@wbai.org, kathy@healthaction.info, ayo@wbai.org, hhamilton@wbai.org, ecaldwell@wbai.org, ewilliams@wbai.org, editor@wbai.org, ebrath@wbai.org, drothenberg@wbai.org, mixedup@pipeline.com, artsmagazine@juno.com, pmiller@wbai.org, rpm@glib.com, dhenwood@panix.com, knish@igc.org, mimi@buildingbridgesonline.org, earlcaldwell@wbai.org, jcoleman@wbai.org, mkaku@aol.com, drkokayi@yahoo.com, max@wbai.org, bob@healthaction.info, metrohealth@igc.org, john@healthaction.info, natalieburnham@wbai.org, thejordanjournal@hotmail.com, lightshow@wbai.org, onthecounterradio@aol.com, outfmfeedback@wbai.org, pcradio@pcradioshow.org, joe.king@pcradioshow.org, louisreyesrivera@aol.com, armand@brainlink.com, sisterplanet@wbai.org, talkback@wbai.org, producers@wakeupcall.org, esstherarmah@centricproductions.co.uk, mario@wbai.org, sharper@wbai.org, lgeorge@wbai.org, swalden@wbai.org, wherewelive@wbai.org, youandyourmoney@wbai.org, big7city@tmail.com, angusblack@clearchannel.com, 103jamz@clearchannel.com, reggiejordan@clearchannel.com, travisdylan@clearchannel.com, djlaw@clearchannel.com, pavasnipe@clearchannel.com, endiayoung@clearchannel.com, djfountz@clearchannel.com, terryratliff@clearchannel.com, tonibjones@clearchannel.com, chriscaliente@clearchannel.com, djbee215@tmail.com, mwilliams@radio-one.com, kbrown@radio-one.com, rthompson@radio-one.com, bmccain@radio-one.com, guy.lambert@cbsradio.com, donniesimpson@wpgc955.com, chrispaul@wpgc955.com, jeff.newman@cbsradio.com, srogers@cbs.com, reggie.rouse@cbsradio.com, Justine.love@cbsradio.com, jeff.hedges@cbsradio.com, beriggin@cbs.com, djflexx@wpgc955.com, rane@wpgc955.com, dede@dougbanksshow.com, rudy@dougbanksshow.com, yolanda@dougbanksshow.com, kevin.miller@citcomm.com, tj.lambert@citcomm.com, michael.knize@citcomm.com, tamiko.fletcher@citcomm.com, james.f.kane@abc.com, leah.m.ricciuti@abc.com, scott.l.anderson@abc.com, chad.murray@abc.com, rusty.m.lutz@abc.com, victor.ratner@abc.com, charliederek@yahoo.com, leslibeth.canedo@citcomm.com, andrea.smith@abc.com, soul92_2000@yahoo.com, freedomnow@kpfk.org, skay@fisk.edu, xlawson@fisk.edu, rwynn@fisk.edu, hiphop@voanews.com, rtmurray@voanews.com, jrhamilt@voanews.com, dcollins@voanews.com, dbarron@voanews.com, ddodson@voanews.com, africa@voanews.com, coffor@voanews.com, klewis@voanews.com, billwork@voanews.com, daybreakafrica@voanews.com, jbutty@voanews.com, hlesser@voanews.com, sparker@voanews.com, ccastiel@voanews.com, nlavon@voanews.com, kking@voa.gov, vbeattie@voa.gov, jpayton@voa.gov, mlevich@voanews.com, pbodnar@voa.gov, abelida@voa.gov, jwatson@voa.gov, kachin@voanews.com, adenes@voanews.com, jmalone@voanews.com, pwolfson@voa.gov, sks@voa.gov, kklein@voa.gov, jek@voanews.com, rward@voanews.com, jbirch@voanews.com, wendyw@sbcglobal.net, dschmidt@wfmt.com, srobinson@wfmt.com, dmueller@wfmt.com, pwhorf@wfmt.com, pansell@wfmt.com, jbayhack@wttw.com, brucedumont@museum.tv, adamwilbur@wilburentertainment.com, johnnymorris123@aol.com, wimg1300@aol.com, lorraineballardmorrill@clearchannel.com, manuelrodriguez@clearchannel.com, joetamburro@clearchannel.com, jogamble@clearchannel.com, lehrondaupshur@clearchannel.com, perry_williams@metronetworks.com, jcampbell@sgnthelight.com, mgamble@sgnthelight.com, saustin@sbcol.com, mdukes@sgnthelight.com, acealexander@sgnthelight.com, bmurrain@sgnthelight.com, bdaniels@sgnthelight.com, kdbowe@sgnthelight.com, wtuaradio@hughes.net, 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When God opens the doors to EXPOSE injustices (i.e. as Jesus Christ –**Matthew 27: 17-35,** Christians and many others have had to suffer) and we who claim to be "Children of God/Servants of God/Saints/Christians" do nothing, what does that say about us? Who will God hold accountable for INJUSTICES/DISCRIMINATION/RACISM, etc. – **Romans 10:8-13, James 2:1-7** and **I Timothy 5:21** that you may know about and/or be aware of? The INJUSTICE in the judicial system and other areas of the government has been a longstanding problem. A problem that God has allowed to be EXPOSED through FACTS and EVIDENCE to clean out the WHITE HOUSE, Senate, House of Representative, Courts, corrupt attorneys, etc. – **I Samuel 8:1-3**- and other places to assure justice for his people. *God WILL HOLD THOSE CLAIMING TO BE HIS SERVANTS/CHILDREN ACCOUNTABLE* for allowing such sinful/unlawful/illegal practices and not EXPOSING and ADDRESSING such wickedness/evil works – **Ezekiel 3:17-21**.

---------- Forwarded message ----------
From:
Date: Tue, Jul 13, 2010 at 6:07 PM
Subject: U.S. PRESIDENT BARACK OBAMA: THE DOWNFALL/DOOM OF THE OBAMA ADMINISTRATION – Corruption/Conspiracy/Cover-Up/Criminal Acts Made Public
To: bhobama@who.eop.gov, contact@whitehouse.gov, contact@who.eop.gov, askdoj@usdoj.gov, contact@usdoj.gov, solis.hilda@dol.gov, clintonhr@state.gov, sf.nancy@mail.house.gov, AmericanVoices@mail.house.gov, jrbiden@who.eop.gov, vdnewsome@gmail.com, mrobama@who.eop.gov, jtbiden@who.eop.gov, remanuel@who.eop.gov, senator@mccain.senate.gov, senator@kyl.senate.gov, senator@begich.senate.gov, senator@boxer.senate.gov, senator@feinstein.senate.gov, senator@sessions.senate.gov, senator@shelby.senate.gov, senator@murkowski.senate.gov, senator@lincoln.senate.gov, senator@pryor.senate.gov, senator@markudall.senate.gov, senator@bennet.senate.gov, senator@dodd.senate.gov, senator@lieberman.senate.gov, senator@kaufman.senate.gov, senator@carper.senate.gov, senator@lemieux.senate.gov, senator@billnelson.senate.gov, senator@chambliss.senate.gov, senator@isakson.senate.gov, joan_ohashi@akaka.senate.gov, patrick_deleon@inouye.senate.gov, senator@risch.senate.gov, senator@crapo.senate.gov, senator@durbin.senate.gov, senator@burris.senate.gov, senator@bayh.senate.gov, senator_lugar@lugar.senate.gov, chuck_grassley@grassley.senate.gov, senator@harkin.senate.gov, glen_chambers@brownback.senate.gov, senator_pat_roberts@roberts.senate.gov, senator@bunning.senate.gov, senator@mcconnell.senate.gov, senator@landrieu.senate.gov, senator@vitter.senate.gov, senator@collins.senate.gov, olympia@snowe.senate.gov, senator@cardin.senate.gov, senator@mikulski.senate.gov, senator@kirk.senate.gov, senator@kerry.senate.gov, senator@levin.senate.gov, senator@stabenow.senate.gov, senator@franken.senate.gov, senator@klobuchar.senate.gov, senator@cochran.senator.gov, senator@wicker.senate.gov, kit_bond@bond.senate.gov, senator@mccaskill.senate.gov, sentor@baucus.senate.gov, senator@tester.senate.gov, senator@johanns.senate.gov, senator@bennelson.senate.gov, senator@ensign.senate.gov, senator@reid.senate.gov, senator@gregg.senate.gov, senator@shaheen.senate.gov, senator@lautenberg.senate.gov, senator@menendez.senate.gov, senator_bingaman@bingaman.senate.gov, senator@tomudall.senate.gov, senator@gillibrand.senate.gov, senator@schumer.senate.gov, chris_joyner@burr.senate.gov, senator_hagan@hagan.senate.gov, senator@conrad.senate.gov, elizabeth_gore@dorgan.senate.gov, senator@brown.senate.gov, senator_voinovich@voinovich.senate.gov, michael_schwartz@coburn.senate.gov, ryan_jackson@inhofe.senate.gov, senator@merkley.senate.gov, senator@wyden.senate.gov, senator@casey.senate.gov, senator@specter.senate.gov, senator@reed.senate.gov, senator@whitehouse.senate.gov, senator@demint.senate.gov, senator@graham.senate.gov, senator@johnson.senate.gov, senator@thune.senate.gov, senator@alexander.senate.gov, senator@corker.senate.gov, senator@cornyn.senate.gov, senator@hutchison.senate.gov, senator@bennett.senate.gov, senator@hatch.senate.gov, senator_leahy@leahy.senate.gov, senator@sanders.senate.gov, senator@warner.senate.gov, senator@webb.senate.gov, senator@cantwell.senate.gov, senator@murray.senate.gov, barbara_videnieks@byrd.senate.gov, senator@rockefeller.senate.gov, senator@feingold.senate.gov, senator_kohl@kohl.senate.gov, senator@barrasso.senate.gov, senator@enzi.senate.gov
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U.S. PRESIDENT BARACK OBAMA: THE DOWNFALL/DOOM OF THE OBAMA ADMINISTRATION – Corruption/Conspiracy/Cover-Up/Criminal Acts Made Public

1 message

Tue, Jul 13, 2010 at 6:04 PM

To: bhobama@who.eop.gov, contact@whitehouse.gov, contact@who.eop.gov, askdoj@usdoj.gov, contact@usdoj.gov, solis.hilda@dol.gov, clintonhr@state.gov, sf.nancy@mail.house.gov, AmericanVoices@mail.house.gov, jrbiden@who.eop.gov, vdnewsome@gmail.com, mrobama@who.eop.gov, jtbiden@who.eop.gov, remanuel@who.eop.gov, eric.epstein@usdoj.gov, joel.roessner@usdoj.gov, ann.marie.paskalis@usdoj.gov, navin.jeff@dol.gov, greenfield.deborah@dol.gov, deleon.terry@dol.gov, montgomery.edward@dol.gov, maxwell.mary@dol.gov, debusk.tom@dol.gov, nelson.malcolm@dol.gov, pierre.karina@dol.gov, harris.seth@dol.gov, geale.nick@dol.gov, baker.melaule@dol.gov, johnson.esther@dol.gov, kerr.michael@dol.gov, walsh.maureen@dol.gov, hugler.edward@dol.gov, mccreless-kenneth@dol.gov, fernandez.noelia@dol.gov, deguzman.cesar@dol.gov, wear-terrance@dol.gov, rouse-robert@dol.gov, brito-claudette@dol.gov, stewart-milton@dol.gov, hunt-linda@dol.gov, saracco-john@dol.gov, nunley-karen@dol.gov, murphy.daniel@dol.gov, love.denise@dol.gov, pruitt-thomas@dol.gov, nicklas.nancy@dol.gov, christian-faye@dol.gov, flick.paul@dol.gov, clark-patricia@dol.gov, harper.douglas@dol.gov, strain-ruby@dol.gov, brevard-john@dol.gov, whitted.robert@dol.gov, veatch.valerie@dol.gov, Jenkins.carol@dol.gov, lopez.victor@dol.gov, waller.janice@dol.gov, noll.barry@dol.gov, clark.larry@dol.gov, huotari.mjohn@dol.gov, fernandez.ramon@dol.gov, tamakloe.julia@dol.gov, perez.naomi@dol.gov, winstead.lillian@dol.gov, johnson.dawn@dol.gov, kenyon.geoffrey@dol.gov, wichlin-mark@dol.gov, barker-susan@dol.gov, lopez-betty@dol.gov, green-kim@dol.gov, qualls-carol@dol.gov, burckman-andrea@dol.gov, bonner-jerome@dol.gov, parker-violet@dol.gov, sullivan-dennis@dol.gov, brewer-brooke@dol.gov, wiesner.thomas@dol.gov, fox-kathy@dol.gov, bordreaux.kimberly@dol.gov, king-yann@dol.gov, sullivan.peter@dol.gov, manning.tonya@dol.gov, lewis-richard@dol.gov, ouyachi.hamid@dol.gov, french.richard@dol.gov, frederickson.david@dol.gov, davis.mark@dol.gov, hall.keith@bls.gov, kerr.cheryl@bls.gov, rones_phillip@bls.gov, adams_susan@bls.gov, eltinge.john@bls.gov, lacey.daniel@bls.gov, berezdirin.janice@bls.gov, berrington.emily@bls.gov, kuss.lawrence@bls.gov, jenkins.alaina@bls.gov, spolarich.peter@bls.gov, rose.sydney@bls.gov, rust_stuart@bls.gov, kazanowksi.cathy@bls.gov, waitrowski.william@bls.gov, ferguson.gwyn@bls.gov, doyle.philip@bls.gov, simpson.hilary@bls.gov, harris.francis@bls.gov, ruser.john@bls.gov, shaffer.thomas@bls.gov, newman.katherine@bls.gov, galvin.john@bls.gov, homer.p@bls.gov, butani.shail@bls.gov, loewenstein@bls.gov, nardone.thomas@bls.gov, allard.d@bls.gov, brown.sharon@bls.gov, getz.patricia@bls.gov, clayton.richard@bls.gov, robertson_k@bls.gov, sommers.dixie@bls.gov, franklin.j@bls.gov, stamas.george@bls.gov, bartsch.k@bls.gov, kennedy-brian@dol.gov, daniels-joycelyn@dol.gov, burr-geoff@dol.gov, wheeler.joseph@dol.gov, fisher.tammy@dol.gov, stohler.thomas@dol.gov, carmichael.ann@dol.gov, snyder.eric@dol.gov, setterberg.andrew@dol.gov, herbison.ronald@dol.gov, czamecki-karen@dol.gov, sadowski.daniel@dol.gov, becker.jeff@dol.gov, boylan.lorelei@dol.gov, busi.stephanie@dol.gov, harris.russell@dol.gov, mckeon.john@dol.gov, ginley.michael@dol.gov, brennan.richard@dol.gov, kerschner.arthur@dol.gov, relerford.barbara@dol.gov, kessler.james@dol.gov, ziegler.mary@dol.gov, helm.timothy@dol.gov, diane.koplewski@dol.gov, hendrix.janice@dol.gov, kravitz.michael@dol.gov, smith.carl.p@dol.gov, brown.gail@dol.gov, devore.robert@dol.gov, mendley.kebo@dol.gov, gross.williams@dol.gov, ebbesen.shirley@dol.gov, hamlet.sandra@dol.gov, michaels.david@dol.gov, shalhoub.donald@dol.gov, sierra.gabriel@dol.gov, ferris.john@dol.gov, miller.matt@dol.gov, taylor.aaron@dol.gov, collins.jan@dol.gov, miller.amy@dol.gov, fortune.cathy@dol.gov, ashley.jennifer@dol.gov, fairfax.richard@dol.gov, galassi.thomas@dol.gov, butler.steve@dol.gov, buchanan.arthur@dol.gov, sands.melody@dol.gov, talek.nilgun@dol.gov, furia.karen@dol.gov, adams.angela@dol.gov, breitenbach.catherine@dol.gov, beyer.wayne@dol.gov, walker.juanetta@dol.gov, transue-oliver@dol.gov, dunlop-janet@dol.gov, vittone.john@dol.gov, colwell.william@dol.gov, purcell.stephen@dol.gov, chapman.linda@dol.gov, levin.stuart@dol.gov, miller.edward@dol.gov, solomon.daniel@dol.gov, stansell-gamm@dol.gov, tureck.jeffrey@dol.gov,

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cooper-darrell@msha.gov, charboneau-thomas@msha.gov, mcgann-denise@msha.gov, rowlett.john@msha.gov, carson.carroll@atf.gov, ardry.stucko@atf.gov, charlayne.armentrout@atf.gov, william.kullman@atf.gov, joseph.riehl@atf.gov, gregory.plott@atf.gov, gilbert.bartosh@atf.gov, debra.satkowiak@atf.gov, kenneth.coffey@atf.gov, ray.rowley@atf.gov, gary.bangs@atf.gov, christine.dixon@atf.gov, david.brown@atf.gov, john.spencer@atf.gov, michael.oneil@atf.gov, benjamin.mendoza@atf.gov, christopher.reeves@atf.gov, patricia.power@atf.gov, kevin.boydston@atf.gov, robert.thomas@atf.gov, mark.curtin@atf.gov, orlando.blanco@atf.gov, davy.aguilera@atf.gov, robert.levingston@atf.gov, charles.houser@atf.gov, gilbert.salinas@atf.gov, david.johnson@atf.gov, brenda.bennett@atf.gov, ben.hayes@atf.gov, colemanc@state.gov, millsc@state.gov, sullivanj@state.gov, steinbergjb@state.gov, millettejl@state.gov, jacobssk@state.gov, hembreeel@state.gov, asmalis@state.gov, ledbetterth@state.gov, kaplansl@state.gov, smithdb@state.gov, slaughteram@state.gov, johnmr1@state.gov, smithgb@state.gov, caramanicajf@state.gov, cantonja@state.gov, kohhh@state.gov, harrisonjc@state.gov, kearneydp@state.gov, williamsvx@state.gov, donoghueje@state.gov, thessinh@state.gov, schwartzjb@state.gov, biniazsn@state.gov, gallagherdj@state.gov, malinmc@state.gov, browncw@state.gov, mcleodm@state.gov, kokenkn@state.gov, rvisek@state.gov, olsonpm@state.gov, harrisrk@state.gov, groshlj@state.gov, johnscm2@state.gov, wiegmannjb@state.gov, kimjj@state.gov, buchwaldtf@state.gov, richecr@state.gov, frechetteaa@state.gov, tauschereo@state.gov, nelsondj2@state.gov, ferraoje@state.gov, weigoldea@state.gov, mitchelllm@state.gov, posnermh@state.gov, mclarenaj@state.gov, stewartkb@state.gov, jacobsjl@state.gov, ruterboriesja@state.gov, faillacerj@state.gov, kirbymd@state.gov, kathrynca2@state.gov, vydmantasrj@state.gov, barbara.lucas@dot.gov, raymond.lahood@dot.gov, joan.deoer@dot.gov, sandy.snyder@dot.gov, mark.bushing@dot.gov, suhail.khan@dot.gov, wilda.dear@dot.gov, paul.gretch@dot.gov, mary.street@dot.gov, thomas.vilsack@usda.gov, sally.cluthe@usda.gov, kathleen.merrigan@usda.gov, suzanne.palmieri@usda.gov, carole.jett@usda.gov, john.verge@usda.gov, sdcollins@fs.fed.us, bruce.bundick@usda.gov, maryann.swigart@usda.gov, ngozi.abolarin@usda.gov, robert.simpson@usda.gov, barbara.cephas@usda.gov, danita.stanton@usda.gov, jglauber@oce.usda.gov, sbrown@oce.usda.gov, salathe@oce.usda.gov, cgoodloe@oce.usda.gov, rconway@oce.usda.gov, gbange@oce.usda.gov, vbharrod@oce.usda.gov, dstallings@oce.usda.gov, chung.yeh@oce.usda.gov, sshagam@oce.usda.gov, rmotha@oce.usda.gov, larry.quinn@usda.gov, corinne.hirsh@usda.gov, heather.vaughn@usda.gov, cheryl.normille@usda.gov, david.black@usda.gov, anthony.bouldin@usda.gov, gary.crawford@usda.gov, susan.carter@usda.gov, rod.bain@usda.gov, bob.ellison@usda.gov, pat.oleary@usda.gov, mansy.pullen@usda.gov, angela.harless@usda.gov, andrew.vlasaty@usda.gov, kelly.porter@usda.gov, david.kelly@usda.gov, matt.allen@usda.gov, william.jenson@usda.gov, mike.stewart@usda.gov, stephen.reilly@usda.gov, gloria.derobertis@usda.gov, joe.leonard@usda.gov, renee.allen@usda.gov, mary.mcneil@usda.gov, larry.newell@usda.gov, lisa.wilusz@usda.gov, denise.banks@usda.gov, david.king@usda.gov, rhonda.davis@usda.gov, christopher.l.smith@usda.gov, kate.hickman@usda.gov, mary.s.heard@usda.gov, ray.sheehan@usda.gov, mikem.edwards@usda.gov, ed.peterman@usda.gov, julia.carr@usda.gov, ellen.pearson@usda.gov, tonya.willis@usda.gov, dawn.bolden@usda.gov, wilma.bradley@usda.gov, ruby.goodman@usda.gov, ericka.luna@usda.gov, andrea.zizack@usda.gov, jachea.westbrook@usda.gov, joseph.ware@usda.gov, belinda.ward@usda.gov, barbara.lacour@usda.gov, glocke@doc.gov, mgeraghty@doc.gov, emoran@doc.gov, jandberg@doc.gov, kgriffis@doc.gov, jconnor@doc.gov, squehl@doc.gov, jcharles@doc.gov, ffanning@doc.gov, delznic@doc.gov, jjessup@doc.gov, cfields@doc.gov, saramaki@doc.gov, rmack@doc.gov, kanderson@doc.gov, szanelotti@doc.gov, bworthy@doc.gov, jponce@doc.gov, sthomas@doc.gov, scoggs@doc.gov, mbelardo@doc.gov, ltronge@doc.gov, emccloud@mbda.gov, dhinson@mbda.gov, ctong@mbda.gov, pcox@mbda.gov, bgonzalez@mbda.gov, rmarin@mbda.gov, chiefcounsel@mbda.gov, ywhitley@mbda.gov, margot.rogers@ed.gov, matthew.yale@ed.gov, jo.anderson@ed.gov, marshall.smith@ed.gov, joann.ryan@ed.gov, philip.link@ed.gov, mark.schneider@ed.gov, phil.maestri@ed.gov, samuel.myers@ed.gov, melanie.muenzer@ed.gov, jen.waller@ed.gov, anthony.miller@ed.gov, angelica.annino@ed.gov, joshua.bendor@ed.gov, stephanie.fine@ed.gov, kevin.liao@ed.gov, hillary.liep@ed.gov, lauren.lowenstein@ed.gov, crystal.martinez@ed.gov, frankie.martinez@ed.gov, samuel.salk@ed.gov, rene.spellman@ed.gov, hallie.montoyatansey@ed.gov, maribel.duran@ed.gov, marisa.bold@ed.gov,

tia.borders@ed.gov, gregory.darnieder@ed.gov, jessica.goldstein@ed.gov, william.jawando@ed.gov, steve.robinson@ed.gov, eric.waldo@ed.gov, ann.whalen@ed.gov, joanne.weiss@ed.gov, jacqueline.jones@ed.gov, wendy.tada@ed.gov, marta.zaniewski@ed.gov, meredith.miller@ed.gov, Vincent.pickett@ed.gov, kristi.wilson@ed.gov, michael.roark@ed.gov, Thelma.melendezdesantaana@ed.gov, alexander.goniprow@ed.gov, catherine.freeman@ed.gov, stephanie.sprow@ed.gov, joseph.conaty@ed.gov, sylvia.lyles@ed.gov, brenda.goetz@ed.gov, james.butler@ed.gov, deborah.spitz@ed.gov, catherine.schagh@ed.gov, katrina.farmer@ed.gov, robin.robinson@ed.gov, marilyn.hall@ed.gov, cathie.carothers@ed.gov, lana.shaughnessy@ed.gov, bernard.garcia@ed.gov, juan.sepulveda@ed.gov, maryann.gomez@ed.gov, linda.bugg@ed.gov, sophia.stampley@ed.gov, virgie.barnes@ed.gov, glorimar.maldonadonosal@ed.gov, richard.smith@ed.gov, amanda.feliciano@ed.gov

TO: UNITED NATION LEADERS/FOREIGN LEADERS
CHRISTIANS/SAINTS

This is an UPDATE to Newsome's previous E-mails that you may have received from Newsome. Newsome is sharing information with you and others in that it of PUBLIC/NATIONAL importance for the human rights, equal rights, and wellbeing of the lives of many people/citizens. Newsome prays that you find this information "educational," "helpful" "encouraging" and "uplifting."

PLEASE NOTE: *Newsome apologize for the constant change in the Email addresses; however, she has come under attack and her e-mails are being DISABLED to prevent her from sharing important information as that contained in this e-mail and the attachments. Nevertheless, Newsome perseveres through such oppositions and attempts to further obstruct justice.* ***This is information that the United States MEDIA/PRESS will not share with you although they are aware of what is going on. Nevertheless, apparently foreign leaders/foreign nations are taking such matters seriously!!***

No the United States Government thought that taking out Leaders such as Martin Luther King Jr., Malcolm X, Medgar Evers, and many more would silence African-Americans and keep them in CAPTIVITY. *However, it is finding out that* ***STRONGER*** *SHOOTS are springing forth and what these Leaders were murdered for (****to keep from public knowledge****) is* ***COMING TO THE LIGHT****!!! The TRUTH for what these Leaders were murdered/killed for to keep from being told- is COMING TO LIGHT!!*

United States President Barack Obama, his Administration and those they rely upon for counsel/advice have **ALL** made a ***WILLFUL, CONSCIOUS, DELIBERATE*** *and* ***MALICIOUS*** decision to take on Newsome and destroy her life WITHOUT just cause. In so doing, they have wedge a battle against Newsome and have REFUSED to address and correct the CORRUPTION, **CONSPIRACIES**, **RACIAL INJUSTICES/PREJUDICES/ DISCRIMINATION** brought timely, properly and adequately to their attention. Proverbs 16:18:

FAXED 3/17/06 1143A

FACSIMILE: 601/973-5532

TO:	Constable Jon C. Lewis
FROM:	V. Newsome
DATE:	March 17, 2006
RE:	**REQUEST FOR ARREST REPORT & RETURN OF PERSONAL PROPERTY RETRIEVED BY CONSTABLE JON C. LEWIS - ARREST OF VOGEL NEWSOME BY CONSTABLE JON C. LEWIS ON FEBRUARY 14, 2006** *Spring Lake Apartments v. Vogel Newsome*; In the Hinds County Justice Court, Hinds County, Mississippi; Docket No. 2150 Page 53
NO PAGES:	2 (Including this page)

EXHIBIT 128

VOGEL D. NEWSOME

Post Office Box 31265
Jackson, Mississippi 39286
Phone: 601/885-9536

FAXED 3/17/06 @ 1143A

March 17, 2006

RESPONSE REQUESTED BY MARCH 24, 2006

VIA U.S MAIL & FACSIMILE: 601/973-5532
Honorable Patricia T. Woods
Hinds County Justice Court Clerk
Post Office Box 3490
Jackson, Mississippi 39207

VIA U.S. MAIL & FACSIMILE: 601/973-5532
Jon C. Lewis
Hinds County Constable – District 4
Post Office Box 3490
Jackson, Mississippi 39207

RE: REQUEST FOR ARREST REPORT & RETURN OF PERSONAL PROPERTY RETRIEVED BY CONSTABLE JON C. LEWIS
ARREST OF VOGEL NEWSOME BY CONSTABLE JON C. LEWIS ON FEBRUARY 14, 2006
Spring Lake Apartments v. Vogel Newsome; In the Hinds County Justice Court, Hinds County, Mississippi; Docket No. 2150 Page 539

Dear Ms. Woods and Mr. Lewis:

Please accept this correspondence as my request for a copy of the ***Arrest Report*** regarding my arrest by Constable Jon C. Lewis on February 14, 2006, that took place at Spring Lake Apartments located at 1434 Hawthorne Cove in Jackson, Mississippi. This incident arose out of unlawful actions initiated by Spring Lake Apartments wherein the County rendered its services and I was subjected to an unjust/unlawful arrest. It has been approximately **one (1)** month since this arrest took place. Therefore, I believe that an Arrest Report should be on record by now. THEREFORE, PLEASE TAKE NOTICE that I am requesting the Arrest Report be submitted to me within the next **five (5)** business days at the mailing address provided above.

At the time of my arrest Constable Lewis unlawfully removed and retrieved personal property (a micro cassette recorder) from me and failed to return it to me or turn it in at the Hinds County Detention Center upon my admission. At this time, I am also DEMANDING that Mr. Lewis return my personal property or an explanation as to why it is being kept/retained and/or the reason for the destruction of said property.

Your assistance regarding these requests is greatly appreciated. Please understand that any further delays and/or failure by Mr. Lewis and/or this Court in producing the Arrest Report and any and all supporting documents will be taken as efforts to **delay** and/or ***obstruct*** **justice** in this matter.

I look forward to working on a resolution to these requests. Should you have further questions or concerns needing to be addressed, please do not hesitate to contact me.

Sincerely,
Vogel Newsome
Vogel Newsome

cc: Personal File

* * * COMMUNICATION RESULT REPORT (MAR. 17. 2006 11:43AM) * * *

TTI PAGE KRUGER HOLLAND

FILE	MODE	OPTION	ADDRESS (GROUP)	RESULT	PAGE
5631	MEMORY TX		96019735532	OK	2/2

REASON FOR ERROR
E-1) HANG UP OR LINE FAIL
E-2) BUSY
E-3) NO ANSWER
E-4) NO FACSIMILE CONNECTION

FACSIMILE: 601/973-5532

TO:	Constable Jon C. Lewis
FROM:	V. Newsome
DATE:	March 17, 2006
RE:	**REQUEST FOR ARREST REPORT & RETURN OF PERSONAL PROPERTY RETRIEVED BY CONSTABLE JON C. LEWIS - ARREST OF VOGEL NEWSOME BY CONSTABLE JON C. LEWIS ON FEBRUARY 14, 2006** *Spring Lake Apartments v. Vogel Newsome*; In the Hinds County Justice Court, Hinds County, Mississippi; Docket No. 2150 Page 53
NO PAGES:	2 (Including this page)

FAXED 3/17/06@ 1142A

FACSIMILE: 601/973-5532

TO: Honorable Patricia T. Woods
FROM: V. Newsome
DATE: March 17, 2006
RE: **REQUEST FOR ARREST REPORT & RETURN OF PERSONAL PROPERTY RETRIEVED BY CONSTABLE JON C. LEWIS - ARREST OF VOGEL NEWSOME BY CONSTABLE JON C. LEWIS ON FEBRUARY 14, 2006**
Spring Lake Apartments v. Vogel Newsome; In the Hinds County Justice Court, Hinds County, Mississippi; Docket No. 2150 Page 53
NO PAGES: 2 (Including this page)

VOGEL D. NEWSOME
Post Office Box 31265
Jackson, Mississippi 39286
Phone: 601/885-9536

FAXED 3/17/06 1142A

March 17, 2006

RESPONSE REQUESTED BY MARCH 24, 2006

VIA U.S MAIL & FACSIMILE: 601/973-5532
✓ Honorable Patricia T. Woods
Hinds County Justice Court Clerk
Post Office Box 3490
Jackson, Mississippi 39207

VIA U.S. MAIL & FACSIMILE: 601/973-5532
Jon C. Lewis
Hinds County Constable – District 4
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Jackson, Mississippi 39207

RE: REQUEST FOR ARREST REPORT & RETURN OF PERSONAL PROPERTY RETRIEVED BY CONSTABLE JON C. LEWIS
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Your assistance regarding these requests is greatly appreciated. Please understand that any further delays and/or failure by Mr. Lewis and/or this Court in producing the Arrest Report and any and all supporting documents will be taken as efforts to **delay** and/or ***obstruct*** **justice** in this matter.

I look forward to working on a resolution to these requests. Should you have further questions or concerns needing to be addressed, please do not hesitate to contact me.

Sincerely,
Vogel Newsome
Vogel Newsome

cc: Personal File

* * * COMMU. ATION RESULT REPORT (MAR. 17. 2006 11:42AM) * * *

TTI PAGE KRUGER HOLLAND

FILE	MODE	OPTION	ADDRESS (GROUP)	RESULT	PAGE
5630	MEMORY TX		96019735532	OK	2/2

REASON FOR ERROR
E-1) HANG UP OR LINE FAIL
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E-3) NO ANSWER
E-4) NO FACSIMILE CONNECTION

FACSIMILE: 601/973-5532

TO:	Honorable Patricia T. Woods
FROM:	V. Newsome
DATE:	March 17, 2006
RE:	**REQUEST FOR ARREST REPORT & RETURN OF PERSONAL PROPERTY RETRIEVED BY CONSTABLE JON C. LEWIS - ARREST OF VOGEL NEWSOME BY CONSTABLE JON C. LEWIS ON FEBRUARY 14, 2006** *Spring Lake Apartments v. Vogel Newsome*; In the Hinds County Justice Court, Hinds County, Mississippi; Docket No. 2150 Page 53
NO PAGES:	2 (Including this page)

THIS IS THE TENANT & VICTIM KILLED/MURDERED BY LANDLORD



THIS IS THE LANDLORD FACING CRIMINAL CHARGES OF MURDER

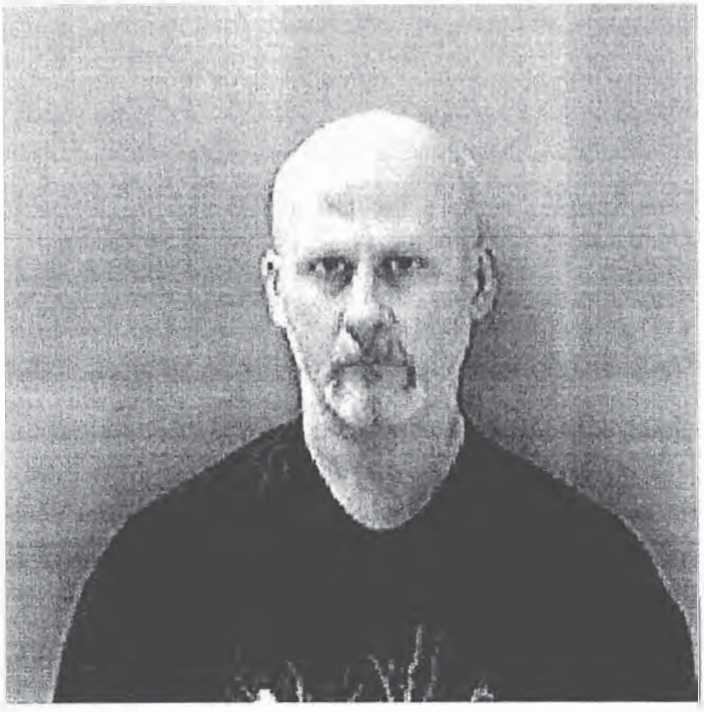

EXHIBIT
129

A A A A Email Story Print Story

Landlord Allegedly Stabs Tenant Over Un-Paid Rent

Reported by: Adam Marshall
Photographed By: Tyson Thorp
Photographed By: Phyliss Ho
Last Update: 12/28 8:22 am



Slideshow

Cincinnati Police are investigating after a woman was allegedly stabbed to death by her landlord.

Barbara Curless is a neighbor and friend of Sabrina and Bill Smith who rent an apartment on the corner of 69th and Vine Street in Carthage.

"I came in from WalMart, she was down on the sidewalk. Someone was holding her. They both were covered in her blood and her husband was screaming Barb, call 9-1-1!" Curless said.

Neighbors say both Sabrina and Bill lost their jobs and were receiving unemployment. Short on money, they were behind on rent and planning to move back to Atlanta.

Curless says the landlord changed the locks Friday, so when Sabrina arrived around 4 p.m. Saturday to get her clothes and possessions, she had to climb through the window. That's when Curless says the landlord, George Dibble, stabbed Sabrina.

"I said who stabbed her? And he said George...the landlord that lives upstairs over them," Curless said.

Police say 41 year-old Sabrina was transported to the hospital, where she died.

Curless says she got the news first-hand. "I just got a call from her husband and he was crying and all he was saying was, he killed her, he killed her!"

Police say they have arrested and charged 50 year-old Dibble, the landlord, with murder. Police will continue to investigate the murder.

A A A

Email Story | Print Story

$1M Bond For Landlord Accused Of Murder

Last Update: 12:37 pm



Slideshow

Police say a Cincinnati landlord murdered his former tenant because she still had property in the apartment.

That landlord, 50-year-old George Dibble, appeared in court Monday morning.

Dibble is charged with the murder of 41-year-old Sabrina Smith.

Investigators say Dibble stabbed Smith to death after an argument at the apartment in Carthage on Saturday afternoon.

Hamilton County prosecutors say Dibble was angered that Smith still had property in the apartment at 69th and Vine streets.

Neighbors told 9News that tough times forced Smith and her husband behind on rent. They said Dibble changed the locks on Friday.

When Smith arrived at the apartment on Saturday, she reportedly crawled through a window to get a few of her possessions. Police say that's when Dibble stabbed her. Smith was taken to University Hospital where she was pronounced dead.

Related Links

- Landlord Facing Murder Charges To Appear In Court
- Landlord Allegedly Stabs Tenant Over Un-Paid Rent

Dibble's attorney told the judge that his client did cause the death of Smith, but said they disagree with the state's version of what happened.

The judge set Dibble's bond at $1 million.

A preliminary hearing date has not been set.

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THOMAS J. BREED
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HOWARD L. RICHSHAFER
ELIZABETH A. HORWITZ
JOHN W. EILERS
PETER M. BURRELL
LISA M. RAMMES
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EDWARD D. BENDER
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ROCCINA S. NIEHAUS
KEVIN K. FRANK
JOEL F. McGUIRE
SHARON S. PARSLEY
E. WEDNESDAY OSTER
RAYAN F. COUTINHO, Ph.D.
MICHAEL J. MENNINGER
HEATHER D. WALSH

Counsel
ROBERT F. RECKMAN
WILLIAM H. EDER, JR.
HAROLD G. KORBEE
BRIAN P. GILLAN
TIMOTHY A. GARRY, JR.

JOHN WOOD II (1917-1998)
FRED C. LAMPING (1903-1989)
ALBERT H. NEMAN (1929-2003)
HARRY M. HOFFHEIMER
(1913- 2006)

Direct Dial: 513-852-6088
E-Mail: prberninger@woodlamping.com

February 4, 2009

Denise Newsome
P.O. Box 14731
Cincinnati, Ohio 45250

RE: Health Insurance Continuation

Dear Denise:

It appears to me from our telephone conversation and the nine page document you attached by voicemail to my office phone number that you are declining my effort to find a resolution of your concerns regarding health insurance. I had previously told you that I believed that the firm would accept my recommendation to extend your health insurance at the firm's cost for a period of time to allow you to attend to a medical matter which was pending.

In our telephone conversation, and in the nine page document you sent to me, you addressed a number of perceived wrongs you suffered while employed by the firm as well as your perception of an unlawful termination. You did not respond to the issue of resolution based on an extension of health insurance coverage.

I have been assured by the firm that we would extend your health insurance coverage for a reasonable period, but only on the condition that you sign a release of all of your perceived claims. As you know, that means that if you accept our offer of health insurance coverage for a period of time, yet to be determined, you could not file any charges, lawsuits or other complaints against the firm regarding your employment and separation from employment.

EXHIBIT 130

If my assumption that you are not interested in our proposed resolution is correct, you need not respond. Otherwise, you may call me, or preferably have your attorney call me, at 852-6088 if you wish to further discuss the terms of settlement.

Sincerely,

Paul R. Berninger

PRB:saf

Judge Barnett's Motion Calendar

To set a case contact Angela Cook at 968-6647 or Sylvia Bennett at 968-6649 or by E-mail: Angela Cook Sylvia Bennett

Search by Date: 05/15/06 Go

Page 1

Date Time Duration Location	Case #	Type Call Order	Plantiff Attorney	Defendant Attorney	Cancellation CourtReporter Jury
5/18/2006 9:00 Jackson	251-04-6878	Motion to Quash 1	Tom Moore, Jr. John N. Satcher, II	Willard J. Hendry Matthew A. Taylor	 No No
5/18/2006 9:00 Jackson	251-05-3990	Motion to Compel 2	Susan Brinston- Bell Bill Waller, Sr.	Hinds Community College Edward J. Currie, Jr./Rebecca B. Cowan	 No No
5/18/2006 9:00 Jackson	251-01-5026	Def. Motion Strike/ Quash /to Set Aside/for Leave 3	Calvary Investments, LLC William C. Bell	Janice Sumler Sanders Charles Robb	Set per email Charles Robb 4/5/06. Yes No
5/18/2006 9:00 Jackson	251-05-672	Motion for Default Judgment 4	Healthcare Financial Services, LLC Robert W. Camp	George Ephfrom Pro Se	 No No
5/18/2006 9:00	251-05-5261	Motion for Default Judgment 5	Amsouth Bank Bob Camp	Robert L. Bonds Eric F. Fagan	Set per Vincent Cortesi 5/3/06. No No

EXHIBIT 131

Jackson					
5/18/2006 9:00 Jackson	251-03-4319	Motion to Enforcement Settlement. 7	Mississippi Transportation Commission James H. Isonhood	Chasidity Hampton & Cliburn Tank Lines, Inc. Joe Deaton/Amanda Lingold	Cancelled 05/18/06 per Joe Deaton. Yes No
5/18/2006 9:00 Jackson	251-05-3313	Motion for Summary Judgment 8	The Hampton National Company Surety George Holmes	Rufus Keys, et al Pro Se	Set per email - G. Holmes 4/20/06. No No
5/18/2006 9:00 Jackson	251-05-3312	Motion for Summary Judgment 9	The Hampton National Company Surety George Holmes	William Ray and James Medders Pro Se	Set per email - G. Holmes 4/20/06. No No
5/18/2006 9:00 Jackson	251-06-614	Motion for Summary Judgment 10	The Hampton National Company Surety George Holmes	Lorrie Crawford and Eddie McFields Pro Se	Set per email - G. Holmes 4/20/06. No No
5/18/2006 9:00 Jackson	251-04-2391	Mot. to Compel Turnover of Garnishment of Proceeds 11	Advanced Recovery John S. Simpson	Theresa Young Pro Se	Cancelled 05/03/06 per Terri of McKay/Simpson. Yes No
5/18/2006 9:00 Jackson	251-06-905	Motions to Withdraw/Stay/ Dismiss 12	Vogel D. Newsome Brandon Dorsey	Spring Lake Apartments, LLC/Dial Equities, Inc./Lemody Crews Grover Clark	No No

				Monrow, III/Lanny R. Pace	
5/18/2006 9:00 Jackson	251-05-2465	Motion to Deem Admissions Admitted 13	Angela Martin Catouche J. Body	Parktowne Apartments Rebecca B. Cowan	Cancelled 05/17/06 per Myrna of Currie,Johnson's. No No
5/18/2006 9:00 Jackson	251-00-879	Motion to Set Aside Default Judgment 14	Healthcare Financial Services, LLC Brent S. Miller	Robert A. Anderson Kyle B. Ainsworth	No No
5/18/2006 9:00 Jackson	251-05-656	Motion to Set Aside 14	Amanda Ellzey Barry W. Howard	Alvin Hunley Katherine D. Bishop	Reset from 05/18/06 per attorneys. No No
5/18/2006 9:00 Jackson	251-06-1003	Motion for Summary Judgment 15	Fairway Lending Corporation Stephen E. Gardner	Janice Brown Pro Se	No No
5/18/2006 9:00 Jackson	251-05-4483	Motion to Compel Discovery 16	Lawrence K. Green Henry T. Coleman	Ron Chrisman d/b/a Triple C Auto Body Shop & Joe Doe Ramel Cotton	No No
5/18/2006 9:00 Jackson	251-05-4784	Motion to Strike Answer/Motion to Compel 17	Shannon Williams James N. Bullock	Robert R. Sperandero Kenneth R. Dreher	No No
5/18/2006 9:00 Jackson	251-06-1003	Motion for Summary Judgment 18	Fairway Lending Corporation Stephen Gardner	Janice Brown Pro Se	Cancelled 04/24/06 per Murry of Young Williams'. Yes

					No
5/18/2006 9:00 Jackson	251-05-5909	Judgment Debtor Examination 20	Donta Meeks J. Howard Thigpen	Charles Wells, Wells Detail #2, ABC Corporation & John Does A-G Pro Se	No No
5/18/2006 9:00 Jackson	251-01-5983	Motion to Stay Judgment/ Set Aside 21	Young Williams Henderson & Fuselier Stephen Gardner	Tina Moore Trent Walker	Set 5/9/06. Yes No
5/18/2006 9:00 Jackson	251-06-905	Motions to Strike/Dismiss/Injunction/Sanctions 23	Vogel D. Newsome Pro Se	Spring Lake Apartments, LLC, Dial Equities, Inc., Melody Crews William M. Dalehite, Jr./Clark Monroe	Yes No
5/18/2006 9:00 Jackson	251-06-1592	UNLAWFUL ENTRY AND DETAINER 24	Deutsche Bank National Trust as Trustee Andrew W. Impastato	Harold Heath Pro Se	Set @email Renee Sistrunk (Shapiro & Massey) 5/12. Yes No
6/1/2006 9:00 Jackson	251-05-5028	Pl. Mot. S/J; Def. S/J to Cross-Claim/ Mot. Strike 1	Progressive Gulf Insurance Company/ Tina S. Moore Bradley Kelly/ Ashley Ogden	Ella D. Brown Pat Catchings	Cancelled 01/31/06 per Bardley Kelly Yes No
6/1/2006 9:00 Jackson	251-04-2133	Motion to Hold Defendant in Contempt 2	Progressive Gulf Insurance Company Stephen Gardner	Mahsania C. Williams Pro Se	Set per Tammie 4/25/06. Yes No

6/1/2006 9:00 Jackson	251	05-5028	Motion for Summary Judgment & to Strike 3	Progressive Gulf Insurance as subrogee of Tina S. Moore Bradley S. Kelly	Ella D. Brown v. Tina S. Moore Pat A. Catchings/ Ashley Ogden	Cancelled 5/31/06 per Bradley Kelly. No No

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Home

FILED
MAR - 9 2005
BARBARA DUNN, CIRCUIT CLERK
BY_____ D.C.

VOGEL D. NEWSOME
Post Office Box 31265
Jackson, Mississippi 39286
Phone: 601/362-4910 or 601/885-9536

March 9, 2005

BY HAND DELIVERY
Honorable Bobby B. DeLaughter
Circuit Court Judge
Hinds County Circuit Court
407 East Pascagoula Street
Jackson, Mississippi 39205

RE: *Vogel D. Newsome v. Mitchell, McNutt & Sams, P.A.*
Before the Mississippi Department of Employment Security;
Board Docket No. 00241-BR-05-01; Ref. Docket No. 00002-R-05-01

In the Circuit Court of Hinds County, First Judicial District;
Civil Action No. 251-05-163CIV

Dear Judge DeLaughter:

Enclosed please find a copy of *Motion to Stay Proceedings Pending Dispensation of Matters/Issues Timely Raised by Appellant, that is Presently Before the Mississippi Department of Employment Security and Other Government Agency(s)*, the original of which has been simultaneously filed with the Clerk's Office, in the above referenced matter. For your convenience, I have also enclosed an original of a proposed Order.

Said Motion is being submitted at this time in efforts of protecting rights that I am entitled to. According to the Mississippi Department of Employment Security ("MDES"), I have until March 17, 2005 to submit my Appeal to said Court. However, the MDES has not been cooperative with me and has failed to produce to me in a timely manner the type-written transcript and Exhibits I seek to assist me in preparation of my Appeal Brief in this matter. Therefore, I am requesting that upon review of this Motion submitted, if you find it to be well-taken, and in the interest of justice, that you grant said Motion. However, I also ask that if there are other laws governing said matters that I am not aware of, as a *pro se* litigant, that you apply same to assure that my rights are protected.

By copy of this letter, the Board of Review for the Mississippi Department of Employment Security, my former employer, Mitchell, McNutt & Sams, P.A. through its

EXHIBIT
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counsel and the other government agencies of interest, have been properly and adequately notified of my filing of the enclosed pleading.

Respectfully submitted,

Vogel Newsome
Post Office Box 31265
Jackson, Mississippi 39286
(601) 362-4910 or 885/9536

cc: Honorable Barbara Dunn, Circuit Court Clerk
Board of Review – Mississippi Department of Employment Security
Paula Graves Ardelean, Esq. – Counsel for Mitchell, McNutt & Sams, P.A.
Unemployment Insurance Operations – Office of Workforce Security
United States Department of Justice

DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

December 19, 2009

Supreme Court of Ohio – **Priority Mail Delivery Confirmation No. 0308 2040 0000 2202 6287**
Attn: Honorable Kristina D. Frost – *Clerk of Court*
Attn: Chief Justice Thomas J. Moyer
65 South Front Street
Columbus, Ohio 43215-3431

RE: ***Denise Newsome v. Hamilton County Municipal Court/Judge Nadine L. Allen***
Supreme Court Case No. 09-1690; WRIT OF PROHIBITION MATTER
Hamilton County Municipal Court Case No. 09CV01690

Dear Ms. Frost:

Enclosed please find the following (**Original** and 5 copies):

1. *Relator's Motion To File Motion For Reconsideration Out Of Time and Notice of Ohio Supreme Court's Obstruction Of Justice – Impeding Relator's Timely Receipt of 12/02/09 Entry*

PLEASE BE ADVISED that any delay (if any) in the filing of the Motion For Reconsideration was a direct and proximate result of the Supreme Court of Ohio's ***tampering with the mail*** and **OBSTRUCTING the ADMINISTRATION OF JUSTICE** and addressed within the attached pleading along with supporting Exhibits. With my October 19, 2009 filing, I requested that the Ohio Supreme Court advise me of any Conflict of Interest; however, to date, I have not been provided with this information. From my research, it appears that there may be a Conflict of interest with the MAJORITY (i.e. if not all) of the Justices of this Court in this matter. Please advise me **IMMEDIATELY** of this Court Court's Conflict of Interest in this matter to insure that I obtain equal protection of the laws and due process of law in the handling of this matter. Moreover, please advise of this Court's interference with my timely receipt of the December 2, 2009 ENTRY of this Court. Moreover, which now this Court appears to have attempted to mask said ENTRY ***out-of-sequence*** on the Docket Sheet in this matter.

Please file the original and return a stamped "FILED" copy to me in the self-addressed postage-paid enveloped enclosed. I am resubmitting the previous self-addressed postage-paid envelope provided with my December 14, 2009 filing for your convenience. *I gather that since this Court only returned the original and four (4) copies, that it retained one for its record of the Motion For Reconsideration. Therefore, I expect it to use said copy to make the necessary copies and return to me a stamped "FILED" copy of said pleading also.* I further expect this Court to act in GOOD-FAITH and see to it that my filings are docketed. By copy of this letter, I am providing opposing counsel, U.S. President Barack Obama and U.S. Attorney General Eric Holder with a copy of same.

Should you have questions or comments, please do not hesitate to contact me at **513/680-2922** or **(601) 885-9536**.

Sincerely,
Denise Newsome
Denise Newsome

Enclosures
cc: Joseph T. Deters/Christian J. Schaefer, Esq. – Counsel for Respondents
U.S. President Barack Obama – via Priority Mail Delivery Confirmation 0308 2040 0000 2202 6263
U.S. Attorney General Eric Holder – via Priority Mail Delivery Confirmation 0308 2040 0000 2202 6270

EXHIBIT 133

IN THE
SUPREME COURT OF OHIO

State ex rel. DENISE V. NEWSOME RELATOR vs. **HAMILTON COUNTY MUNICIPAL COURT** and **Hon. NADINE L. ALLEN** Judge, Hamilton County Municipal Court RESPONDENTS	SUPREME COURT CASE NO.: **09-1690** ORIGINAL ACTION IN PROHIBITION **EMERGENCY FILING** Out of the Hamilton County Municipal Court Case No. 09CV01690

RELATOR'S MOTION TO FILE MOTION FOR RECONSIDERATION OUT OF TIME *AND* NOTICE OF OHIO SUPREME COURT'S OBSTRUCTION OF JUSTICE – IMPEDING RELATOR'S TIMELY RECEIPT OF 12/02/09 ENTRY

DENISE V. NEWSOME
Post Office Box 14731
Cincinnati, Ohio 45250

RELATOR

RECEIVED
DEC 21 2009
CLERK OF COURT
SUPREME COURT OF OHIO

Joseph T. Deters, 0012084
Prosecuting Attorney
Hamilton County, Ohio

Christian J. Schaefer, 0015494
Assistant Prosecuting Attorney
230 E. Ninth Street, Suite 4000
Cincinnati, Ohio 45202-2174
DDN: (513) 946-3041
FAX: (513) 946-3018

ATTORNEYS FOR RESPONDENTS

IN THE
SUPREME COURT OF OHIO

State ex rel. DENISE V. NEWSOME RELATOR vs. **HAMILTON COUNTY MUNICIPAL COURT** and **Hon. NADINE L. ALLEN** Judge, Hamilton County Municipal Court RESPONDENTS	:	SUPREME COURT CASE NO.: **09-1690** ORIGINAL ACTION IN PROHIBITION **EMERGENCY FILING** Out of the Hamilton County Municipal Court Case No. 09CV01690

RELATOR'S MOTION TO FILE MOTION FOR RECONSIDERATION OUT OF TIME *AND* NOTICE OF OHIO SUPREME COURT'S OBSTRUCTION OF JUSTICE – IMPEDING RELATOR'S TIMELY RECEIPT OF 12/02/09 ENTRY

COMES NOW Relator, Denise V. Newsome ("Relator" or "Newsome"), **without** *submitting to the jurisdiction of Hamilton County Municipal Court and without waiving her right to appeal* the Hamilton County Court of Common Pleas' FINAL Judgments on her pending motions[1] – ***when***

[1] ***(a) Motion to Strike*** *Pleading (Statements and Supporting Documents) of Plaintiff's Motion to Bifurcate Claim and Remand to Municipal Court; and Motion for Rule 11 Sanctions – Jury Trial Demanded In this Action* – submitted for filing on or about February 17, 2009; **(b)** ***Motions to Strike*** *Plaintiff's Motion for Leave to File Memorandum in Opposition to Motion for Rule 11 Sanctions – Submitted by Attorneys David Meranus and Molly G. Vance on Behalf of Plaintiff; and Requests for Rule 11 Sanctions (Jury Trial Demanded in this Action)* – submitted for filing on or about February 25, 2009; **(c)** *Request/Motion for* ***Findings of Fact and Conclusion of Law****; Motion to* ***Vacate*** *(If Permissible) March 2, 2009 Entry Granting Motion of Stor-All Alfred, LLC for Enlargement of Time; and Supporting Memorandum Brief* – submitted for filing on or about March 10, 2009; **(d)** *Request/Motion for* ***Findings of Fact and Conclusion of Law****; Motion to* ***Vacate*** *(If Permissible) March 2, 2009 Entry Granting Motion of Stor-All Alfred, LLC for Leave to File Memorandum in Opposition to Motion for Rule 11 Sanctions; and Supporting Memorandum Brief* – submitted for filing on or about March 10, 2009; **(e)** ***Motion to Strike*** *Plaintiff's Motion for Protective/Restraining Order Against Defendant Denise V. Newsome; Request for Rule 11 Sanctions; and Memorandum in Support (Jury Trial Demanded in this Action)* – submitted for filing on or about March 19, 2009 **(f)** *Motion for Default Judgment of and Against Stor-All Alfred, LLC for Failure to Answer or Otherwise Plead; and Memorandum in Support (Jury Trial Demanded in this Action)* – submitted for filing on or about March 19, 2009; **(g)** *Defendant's* ***Motion to Strike*** *Plaintiff's Answer to Defendant's Counterclaim; Jury Demand Endorsed Hereon; Request for Rule 11 Sanctions; and Memorandum in Support (Jury Trial Demanded in this Action)* – submitted for filing on or about March 26, 2009; **(h)** *Request/Motion for* ***Findings of Fact and Conclusion of Law****; Motion to* ***Vacate*** *April 17, 2009 Order Granting Plaintiff's Motion for Partial Stay* (*Jury Trial Demanded in this Action)*- submitted for filing on or about April 24, 2009; **(i)** *Request/Motion for* ***Findings of Fact and Conclusion of Law****; Motion to* ***Vacate*** *April 29, 2009 Order Granting Bifurcation and Remand* – submitted for filing on or about May 5, 2009; and any/all pending Motions of Defendant known to this Court.

ENTERED in that **no** Final Judgments on Relator's pending motions for Findings of Fact and Conclusion of Laws and Motions to Strike were ever entered prior to the unlawful remand/transferring of this matter to the Hamilton County Municipal Court – granting bifurcation and/or remand/transfer of Case No. A0901302 in the Hamilton County Court of Common Pleas to the Hamilton County Municipal Court as Case No. 09CV01690 – and hereby files this *Relator's Motion To File Motion For Reconsideration Out Of Time and Notice of Ohio Supreme Court's Obstruction Of Justice – Impeding Relator's Timely Receipt of 12/02/09 Entry* ("MTFOOTMFR") in accordance with Ohio S. Ct. R. XIV, Sections 2 and 3to the Ohio Supreme Court's *"ENTRY"* stamped Filed December 2, 2009, which is attached hereto at **EXHIBIT "1"** and incorporated herein by reference as if set forth in full herein.

Relator further moves this Court pursuant to S. Ct. R. XI, Sections 2 and 3and the applicable laws/statutes governing said matters and allow the filing of this instant MTFOOTMFR and her *Motion for Consideration* out of time for GOOD CAUSE shown and to suspend its December 2, 2009 Entry and reconsider this matter and enter a ruling GRANTING the relief Relator seeks through this instant MTFOOTMFR and her Motion For Reconsideration, Emergency Writ of Prohibition and Relator's subsequent filings. In support thereof Relator further states:

1. This instant MTFOOTMFR is submitted in good faith and is not submitted for purposes of delay, harassment, hindering proceedings, embarrassment, obstructing the administration of justice, vexatious litigation, increasing the cost of litigation, etc. and is filed to protect and preserve the rights of Relator.

2. This instant MTFOOTMFR has been timely filed and is in furtherance of protecting and preserving the Relator's rights. The record evidence will support that on or about December 2, 2009, the Ohio Supreme Court had filed its ENTRY granting Respondent's Motion to Dismiss. See **EXHIBIT "2"** attached hereto and incorporated by reference as if set forth in full herein.

3. The evidence supporting this instant MTFOOTMFR will support that the Supreme Court of Ohio in efforts of depriving Relator equal protection of the laws and due process of laws, did ***knowingly, willingly, deliberately*** and ***maliciously*** withhold providing her with its December 2, 2009 ENTRY in a timely manner and/or upon receipt of entry.

4. The Supreme Court of Ohio's handling of the December 2, 2009 ENTRY is in violation of Ohio S. Ct. R. XI Section 1 in that while it appears that there was an entry on said date, the evidence is clear that said Court did NOT provide Realtor with mailing of said ENTRY on this date. Said failure has infringed upon Relator's rights in which she has been ADVERSELY affected.

5. This instant Writ of Prohibition action is before the Supreme Court of Ohio because the lower courts have REPEATEDLY allowed opposing a parties and/or their counsel to file UNTIMELY pleadings. Now it appears this Court wants to be a stickler and deprive Relator the right to file her TIMELY Motion For Reconsideration with knowledge that it interfered with Relator's timely receipt of December 2, 2009 ENTRY. Therefore, depriving Relator the 10 days allowed under the laws/statutes to file her Motion For Reconsideration.

6. It appears this Court has pulled one of the plays out of Respondents' counsel's playbook (*i.e. FALSIFYING mailing information*) in his efforts of precluding Relator from filing a timely rebuttal which is addressed in her Rebuttal Brief. NEWS FLASH – this is a federal offense/crime.

7. According to the postmarking on the envelope in which the Supreme Court of Ohio provided Relator with a copy of its entry, it is postmarked December 3, 2009. See **EXHIBIT "2"** attached hereto and incorporated by reference as if set forth in full herein. Said Exhibit will support the following:

a) That the envelope was not properly addressed (i.e. ***lacked City, State and Zip Code information***) for the Relator to receive this information;

b) That the envelope **did <u>not</u>** have the proper FIRST-CLASS postage of **44¢** required but contained postage of ONLY 35¢ on the front and then on the back another postmarking for December 3, 2009 of 8¢ for a total of 43¢ which is still insufficient postage for mailing;

c) The evidence supports that the 35¢ postmarking was made from Meter No. 4262597 with a ZIP Code of 43215 (i.e. zip code for the Supreme Court of Ohio) and the postmarking on the back of envelope reveals that the 8¢ postmarking was made from Meter No. 4247379 with a ZIP Code of 43213 (i.e. **<u>not</u>** <u>the zip code of the Supreme Court of Ohio</u>). Nevertheless, still was not the amount of the required FIRST-CLASS postage – evidence mailing of ENTRY compromised breached; therefore, warranting an investigation in that there may have been a ***FEDERAL CRIME committed in the handling of this matter***;

d) It was on or about December 9, 2009, that Relator received the Supreme Court of Ohio's December 2, 2009 ENTRY;

e) Relator checked her mail the weekend of December 5, 2009, and had not received said ENTRY; and

f) At best an investigation into the Supreme Court of Ohio's handling of its mailing of December 2, 2009, ENTRY has now been called into

> question and other circumstances which may shed additional light into possible criminal activities is in the handling of same.

Based upon said evidence a reasonable mind may conclude that there was an attempt by the Supreme Court of Ohio to COVER-UP its failure to mail Relator a copy of its December 2, 2009 ENTRY. Moreover, that letter ***would not*** have been mailed because it did not have Relator's City, State and Zip Code information. The question now comes down to the handwriting and the actual handling of this piece of mail and when it actually was sent to Relator. *Relator's Post Office Address is in Cincinnati, Ohio. Therefore, Relator should have received ENTRY no later than December 5, 2009, if indeed it was mailed on December 3, 2009 – wherein the record evidence supports that it was not and that there appears to have been a attempt to COVER-UP criminal behavior.*

8. It appears this Court did not think that Relator would be bright/smart enough to figure this one out. Such unlawful/illegal/unethical practices raises very serious concerns as to whether or not this is a COMMON practices used by the Supreme Court of Ohio to deprive citizens of protected rights.

9. The record evidence supports that good cause has been shown and proven by Relator that any delay in the filing of her *Motion For Reconsideration* ***was not*** of any willful, deliberate and negligent acts of hers; however, was that of the Supreme Court of Ohio. Therefore, warranting the filing of this instant MTFOOTMFR and her *Motion for Reconsideration* and this Court's granting of same.

10. The record evidence will support that in JoElla's, Deputy Clerk of the Supreme Court of Ohio, letter of December 16, 2009, she advised:

> The enclosed motion for reconsideration was not filed and is being returned to you because it is untimely. A motion for reconsideration in the above referenced case would have been due in the Clerk's Office no later than 5:00 p.m. on December 14, 2009. However, it was not received until December 16, 2009. The Clerk's Office is prohibited by from filing an untimely motion for reconsideration by Rule XI, Section 2(D).
>
> The Court is unable to provide legal advice or act as an advocate. For these services, you may wish to contact an attorney. A list of the Lawyer Referral Services registered with the Supreme Court of Ohio is also enclosed.
>
> A copy of the docket report for this case is enclosed for your records.

See **EXHIBIT "3"** attached hereto and incorporated by reference as if set forth in full herein.

11. Based upon the record evidence a reasonable mind may conclude ***that the BURDEN-OF-PROOF is now on the Supreme Court of Ohio***

to show when the December 2, 2009 ENTRY was actually mailed to Relator. There is sufficient evidence to show that there was tampering with its mailing and that envelope was not properly addressed. Therefore, what actions were taken to COVER-UP such corrupt practices and COVER-UP the *Obstruction of Justice and efforts to deprive Relator equal protection of the laws and due process of laws*. Moreover, rights secured/guaranteed under the United States Constitution, laws of the State of Ohio and other laws of the United States.

12. The record evidence in this matter will clearly support that on October 19, 2009, Relator timely, properly and adequately presented to the Ohio Supreme Court concerns as to whether or not CONFLICT OF INTEREST existed with any of the Justices of said Court in correspondence provided which stated in part,

> While I understand that said pleading might be lengthy, it is *pertinent* and *crucial* for the Justices to have an understanding of what is going on and further supports the Criminal Complaint filed with the FBI and the Emergency Writ of Prohibition filed with this Court. **Please advise if there is a "Conflict of Interest" (i.e. because of parties/names mentioned in pleading includes *Judge John Andrew West; Judge Nadine L. Allen; Patricia M. Clancy; Joseph H. Deters; Christian J. Schaefer; Schwartz Manes Ruby & Slovin/David Meranus; Markesbery & Richardson Co./Michael E. Lively/Patrick B. Healy; Liberty Mutual Insurance Company/Molly G. Vance/Raymond H. Decker, Jr.; Stor-All Alfred LLC/Lori A. Whiteside/Leslie Smart/Leslie Calhoun; Wood & Lamping* and/or those persons/parties involved in this action that may be known to this Court; however, not to Denise Newsome) with any of the Justices of the Supreme Court in regards to this matter.**

See **EXHIBIT "4"** attached hereto and incorporated by reference as if set forth in full herein. However, to date, the Supreme Court Justices have knowingly, willingly and deliberately withheld information regarding CONFLICT OF INTEREST in this matter and their relationships to opposing parties, their attorneys, their insurance companies and others which would compromise and influence their decisions; moreover, compromise the integrity of the Ohio Supreme Court. ***PLEASE TAKE NOTICE: Therefore, reasonable mind may conclude that the Supreme Court of Ohio has attempted to impede and deprive Relator rights secured/guaranteed under the laws of the United States and the State of Ohio.***

13. Because the Ohio Supreme Court has ***REFUSED*** to advise of any potential CONFLICT OF INTEREST with the Justices of its Court and parties to the action, INSURANCE Company(s), etc., Relator has taken it upon herself to determine whether such Conflicts of Interest exist based upon information provided by Stor-All's counsel on February 6, 2009, during the hearing in the Hamilton County Municipal Court regarding Relator's Motion to Transfer. Based upon Relator's research, she has found information that is VERY DISTURBING and clearly support FINANCIAL CAMPAIGN CONTRIBUTIONS from Stor-All's (Plaintiff in the lower court action out of which this

action is brought) Insurance Company's law firms to a MAJORITY of the Justices of the Ohio Supreme Court from Liberty Mutual's attorneys' law firms – such as:

(a) Frost Brown Todd LLC;
(b) Jones Day;
(c) Porter Wright Morris & Arthur LLP;
(d) Squire, Sanders & Dempsey LLP;
(e) Vorys, Sater, Seymour and Pease LLP;

See **EXHIBIT "5"** attached hereto and incorporated by reference as if set forth in full herein. While these are only a select few of the law firms that Relator pulled for this Exhibit, what is more disturbing is the amount of monies Justices received from these laws firms and/or others. **Therefore, a reasonable mind may conclude that the Supreme Court of Ohio's handling of the December 2, 2009, was done to deprive Relator protected rights; moreover, in furtherance of OBSTRUCTION OF JUSTICE in efforts of covering up the criminal acts of Judges and attorneys for opposing parties committed on September 9-10, 2009.**

14. From information Relator has been able to obtain from research, the following financial contributions of at least **$328,170** (*have been made by law firms representing and/or who have retained Liberty Mutual as a client*) to Ohio Supreme Court Justices as follows:

JUSTICE	POLITICAL PARTY	LAW FIRM(S) WITH LIBERTY MUTUAL AS CLIENT	CONTRIBUTION
MOYER, THOMAS (Chief Justice)	***Republican***	Baker & Hostetler	$15,800
		Jones Day	$21,525
		Porter Wright Morris & Arthur LLP	$14,530
		Vorys, Sater, Seymour and Pease LLP	$23,070
		TOTAL:	**$74,925**
O'CONNOR, MAUREEN	***Republican***	Jones Day	$12,700
		Vorys, Sater, Seymour and Pease LLP	$10,075
		TOTAL:	**$22,775**
STRATTON, EVELYN	***Republican***	Frost Brown Todd LLC	$12,000

		Jones Day	$20,750
		Vorys, Sater, Seymour and Pease LLP	$16,000
		TOTAL:	**$48,750**
CUPP, ROBERT	***Republican***	Porter Wright Morris & Arthur LLP	$12,610
		Vorys, Sater, Seymour and Pease LLP	$18,350
		TOTAL:	**$30,960**
LAZINGER, JUDITH	***Republican***	Porter Wright Morris & Arthur LLP	$12,735
		TOTAL:	**$12,735**
O'DONNELL, TERRENCE	***Republican***	Baker & Hostetler	$30,475
		Jones Day	$37,025
		Squire, Sanders & Dempsey LLP	$30,600
		Vorys, Sater, Seymour and Pease LLP	$39,925
		TOTAL:	**$138,025**

See **EXHIBIT "5"** attached hereto and incorporated by reference as if set forth in full herein. **IMPORTANT TO NOTE: ALL** Justices are REPUBLICANS and **ALL** Justices are WHITE!! Information Relator believes is PERTINENT in that the criminal/civil wrongs leveled against her are RACIALLY motivated.

15. If Relator's memory serves her correctly, while employed with Wood & Lamping, one of the attorneys (Kenneth J. Schneider) held a special event leading up to the elections for Ohio Supreme Court Justice Maureen O'Connor and Evelyn Stratton. Relator recalls seeing an e-mail regarding this event from Schneider and attending to see what was going on. While she would not have voted for O'Connor because such acts are those in which Relator questions because of concerns that Justices put themselves in positions to be bought and feeling of concerns shared by other African-Americans and/or people of color of the CORRUPTION and knowledge that Judges/Justices decisions are purchased for a price. Relator at the time of the event was not registered to vote in Ohio; however, again, even if she was, most likely would not have voted for O'Connor or Stratton because of the appearance of ability to be purchased. If necessary Relator can look through her records to see if she retained Kenneth Schneider's e-mail, she recalls being given a flyer/brochure for O'Connor at the event.

16. Again, Relator mentions *Castner v. Colorado Springs Cablevision*, 979 F.2d 1417, 1421 (10th Cir. 1992), a decision which addresses whether to appoint counsel requiring accommodation of two competing considerations. First, the court must consider Congress's "special . . . concern with legal representation with Title VII

actions." *Jenkins v. Chemical Bank,* 721 F.2d 876, 879 (2nd Cir. 1983). In enacting the attorney appointment provision of the Civil Rights Act of 1964 and later reaffirming the importance of that provision in the legislative history of the Equal Employment Opportunity Act of 1972, Congress demonstrated its awareness that Title VII claimants might not be able to take advantage of the federal remedy without appointment of counsel. As explained in House Report No. 92-238:

> By including this provision in the bill, the **committee emphasizes** *that the nature of Title VII actions more often than not pits parties of unequal strength and resources against each other. The* ***complainant, who is usually a member of the disadvantaged class, is opposed by an employer who . . . has at his disposal a vast of resources and legal talent.***

H.R. Rep. No. 238, 92nd Cong., 2d Sess., reprinted in 1972 U.S.C.C.A.N. 2137, 2148. Why, because there is record evidence to support at what GREAT LENGTHS employers/landlords, their lawyers, their insurance companies and others opposing Relator have gone to, to ***TIP-THE-SCALES*** *of Justice* in their favor and obtain rulings/decisions they knew were obtained through *CORRUPTION and CONSPIRACY to Obstruct the Administration of Justice*; moreover, deprive Relator equal protection of the laws and due process of laws. Rights secured/guaranteed under the United States Constitution and/or other laws of the United States. So while JoElla in her December 16, 2009, correspondence advises, "*For these services, you may wish to contact an attorney. A list of the Lawyer Referral Services registered with the Supreme Court of Ohio is also enclosed,*" a reasonable mind may conclude that based upon the facts, evidence and legal conclusions in the record of this Court and the lower courts, that even if Relator had counsel, the Justices and others would have sought ways to threaten them and put them in fear of their life as they have done with Relator.

17. Relator admits that she must laugh because the use of the WILLIE LYNCH practices by the Supreme Court of Ohio and its employees in the handling of its attempt to OBSTRUCT the ADMINISTRATION OF JUSTICE and deprive Relator rights secured/guaranteed has been timely addressed in her Motion For Reconsideration. The record evidence will support that this Court has gone to great lengths to aid in the COVER-UP of criminal activities of judges, attorneys and others. Moreover, to WITHHOLD pertinent facts about the FINANCIAL TRAIL attached to the Justices of this Court.

18. Relator must also laugh because while she did not know that this Court would actually try and preclude her from filing her *Motion to Reconsideration*; it was a good thing that she retained documentation to support the TAMPERING with the mail and attempts by this Court COVER-UP its criminal actions.

19. Relator also provides at **EXHIBIT "6"** the a copy of the Docket Report provided by JoElla with her December 16, 2009, correspondence to Relator. IMPORTANT TO NOTE: It appears that the Ohio Supreme Court in efforts to COVER-UP and conceal its ENTRY placed its entry at the 10/12/09 Motion to Dismiss entry for the Respondents. There is a response by Relator - *Rebuttal/Opposition to Motion to Dismiss and Memorandum in Support of Motion to Dismiss of Respondents; and Request/Motions for Sanctions* – nevertheless, it appears that the Supreme Court of Ohio in further efforts of concealing and depriving Relator this information, embedded it at a

filing of October 12, 2009, and clearly OUT-OF-DATE sequence. Thus, further warranting the intervention of the United States Department of Justice.

20. Well, it is a good thing that Relator was concerned and suspicious of the Justices' handling of this matter and now to see how the Clerk's Office appears to have attempted to compromise this case to prevent and OBSTRUCT the administration of justice – clearly is UNACCEPTABLE!!!!

21. Therefore, please let this filing also serve as Relator's timely NOTIFICATION to the Supreme Court of Ohio of its OBSTRUCTION OF JUSTICE – IMPEDING RELATOR'S TIMELY RECEIPT OF 12/02/09 ENTRY, therefore, infringing upon her protected rights and precluding/depriving her time required to prepare and file a timely pleading. In good faith, Relator moved to filed her pleading within the time of her receipt of filing which was December 9, 2009 – i.e. approximately one-week from the date of ENTRY.

WHEREFORE, PREMISES CONSIDERED, Relator moves the Supreme Court of Ohio through this instant pleading to **GRANT** her *Motion To File Motion For Reconsideration Out Of Time and Notice of Ohio Supreme Court's Obstruction Of Justice – Impeding Relator's Timely Receipt of 12/02/09 Entry* in that the record evidence clearly supports good cause established for Relator's December 14, 2009 filing of *Motion for Reconsideration* and clearly REBUTS/REFUTES any delay that the Supreme Court may assert is the reason for its refusal to file Relator's timely MTFOOTMFR. While Relator believes the Supreme Court of Ohio has sufficient case law already in its record, possession and knowledge to sustain this instant MTFOOTMFR, Relator reserves the right to file a Memorandum Brief of Law should the Court feel that Relator needs to provide a Memorandum Brief of Authority. If needed, this Court should please so advise. As with Relator's filing of *Motion for Reconsideration*, she is providing the United States President, Barack Obama, and United States Attorney General, Eric Holder, with a copy of this instant filing as well. It is a good thing that Relator followed her mind to provide United States President Obama and United States Attorney General with a copy of the *Motion for Reconsideration.* Why, because, look at how the Supreme Court of Ohio attempted to OBSTRUCT JUSTICE and the evidence showing at least six (6) justices of this Court have received monies from law firms that are counsel for LIBERTY MUTUAL. Therefore, clearly showing a CONFLICT OF INTEREST. Not only that, that officials may have engaged in criminal actions to preclude and OBSTRUCT Relator from filing a timely

Motion For Reconsideration. Again, the BURDEN-OF-PROOF now shifts to the Supreme Court of Ohio to show that it indeed mailed and provided Relator with December 2, 2009 ENTRY in a timely manner which did not deprive her equal protection of the laws and due process of laws. Relator is laughing, laughing, laughing. . . . WHY? Because the Justices and this Court's practices in this matter clearly supports the practices of WILLIE LYNCH!!!

Respectfully submitted this **19th** day of **December, 2009.**

Denise Newsome, *Relator Pro Se*
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the forgoing pleading was MAILED via U.S. Mail first-class to:

Joseph T. Deters, Esq.
Prosecuting Attorney
Christian J. Schaefer, Esq.
Assistant Prosecuting Attorney
230 E. Ninth Street, Suite 4000
Cincinnati, Ohio 45202-2174
ATTORNEYS FOR RESPONDENTS

VIA U.S. PRIORITY MAIL: DELIVERY CONFIRMATION NO. 0308 2040 0000 2202 6263
The United States White House
ATTN: U.S. President Barack Obama
1600 Pennsylvania Ave NW
Washington, DC 20500

VIA U.S. PRIORITY MAIL: DELIVERY CONFIRMATION NO. 0308 2040 0000 2202 6270
U.S. Department of Justice
ATTN: Attorney General Eric H. Holder, Jr.
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dated this **19th** day of **December, 2009.**

Denise Newsome

The Supreme Court of Ohio

FILED
DEC 02 2009
CLERK OF COURT
SUPREME COURT OF OHIO

Denise V. Newsome

v.

Hamilton County Municipal Court
and Judge Nadine L. Allen

Case No. 2009-1690

IN PROHIBITION

ENTRY

This cause originated in this Court on the filing of a complaint for a writ of prohibition. Upon consideration of respondents' motion to dismiss,

It is ordered by the Court that the motion to dismiss is granted. Accordingly, this cause is dismissed.

THOMAS J. MOYER
Chief Justice

EXHIBIT
1

The Supreme Court of Ohio
65 SOUTH FRONT STREET, COLUMBUS, OHIO 43215-3431
CLERK OF COURT

PRESORTED FIRST CLASS
UNITED STATES POSTAGE
PITNEY BOWES
02 1M
0004262597
$ 00.357
DEC 03 2009
MAILED FROM ZIP CODE 43215

GEN-2009-1690

DENISE V. NEWSOME
P. O. BOX 14731
Cincinnati, OH 45250

45250$0731

FIRST CLASS
UNITED STATES POSTAGE
PITNEY BOWES
02 1M
0004247379
$ 00.083
DEC 03 2009
MAILED FROM ZIP CODE 43123

Rcvd
12/9/09

EXHIBIT
2

The Supreme Court of Ohio

OFFICE OF THE CLERK
65 SOUTH FRONT STREET, COLUMBUS, OH 43215-3431

CHIEF JUSTICE
THOMAS J. MOYER

JUSTICES
PAUL E. PFEIFER
EVELYN LUNDBERG STRATTON
MAUREEN O'CONNOR
TERRENCE O'DONNELL
JUDITH ANN LANZINGER
ROBERT R. CUPP

CLERK OF THE COURT
KRISTINA D. FROST

TELEPHONE 614.387.9530
FACSIMILE 614.387.9539
www.supremecourt.ohio.gov

December 16, 2009

Denise Newsome
P. O. Box 14731
Cincinnati, OH 45250

Re: *Denise Newsome v. Hamilton County Municipal Court et al.*
Case No. 2009-1690

Dear Ms. Newsome:

The enclosed motion for reconsideration was not filed and is being returned to you because it is untimely. A motion for reconsideration in the above referenced case would have been due in the Clerk's Office no later than 5:00 p.m. on December 14, 2009. However, it was not received until December 16, 2009. The Clerk's Office is prohibited by from filing an untimely motion for reconsideration by Rule XI, Section 2(D).

The Court is unable to provide legal advice or act as an advocate. For these services, you may wish to contact an attorney. A list of the Lawyer Referral Services registered with the Supreme Court of Ohio is also enclosed.

A copy of the docket report for this case is enclosed for your records.

Sincerely,

JoElla
Deputy Clerk

Enclosures

EXHIBIT
3

DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

October 19, 2009

VIA U.S. PRIORITY MAIL: DELIVERY CONFIRMATION TRACKING NO.0306240000028120015
Supreme Court of Ohio
Attn: Honorable Kristina D. Frost – *Clerk of Court*
65 South Front Street
Columbus, Ohio 43215-3431

RE: ***Denise Newsome v. Hamilton County Municipal Court/Judge Nadine L. Allen***
Supreme Court Case No. 09-1690; WRIT OF PROHIBITION MATTER
Hamilton County Municipal Court Case No. 09CV01690

Dear Ms. Frost:

Enclosed please find the following (**Original** and 5 copies):

Relator's Rebuttal/Opposition To Motion To Dismiss and Memorandum In Support of Motion To Dismiss of Respondents; and Request For Sanctions

While I understand that said pleading might be lengthy, it is *pertinent* and *crucial* for the Justices to have an understanding of what is going on and further supports the Criminal Complaint filed with the FBI and the Emergency Writ of Prohibition filed with this Court. **Please advise if there is a "Conflict of Interest" (i.e. because of parties/names mentioned in pleading includes *Judge John Andrew West; Judge Nadine L. Allen; Patricia M. Clancy; Joseph H. Deters; Christian J. Schaefer; Schwartz Manes Ruby & Slovin/David Meranus; Markesbery & Richardson Co./Michael E. Lively/Patrick B. Healy; Liberty Mutual Insurance Company/Molly G. Vance/Raymond H. Decker, Jr.; Stor-All Alfred LLC/Lori A. Whiteside/Leslie Smart/Leslie Calhoun; Wood & Lamping* and/or those persons/parties involved in this action that may be known to this Court; however, not to Denise Newsome) with any of the Justices of the Supreme Court in regards to this matter.**

Please file the original and return a stamped "FILED" copy to me in the self-addressed postage-paid enveloped enclosed. By copy of this letter, I am providing the Clerk of Hamilton County Municipal Court and opposing counsel with a copy of same.

Should you have questions or comments, please do not hesitate to contact me at **513/680-2922** or **(601) 885-9536**.

Sincerely,

Denise Newsome

Enclosures

cc: Hamilton County Municipal Court - **Attn: Patricia M. Clancy – *Clerk of Court***
Hamilton County Assistant Prosecuting Attorney – **Attn: Christian J. Schaefer**
Schwartz Manes Ruby & Slovin, LPA - **Attn: David Meranus, Esq.**

EXHIBIT 4

money in politics

a project of Ohio Citizen Action

Director Catherine Turcer ★ 614.221.6077 ★ cturcer@ohiocitizen.org

Robert Cupp
Judith Lanzinger
Thomas Moyer
Maureen O'Connor
Terrence O'Donnell
Paul Pfeifer
Evelyn Stratton
All Profiles

Thomas J. Moyer

Supreme Court Justice

Republican

Amount Raised 11/15/03-11/30/04:
$1,509,417



Average Individual Contribution: $262.26
Individual Contributions less than $200: 2,103
Individual Contributions $200 or more: 1,318

Top Organizational Contributors to Thomas Moyer

Rank	Organization	Economic Sector	Amount
1	Cincinnati Financial	Insurance	$29,045
2	Vorys, Sater, Seymour & Pease	Lawyers	$23,070
3	Jones Day	Lawyers	$21,525
4	Nationwide	Insurance	$21,237
5	FirstEnergy	Energy & Resources	$20,550
6	Janik & Dorman	Lawyers	$19,000
7	American Financial Group	Insurance	$16,000
8	Baker & Hostetler	Lawyers	$15,800
9	Porter, Wright, Morris & Arthur	Lawyers	$14,530
10	Freund, Freeze & Arnold	Lawyers	$11,540

Organizational totals include PACs and employees.
Totals include monetary and in-kind contributions.

Top Economic Sectors to Thomas Moyer

Rank	Economic Sector	Amount
1	Lawyers	$462,516
2	Insurance	$221,241
3	Health	$194,234
4	Ideological	$109,320
5	Manufacturing	$91,644

EXHIBIT 5

The Supreme Court of Ohio
CASE INFORMATION

GENERAL INFORMATION

Case: **GEN-2009-1690** Original Action in Prohibition

Filed: 09/18/2009

Case is disposed

Denise V. Newsome
v. Hamilton County Municipal Court and Judge Nadine L. Allen

PARTIES and ATTORNEYS

Denise V. Newsome; Relator, Appearing Pro Se

Hon. Nadine Lovelace Allen; Respondent, Appearing Pro Se (Judge, Hamilton County Municipal Court)
Represented by: Christian Schaefer, Counsel of Record
Represented by: Joseph Deters
Hamilton County Municipal Court; Respondent, Appearing Pro Se
Represented by: Christian Schaefer, Counsel of Record
Represented by: Joseph Deters

DOCKET ITEMS

09/18/09	Emergency complaint in prohibition and supporting affidavits *Filed by: Denise V. Newsome*
09/18/09	Affidavit of indigency *Filed by: Denise V. Newsome*
09/21/09	Summons & complaint issued to respondent(s)
09/21/09	Proof of mailing to Hamilton County Municipal Court; postage $6.49
09/21/09	Proof of mailing to Judge Nadine L. Allen; postage $6.49
09/23/09	Return receipt/service of summons & complaint; Judge Nadine L. Allen served 9/22/09
09/24/09	Return receipt/service of summons & complaint; Hamilton County Municipal Court served 9/23/09
10/12/09	Motion to dismiss *Filed by: Hamilton County Municipal Court* *Filed by: Hon. Nadine Lovelace Allen , Judge, Hamilton County Municipal Court*
→	**12/02/09 Granted; cause dismissed**
10/13/09	Notice of filing: criminal complaint with the Federal Bureau of Investigation and request for applicable relief pursuant to Rule 2.5 of the Ohio Code of Judicial Conduct and/or applicable statutes *Filed by: Denise V. Newsome*
10/21/09	Memo opposing motion to dismiss *Filed by: Denise V. Newsome*

EXHIBIT 6

********** End of case information **********

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Clerk of Hinds County Board of Supervisors
Hinds County Chancery Court Bldg.
316 S. President Street
Jackson, MS 39286

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) [illegible] C. Date of Delivery 8/15

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7006 0100 0006 3587 5600

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

UNITED STATES POSTAL SERVICE

15 AUG 2006 PM 1 [illegible] MS 392

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Vogel Newsome
Post Office Box 31265
Jackson, MS 39286

8013

EXHIBIT 134

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Honorable Douglas Anderson
President - Hinds Co. Brd of Supvrs.
P.O. Box 686
Jackson, MS 39205

COMPLETE THIS SECTION ON DELIVERY

A. Signature
x Pearlie Johnson ☐ Agent ☐ Addressee

B. Received by (Printed Name) Pearlie Johnson
C. Date of Delivery AUG 15 2006

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7006 0100 0006 3587 5631

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Vogel Newsome
Post Office Box 31265
Jackson, MS 39286

NOTICE OF INTENT TO FILE LAWSUIT and
OFFICIAL COMPLAINT AGAINST HINDS COUNTY CONSTABLE JON C. LEWIS

TO: **VIA CERTIFIED MAIL – Return Receipt Requested**
Clerk of the Hinds County Board of Supervisors
Hinds County Chancery Court Building
316 S. President Street
Jackson, Mississippi 39201

COPY: **VIA CERTIFIED MAIL – Return Receipt Requested**
Honorable Douglas Anderson
President of Hinds County Board of Supervisors
Post Office Box 686
Jackson, Mississippi 39205

RE: **Unlawful/Malicious Arrest of Vogel D. Newsome on February 14, 2006**
Location: Spring Lake Apartments (1434 Hawthorne Cove, Jackson, Mississippi)

DATE: August 11, 2006

COMES NOW Vogel D. Newsome ("Newsome") before the Hinds County Board of Supervisors ("The Board") and submits this her *Notice of Intent to File a Lawsuit* against Hinds County, the Hinds County Detention Center – Raymond, Mississippi, Hinds County Constable Jon C. Lewis ("Hinds County") and any and all other applicable parties within the time allowed under the statute of limitations as a result of an unlawful arrest against her which occurred on or about February 14, 2006, at Spring Lake Apartments in Jackson, Mississippi at the following location: 1434 Hawthorne Cove, Jackson, Mississippi 39272 – and *Official Complaint Against Hinds County Constable Jon C. Lewis*.

PLEASE TAKE NOTICE that said lawsuit will be filed on or before February 14, 2007, or within the applicable time allotted by statute to file such claims for damages in regards to the above referenced matter. Said Notice is being provided within the laws governing said matters.

PLEASE TAKE NOTICE that said lawsuit will be filed in the appropriate court which have jurisdiction over said matters under the applicable laws and statutes.

PLEASE TAKE NOTICE that the Board of Supervisors is hereby given **90 days** from receipt of said *Notice of Intent to File Lawsuit* and the *Official Complaint Against Hinds County Constable Jon C. Lewis* to provide Newsome with The Board's response.

PLEASE TAKE NOTICE that this instant submittal, is an *Official Complaint against Hinds County Constable Jon C. Lewis* ("Lewis") for subjecting Newsome to an unlawful/malicious arrest on February 14, 2006, which deprived her of protected rights and infringed upon rights secured under the Constitution and other applicable laws. Prior to said arrest, Newsome advised Lewis of said violations. Thus, Lewis and his assistant and others were timely, properly and adequately aware of their unlawful and illegal actions; however, knowingly and willingly made a conscious decision to proceed with the unlawful/malicious arrest of Newsome. During said arrest Lewis subjected Newsome to unlawful search and seizure of her property and kept said property.

On said date, Newsome was taken to the Hinds County Detention Center in Raymond, Mississippi by Constable Lewis and his assistant, where she was subjected to some of the following (however, not limited to these just listed, neither is list in particular order): (1) held against her will and objections, (2) subjected to verbal (obscene) and physical abuse, (3) threats, (4) shackled and/or chained, (4) denied any phone calls, (5) denied privacy, (6) subjected to scorn and ridicule, (7) denied *repeated* requests to speak to Sheriff Malcom McMillin, (8) threatened if she did not sign documents, (9) intimidation, (10) imprisonment, (11) search of person – which was humiliating and violating, (12) booked, etc.

Newsome is hereby requesting that the Hinds County Board of Supervisors accept this instant submittal as an Newsome's Official Complaint filed against Hinds County Constable Jon C. Lewis and that The Board investigate the allegations asserted herein and provide her with its findings on same.

PLEASE TAKE NOTICE that the lawsuit to be filed against Hinds County, its representatives and other applicable parties may include the following – however is not limited to said list and may be amended at the time of the filing of the lawsuit:

1. Slander and/or Libel;
2. Assault;
3. Invasion of Privacy;
4. Intentional Infliction of Emotional Distress;
5. False Imprisonment;
6. Malicious Arrest;
7. Theft;
8. Illegal Search and Seizure of Personal Property;
9. Fraudulent Concealment of Cause of Action;
10. Failure to Execute and Return Execution; and
11. Civil Rights Violations, etc.

and will be filed under the applicable *statutes/laws* addressing such claims/matters.

PLEASE TAKE NOTICE that all documents, records, items, etc. in the possession of Hinds County, the Constable, Hinds County representatives, and The Board in regards to this matter are to be preserved and protected in preparation of this lawsuit.

PLEASE TAKE NOTICE that any and all responses/inquiries to this Notice and Complaint can be submitted to Newsome at the address provided below. Any such changes to address information will be made to The Board in writing.

Respectfully submitted this the **11th** day of **August, 2006.**

VOGEL D. NEWSOME
Post Office Box 31265
Jackson, Mississippi 39286
Phone: 601/885-9536

P.01

TRANSACTION REPORT

DEC-05-2008 FRI 04:23 PM

FOR:

SEND

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
DEC-05	04:21 PM	12022243479	2′13″	7	FAX TX	OK	944	

TOTAL : 2M 13S PAGES: 7

EXHIBIT 135

P.01

TRANSACTION REPORT

DEC-05-2008 FRI 04:21 PM

FOR:

SEND

DATE START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
DEC-05 04:19 PM	12022250072	1'29"	7	FAX TX	OK	943	

TOTAL : 1M 29S PAGES: 7

P.01

TRANSACTION REPORT

DEC-05-2008 FRI 04:19 PM

FOR:

SEND

DATE START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
DEC-05 04:16 PM	12022240139	2'12"	7	FAX TX	OK	942	

TOTAL : 2M 12S PAGES: 7

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

DENISE NEWSOME

FACSIMILE

To: **Vice President-Elect, Joseph R. Biden, Jr. and Member of the Committee on the Judiciary in the United States Senate (202) 224-0139**

From: Denise Newsome

CC: **Hon. John Conyers, Jr. (202) 225-0072**
Hon. Patrick Leahy (202) 224-3479

Pages: 7 (including blank page)

Re: ***MY VISIT ON NEXT WEEK IN WASHINGTON D.C.***

Date: 12/05/08

☒ **Urgent** ☒ **For Review** ☐ **Please Comment** ☒ **Please Reply** ☐ **Please Recycle**

Dear Vice President-Elect Biden:

I will be in the Washington, D.C. area on next week and plan to be on the Hill on Thursday December 11) and/or Friday (December 12). The reason for my visit is to obtain information on the Complaint (***Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigation, Hearings and Findings***) I submitted to the Senate's attention – the original Complaint was specifically sent to the attention of the Chairman of the Committee on the Judiciary in the U.S. Senate, **Patrick Leahy** (in **July 2008**), the Chairman of the Committee on the Judiciary in the U.S. House Of Representatives, **John Conyers, Jr.** (in **August 2008**), as well as the candidates for the United States President (Senators **Barack Obama** and **John McCain**) in August 2008, and Congresswoman **Wasserman Schultz** (in August 2008). While this Complaint was timely and I believe submitted to the appropriate individuals, to date, I have received nothing as to the status of my Complaint or the handling thereof.

Therefore, I will be coming to Washington, D.C. in regards to this matter in hopes of getting the process moving on my Complaint and working with those there, to see that this matter is handled in the proper manner. *Moreover, to begin the process of clearing my name in that it is obvious that so many people (with the aid of the government) have gone to great lengths to cause injury/harm to my name, reputation, character, etc. because I have elected to expose civil/criminal wrongs.* I am aware of how I am being projected and wanted to be seen as a mental case, psychotic, disturbed, dysfunctional etc.; however, to the contrary and this is not the case. ***I am completely sane, college educated, passionate about my civil rights, a Christian (real), not on any drugs or medication and have never been institutionalized in a mental hospital or facility neither have I ever been under the care of a psychiatrist.***

I have recently obtained information regarding a Judgment that was entered on or about December 1, 2008 in a matter which is pending in a federal court in Mississippi. This matter is addressed in my Complaint submitted for filing with the United States Legislature/Congress in July 2008. The most recent action by this Court as well as criminal actions rendered by Courts (on or about October 9, 2008) here in Kentucky is clearly unacceptable and clearly requires **IMMEDIATE** attention from the United States Legislature/Congress. Continued acts by Court(s) Official(s) and others are clearly unacceptable and are not actions I believe the laws/statutes support. *Moreover, said acts are racially motivated and have been in keeping with past oppressive behavior against African-Americans* and the unlawful/illegal use of the judicial process to carry out such criminal and civil wrongs against said class and/or people of color. **UNACCEPTABLE**, because the Courts knew and/or should have known that they lacked jurisdiction to enter such rulings and/or Judgment; however, elected to exceed their jurisdiction and ***encroach*** upon the jurisdiction of the United States Legislature/Congress – excerpts of legal conclusions cut and pasted from LexisNexis is as follows:

> *Clark v. Board of Education*, 350 F. Supp. 149, 1972 U.S. Dist. LEXIS 11444 (D. Ky., October 25, 1972) (HN2) Courts **may not invade** the **domain** of the legislature and where a plaintiff is **asking** for legislative relief or relief which would **encroach** upon the **legislative process** the courts are without **power to act.** That courts may not **usurp** the **legislative function** is fundamental, but where the laws enacted by the legislature are unconstitutional or have been applied in such a way as to deny **constitutional rights,** then the courts are **empowered to act** and may grant whatever relief necessary to **vindicate** constitutional wrongs.
>
> *United States v. Powell*, 151 F. 648, 1907 U.S. App. LEXIS 4978 (U.S. Court of Appeals, March 22, 1907) - It is the duty of the courts to be watchful of the **constitutional rights** of the citizen." Nor of its utterances that: "The fourteenth amendment makes no attempt to enumerate the rights it designs to protect. It speaks in general ...
>
> 1. Precise Matter Never "Drawn in Question" Before Supreme Court. . . . which Congress can protect under the fourteenth amendment, against lawless violence of private individuals, which prevents, and is designed to prevent, the state from affording the accused, when it endeavors to do so, the benefit of a trial according to the "law of the land," by the administration of the state's established course of judicial procedure. . . .
>
> "The fourteenth amendment makes no attempt to enumerate the rights it designs to protect. It speaks in general terms, and these are as comprehensive as possible. Its language is prohibitory; but every prohibition implies the existence of rights and immunities." *Strauder v. West Virginia*, 100 U.S. 303, 25 L. Ed. 664.
>
> The fourteenth amendment was adopted to secure actual enjoyment of rights, which that amendment for the first time guarantied to citizens of the United States, who were thereby made citizens also of the state in which they resided. In form, the prohibitions of the amendment were leveled at the means by which it was supposed those rights would most often be defeated, but it was the evil to be averted, and the rights thereby to be enjoyed, and

not the particular form of the invasion, [**7] which were uppermost in the minds of the framers of the amendment. The intent and spirit of the command are that the enjoyment of the rights, which the amendment declares shall not be denied by the state, shall be worked out for those to whom the right was secured by full performance of the duties the amendment put upon the state. The performance of the duty by the state to its full extent is the dominant thought and purpose of the amendment. When the framers of the amendment, knowing that the states must continue to administer justice and punish crime within the state, coupled with this constant and continuing duty the condition that the state shall not deny due process of law, the substance of what they intended cannot be less than that the state shall afford to every person enjoyment of the benefits of due process, when it starts out to administer its justice in his case. Unless we surrender abjectly to the witchary of mere grammatical expression, and utterly desert the spirit of this clause, we must hold that the command, "no state shall deprive," etc., is only another form of command that each state shall afford enjoyment of the administration of its established course of [**8] judicial procedure, in a case like this. The dominant end and purpose the amendment had in view were not merely that the states shall pass proper laws and furnish proper officers, who endeavor to execute them, but that the duty imposed upon the state shall be so fully performed that the citizen shall have actual, physical enjoyment of the benefits of the right, as distinguished from fictitious enjoyment, in theory of law, of a right in the form of an enchanting declaration upon parchment.

United States v. McDonnell Douglas Corp., 751 F.2d 220, 1984 U.S. App. LEXIS 15791 (8th Cir., December 19, 1984, Decided) **HN5** - The power of Congress to conduct investigations is inherent in the **legislative process.** The power to **investigate** is necessarily incident to the **power to legislate** and to do so **wisely...**

McGrain v. Daugherty, 273 U.S. 135, 1927 U.S. LEXIS 985 (U.S., January 17, 1927, Decided) - **HN6** - The **House of Representatives** has the **constitutional right** to take **evidence,** to **summon witnesses,** and to **compel** them to appear and **testify.**

Below are the items that I would like to discuss during my visit. In that you are a member of the Committee on the Judiciary in the United States Senate, I am requesting your assistance with this matter as well in that you as the next Vice President of the United States as well as one that campaigned for CHANGE during the Presidential Campaign and the message represented by such includes that of racial injustices in this Country as set forth in my Complaint filed as well as the CURRENT efforts to attempt to shut the doors of the Courts to me to cover-up such criminal and civil wrongs mentioned in this Complaint and forthcoming (Senator Leahy and Congressman Conyers have received the following information – I have highlighted and marked with "*" revision made:

ITEM(S)	DESCRIPTION and/or ISSUE(S) FOR DISCUSSION
1.	Status Of *Emergency Complaint and Request for Legislature/Congress Intervention; Also Request For Investigations, Hearings and Findings* submitted for filing on or about July 14, 2008. Need to obtain Case Number of this Complaint and where is it at in Washington D.C.
2.	Status of FBI Complaint filed on 10/13/08 with the Louisville, Kentucky Office regarding the October 9, 2008, criminal and civil wrongs.
3.	***Immediate* Return of Monies** (approximately $16,250) entrusted to the court for safekeeping; however from my understanding and from information obtained, said money has recently been **embezzled**/stolen with the aid of court officials.
4.	***Request Administrative Leave*** – for government officials (state and federal) during the handling of the investigation(s) of the Complaints filed:

a) Requesting that Judges/Magistrates/Clerk of Courts, appropriate court officials be placed on administrative leave during the handling of the investigation into the allegations of the Complaint(s) filed. Believe it is interest of justice and the interest of the public at large to protect the integrity of the judicial process, etc. which I believe has been heavily breached and/or compromised through unlawful, illegal and unethical practices.

b) Requesting that Sheriff(s), Deputy(s), proper County/Jail officials be placed on administrative leave during the handling of the investigation into the allegations of the Complaint(s) filed. Believe it is interest of justice and the interest of the public at large to protect the integrity of the administrative process, etc. which I believe has been heavily breached and/or compromised through unlawful, illegal and unethical practices.

c) Requesting that appropriate Agency Administrators and/or Agency Official(s) – (with **FBI**, **EEOC**, **Wage and Hour**, **OSHA**, **Mississippi Department of Employment Security**, **Kentucky Commission on Human Rights**, etc.) be placed on administrative leave during the handling of the investigations into the allegations of the Complaint(s) filed. Believe it is interest of justice and the interest of the public at large to protect the integrity of the administrative process, etc. which I believe has been heavily breached and/or compromised through unlawful, illegal and unethical practices.

5. ***Requesting Temporary Suspension of Attorneys*** named during the investigation into the allegations of the Complaint(s) that have been filed. Believe it is interest of justice and the interest of the public at large to protect the integrity of the judicial process, administrative process, etc. which I believe has been heavily breached and/or compromised through unlawful, illegal and unethical practices of said attorneys. List of those presently known (however, not limited to) are as follows:

Mississippi and other applicable states in which they may be Licensed to practice:

(a) Grover Clark Monroe, II;
(b) Benny McCalip May;
(c) Lanny R. Pace;
(d) Clifford Allen McDaniel, II
(e) J. Lawson Hester;
(f) Wanda Abioto;
(g) David W. Baria;
(h) Mary Marvel Fyke;
(i) Michael Farrell;
(j) Robert T. Gordon, Jr.;
(k) Richard Allen Rehfeldt;
(l) Brandon Isaac Dorsey;
(m) * Honorable William L. Skinner, II (Judge)
(n) Honorable Tom S. Lee (Judge);
(o) Honorable William H. Barbour (Judge);
(p) Honorable Linda R. Anderson (Magistrate Judge); and
(q) Honorable James C. Sumner (Magistrate Judge)

Louisiana and other applicable states in which they may be Licensed to practice:

(a) Allyson Kessler Howie;
(b) Renee Williams Masinter;
(c) Amelia Williams Koch;
(d) Jennifer F. Kogos;
(e) Michelle Ebony Scott-Bennett; and
(f) Honorable G. Thomas Porteous, Jr. (Judge)

Kentucky and other applicable states in which they may be Licensed to practice:

(a) James M. West;
(b) Gailen W. Bridges;
(c) Bryan N. Bishop;
(d) Honorable Ann Ruttle (Judge);
(e) Honorable Gregory Bartlett (Judge);
(f) Thomas B. Wine (Justice);
(g) Joy A. Moore (Justice); and
(h) John D. Minton, Jr. (Justice)

*I hope you can understand the **urgency** of the meeting I am requesting and I expect your assistance in this endeavor.*

Your attention to this matter is greatly appreciated. I look forward to meeting you or your Aide. Should you have any questions, please do not hesitate to contact me at the above address and phone number (513) 680-2922. My direct fax number at my office is (513) 419-6453.

Sincerely,

Denise Nelsonne

P.01

TRANSACTION REPORT

DEC-10-2008 WED 12:45 PM

FOR:

SEND

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
DEC-10	12:31 PM	12022240139	14'13"	38	FAX TX	OK	971	

TOTAL : 14M 13S PAGES: 38

P.01

TRANSACTION REPORT

DEC-10-2008 WED 01:15 PM

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DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
DEC-10	01:01 PM	12022243479	14'12"	38	FAX TX	OK	973	

TOTAL : 14M 12S PAGES: 38

P.01

TRANSACTION REPORT

DEC-10-2008 WED 01:01 PM

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DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
DEC-10	12:45 PM	12022250072	15′03″	38	FAX TX	OK	972	

TOTAL : 15M 3S PAGES: 38

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

DENISE NEWSOME

FACSIMILE

To:	**Vice President-Elect, Joseph R. Biden, Jr. (202) 224-0139** **Hon. John Conyers, Jr. (202) 225-0072** **Hon. Patrick Leahy (202) 224-3479**	**From:**	Denise Newsome
		Pages:	37 (including blank page)
Re:	***MY VISIT TO WASHINGTON D.C. – Regarding Complaint Filed With United States Legislature/Congress***	**Date:**	12/10/08

☑ **Urgent** ☑ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

Dear Vice President-Elect Biden, Congressman Conyers and Senator Leahy:

Attached is a copy of the pleading entitled, *Notice of Non-Waiver of Constitutional Rights and Civil Rights to Have the United States Legislature/Congress Intervene; Notice of Court's Lack of Jurisdiction to Enter December 1, 2008 Judgment (Docket No. 165) – Said Judgment Null/VOID.* With this pleading I attached information obtained regarding the O.J. Simpson Complaint and recent court action against him, in that similar criminal charges that Mr. Simpson is accused of committing was rendered against me as evidenced in my Complaint filed with the Legislature/Congress back in July 2008 as well as with the FBI (which did nothing).

I plan to be in Washington, D.C. on tomorrow and Friday. I plan to stop by the offices of Congressman Conyers and Senator Leahy. The reason for my visit is to discuss the Complaint I have submitted for filing and find out the status of same. Furthermore, address other concerns that I have.

I hope you can understand the ***urgency*** *of the meeting I am requesting and I expect your assistance in this endeavor.*

Your attention to this matter is greatly appreciated. I look forward to meeting you or your Aide. Should you have any questions, please do not hesitate to contact me at the above address and phone number (513) 680-2922. My direct fax number at my office is (513) 419-6453.

Sincerely,

Denise Newsome

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	3252
RECIPIENT ADDRESS	2022250072
DESTINATION ID	
ST. TIME	12/12 12:41
TIME USE	01'15
PAGES SENT	5
RESULT	OK

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

DENISE NEWSOME

FACSIMILE

To: **Vice President-Elect, Joseph R. Biden, Jr.**
(202) 224-0139
Hon. John Conyers, Jr. (202) 225-0072
Hon. Patrick Leahy (202) 224-3479

From: Denise Newsome

Pages: 5 Pages

Re: ***MY VISIT ON YESTERDAY – Regarding Complaint Filed With United States Legislature/Congress***

Date: 12/12/08

☑ *Urgent* ☑ *For Review* ☐ *Please Comment* ☐ *Please Reply* ☐ *Please Recycle*

Dear Vice President-Elect Biden, Congressman Conyers and Senator Leahy:

This correspondence is being provided to confirm my visit to the Senate on yesterday and the difficulties encountered in checking into the status of my "***Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Findings,***" submitted for filing on or about July 13, 2008:

1) On or about November 24, 2008, I notified Congressman John Conyers via facsimile that I would be visiting his office(s) during the week of December 7, 2008 and requested a date and time during that week that I could meet with him; however, although he received this information, he elected to ignore it and to date I have heard nothing.

2) On or about December 4, 2008, I notified by Senator Leahy and Congressman Conyers via facsimile that I would be in Washington, D.C. and requested meetings with them.

3) On yesterday, I visited the Offices of Senator Leahy as well as the U.S. Senate's Committee on the Judiciary's Office to determine the status of the Complaint I submitted to his attention on or about July 13, 2008. This is what I encountered:

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

DENISE NEWSOME

FACSIMILE

To: **Vice President-Elect, Joseph R. Biden, Jr.**
(202) 224-0139
Hon. John Conyers, Jr. (202) 225-0072
Hon. Patrick Leahy (202) 224-3479

From: Denise Newsome

Pages: 5 Pages

Re: ***MY VISIT ON YESTERDAY – Regarding Complaint Filed With United States Legislature/Congress***

Date: 12/12/08

☑ *Urgent* ☑ *For Review* ☐ *Please Comment* ☐ *Please Reply* ☐ *Please Recycle*

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This correspondence is being provided to confirm my visit to the Senate on yesterday and the difficulties encountered in checking into the status of my "***Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Findings,***" submitted for filing on or about July 13, 2008:

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2) On or about December 4, 2008, I notified by Senator Leahy and Congressman Conyers via facsimile that I would be in Washington, D.C. and requested meetings with them.

3) On yesterday, I visited the Offices of Senator Leahy as well as the U.S. Senate's Committee on the Judiciary's Office to determine the status of the Complaint I submitted to his attention on or about July 13, 2008. This is what I encountered:

   a. No one in his office (SR-433) seems to know anything about the Complaint I submitted to his attention and advised that it would be with the U.S. Senate's Committee on the Judiciary.

   b. I went to the Senate Committee on the Judiciary's Office just to find out that it was not there and possibly sent to the U.S. House of Representatives - Committee on the Judiciary's Office, counsel for the Senate Committee on the Judiciary's Office. Although I specifically requested information in regards to the procedures for tracking to determine where my Complaint was, there appeared to be no such processes in the Senate Committee on the Judiciary's Office

for handling receipt of such Complaints and/or such pertinent and critical concerns (as that addressed in my Complaint) submitted for handling.

4) I was advised that the Complaint submitted to Senator Leahy's attention may have been sent to the House of Representatives - Committee on the Judiciary's Office and I should contact them. While in the Senate's Committee on the Judiciary's Office I contacted the U.S. House of Representatives - Committee on the Judiciary's Office and after several calls and what apparently was ***"the run around and/or delay tactic"*** practiced by Leahy's and Conyers, staff wherein it appears they use a process condoned by Leahy and Conyers in handling citizens/people they do not want to deal with. I was also given the impression from such acts by Leahy's and Conyers, staff and/of staff of their Committee were procedures implemented to deal with citizens/persons they do not want to work and/or apparently were attempting needlessly burden citizens/persons in hopes they would give up and go away.

5) I was advised to contact my Senator's. However, correspondence to these offices will support that they were notified that **PUBLIC CORRUPTION** is known in the states (Mississippi-No. 2 and Kentucky-No. 3) that is addressed and my reasons for contacting Leahy, Conyers and others. Moreover, ***why would one take a car for repairs to a dentist for his expertise when it is a mechanic they need***? So please spare me the contact your Senators and/or representative. Neither one of the Senator's/Congressmen/women are on the Committees which handled the issues in my Complaint that I am aware of.

6) I spoke with Matthew in the U.S. House of Representatives - Committee on the Judiciary's Office who advised me that due to three (3) months lapsing, ***my Complaint had been shredded*** and that there was no record of my Complaint submitted to the attention of Conyer or Leahy. Moreover, **they would not have taken my Complaint based on his experience.** I advised Matthew that this was unacceptable and shared my disappointment in his lack of knowledge of my Complaint as well as the nature of my Complaint. Moreover, on how the U.S. House of Representatives - Committee on the Judiciary's Office has handled this matter. I advised Matthew that I would be there in the morning personally to find out what is going on. Matthew suggested that I resubmit my Complaint. I advised Matthew of the volume of said Complaint and the great deal of time taken to prepare it. However, he did not seem interested. I advised Matthew that I did not bring a copy of the Complaint with me; however, had the brief. Moreover, that there are at leas five (5) sets (original and four (4) copies) of the Complaint here on the Hill. So there is no excuse for why a set cannot be obtained.

7) At the conclusion of my visit to the Senate Committee on the Judiciary's Office, I returned to Senator Leahy's office wherein I advised that he was not in; however, he was. Clearly a blatant lie – again practices I find unacceptable in that he knew and/or should have known I would be in his office on this week in that he was timely notified of my visit; however, had no time to see me.

Let me share my most deep disappointment and dissatisfaction in the handling of my Complaint entitled, "***Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Findings***" I did not appreciate the conduct and practice of the Senator Leahy (or their staff in their office or the office of their committee),), Congressman Conyer (or their staff in their office or the office of their committee), the Senate's Committee on the Judiciary's Office, and the U.S. House of Representative's Committee on the Judiciary's Office.

I took a great deal to time and care in preparing this Complaint as well as coming to Washington, D.C. I did not come here to be lied to, shunned or ignored by either Senator Leahy or Congressman Conyers as what happened on yesterday.

Furthermore, I would like to express my concerns of the practice of Senator Leahy's and Congressman Conyers acceptance and tolerance of their staff and/or staff of their Committee lying to me in regards to their attendance or present. Moreover, their blatant and clear refusal to meet with me. The following information was obtained from the U.S. Senate's Committee on the Judiciary's website to support they indeed handle Complaints such as mine:

> **U.S. SENATE – COMMITTEE ON THE JUDICIARY:**
>
> **About the Committee:** . . .
> One of the most important functions of the Committee is to provide oversight of the Department of Justice, including the Federal Bureau of Investigation (http://judiciary.senate.gov/about/)
>
> **A RECENT BILL OF THE SENATE: S.1946 - Public Corruption Prosecution Improvements Act of 2007** *(Senate Report 110-239, December 10, 2007)*
>
> **Administrative *Oversight* and the Courts:**
> (http://judiciary.senate.gov/about/subcommittees/oversight.cfm):
> Jurisdiction: (1) ***Court administration and management***; (2) ***Judicial rules and procedures***; (3) Creation of new courts and judgeships; (4) Bankruptcy; (5) Administrative practices and procedures; (6) Legal reform and liability issues; (7) Oversight of the Department of Justice grant programs, as well as government waste and fraud; (8) Private relief bills other than immigration; (9) Oversight of the Foreign Claims Settlement Commission.
>
> **The Constitution** (http://judiciary.senate.gov/about/subcommittees/constitution.cfm):
> Jurisdiction: (1) Constitutional amendments; (2) **Enforcement** and protection of constitutional rights; (3) **Statutory** guarantees of civil rights and civil liberties; (4) Separation of powers; (5) Federal-State relations; (6) Interstate compacts.
>
> **Crime and Drugs** (http://judiciary.senate.gov/about/subcommittees/crime.cfm):
> Jurisdiction: (1) **Oversight** of the **Department of Justice's** (a) **Criminal Division**, (b) Drug Enforcement Administration, (c) Executive Office for U.S. Attorneys, (d) Office on Violence Against Women, (e) U.S. Marshals Service, (f) Community Oriented Policing Services and related law enforcement grants, (g) Bureau of Prisons, (h) Office

> of the Pardon Attorney, (i) U.S. Parole Commission, and (j) **Federal Bureau of Investigation**, as it relates to crime or drug policy; (2) Oversight of the U.S. Sentencing Commission; (3) Youth violence and directly related issues; (4) Federal programs under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (including the Runaway and Homeless Youth Act); (5) **Criminal justice and victims' rights policy;** (6) Oversight of the Office of National Drug Control Policy; (7) Oversight of the U.S. Secret Service; (8) Corrections, rehabilitation, reentry and other detention-related policy; and (9) Parole and prohibition policy.
>
> **Human Rights and the Law**
> (http://judiciary.senate.gov/about/subcommittees/humanrights.cfm):
> Jurisdiction: (1) Human rights laws and policies; (2) Enforcement and implementation of human rights laws; (3) Judicial proceedings regarding human rights laws; and (4) Judicial and executive branch interpretations of human rights laws.

Therefore, the actions of Senator Leahy on yesterday, his staff and/or the U.S. Senate's Committee on the Judiciary is unacceptable and has been ill received. There simply is no excuse for such incompetence, unprofessionalism, disrespect and handling for citizens Complaints submitted and/or entrusted to his care.

The following information was obtained from the U.S. House of Representative's Committee on the Judiciary's website to support they indeed handle Complaints such as mine:

> Just this year this Committee dealt with ***"Allegations of Selective Prosecution: The Erosion of Public Confidence in Our Federal Justice System."*** However, when provided with my Complaint which may go to the very claims/heart of such hearings, my Complaint was shredded (according to Matthews) and/or clearly ignored and not taken into consideration.
>
> **The Subcommittee on Courts, the Internet, and Intellectual Property** shall have jurisdiction over the following subject matters: copyright, patent and trademark law, information technology, administration of U.S. Courts, Federal Rules of Evidence, Civil and Appellate Procedure, judicial ethics, other appropriate matters as referred to by the Chairman, and relevant oversight. (http://judiciary.house.gov/about/subcommittee.html)
>
> **The Subcommittee on the Constitution, Civil Rights, and Civil Liberties** shall have **jurisdiction** over the following subject matters: constitutional amendments, ***constitutional*** rights, **federal *civil*** rights, ***ethics*** in government, other appropriate matters as referred by the chairman, and ***relevant oversight.***
> (http://judiciary.house.gov/about/subcommittee.html)

Therefore, the actions of Congressman Conyers (aware and/or should have been aware that I was in town) on yesterday, his staff and/or the U.S. Senate's Committee on the Judiciary is unacceptable and has been ill received. There simply is no excuse for such incompetence, unprofessionalism, disrespect and handling for citizens Complaints submitted and/or entrusted to his care. I do not appreciate being lied to, given the run around and/or shunned. I also have serious concerns as to the fact that it was Conyer's that I corresponded with first advising of my visit to D.C. on or about November 24, 2008, and a week later (December 1, 2008) I find out that I have been a victim of additional judicial injustices – then when I take

the time to come to D.C., I cannot even meet with him and/or he hides behind his staff and allow them to do his biddings rather than discuss my matter with me personally.

I do intend to be back on the Hill today and hopefully find out what is going on. While I do not expect much based on the actions of Senator Leahy and Congressman Conyers on yesterday, I do require that I get some resolution as to the status of my "***Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Findings.***"

I close with serious concerns as to why our system may be in the condition as it is – it appears such corruption and/or the condoning of such may be due to those on the Hill. Clearly in my situation, there is simply no excuse for how my Complaint has been handled; moreover, my being subjected to such crimes at the direction and/or instructions of public officials and nothing is being done.

If this is the **CHANGE** that America can look forward to, which appears to be politics as usual, then not only myself, but the public needs to be aware of it. Clearly, yesterday's visit is an embarrassment and an insult to the process that citizens are led to believe is available to them.

Sincerely,

Denise Newsome

Denise Newsome

P.01

TRANSACTION REPORT

DEC-31-2008 WED 04:43 PM

FOR:

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DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
DEC-31	04:33 PM	12022240139	9′50″	29	FAX TX	OK	117	

TOTAL : 9M 50S PAGES: 29

P.01

TRANSACTION REPORT

DEC-31-2008 WED 04:53 PM

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DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
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TOTAL : 8M 1S PAGES: 29

P.01

TRANSACTION REPORT

DEC-31-2008 WED 05:19 PM

FOR:

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DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
DEC-31	05:09 PM	12022243479	10′01″	30	FAX TX	OK	120	

TOTAL : 10M 1S PAGES: 30

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

DENISE NEWSOME

FACSIMILE

To: Vice President-Elect, Joseph R. Biden, Jr.
(202) 224-0139
Hon. John Conyers, Jr. (202) 225-0072 (& E-Mail)
Hon. Patrick Leahy (202) 224-3479

From: Denise Newsome

Pages: 30 (including blank page)

Re: *STATUS REQUEST*
Complaint Filed With United States Legislature/Congress

Date: 12/31/08

☐ *Urgent* ☑ *For Review* ☐ *Please Comment* ☑ *Please Reply* ☐ *Please Recycle*

Dear Vice President-Elect Biden, Congressman Conyers and Senator Leahy:

STATUS REQUEST:

As you know on or about July 13, 2008, I submitted a Complaint entitled, ***"Emergency Complaint and Request for Legislature/Congress Intervention; Also Request for Investigations, Hearings and Findings."*** **Through this instant correspondence, I am requesting the status of this Complaint**. The original of this Complaint was submitted to the attention of Senator Patrick Leahy (U.S. Senate's Chairman of Committee on the Judiciary) and later following up with copies to Congressman John Conyers, Jr. (U.S. House of Representative's Chairman of Committee on the Judiciary), Senator Barack Obama (in that he was a Presidential Candidate at the time of submittal and advising of filing should he return to the Senate as a result of losing the Presidential election), Senator John McCain (in that he was a Presidential Candidate at the time of submittal and advising of filing should he return to the Senate as a result of losing the Presidential election) and Congresswoman Debbie Wasserman-Schultz (as a member in the U.S. House of Representatives' Committee on the Judiciary). Providing a sufficient amount of copies out of concerns that providing only one Senator and/or Representative with this information would only amount to further acts of cover-up, dropping the ball, passing the buck, etc. in the handling of this matter. **This Complaint consisted of approximately 65 pages and was supported by approximately 83 supporting Exhibits**. While visiting the offices of Senator Leahy as well as his Committee's office, I was advised they could not find this Complaint. While visiting the office of Congressman Conyers as well as his Committee's office, I was advised they could not find this Complaint. I am hoping that since my visit, out of the 5 sets of this Complaint submitted to the Legislature's/Congress' attention, one or more have been found.

As I have addressed in previous correspondence there is sufficient information to support that the Legislature/Congress handles such matters (***here is information I retrieved from their website***) – this information is important in that there is a serious problem with our judicial system as well as certain public officials. In that the President-Elect/Vice-President Elect campaigned that they will bring about change, it is important that the public is aware of the Complaint I submitted and the handling of it thus far (my getting the run around while there, Senators/Congressman – **of Committees handling such matters** - ignored me while they had knowledge I was in Washington, D.C. and in their offices):

U.S. SENATE – COMMITTEE ON THE JUDICIARY:

> **About the Committee:** . . .
> One of the most important functions of the Committee is to provide **oversight** of the Department of Justice, including the Federal Bureau of Investigation (http://judiciary.senate.gov/about/)
>
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>
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>
> **Crime and Drugs**[1] (http://judiciary.senate.gov/about/subcommittees/crime.cfm):
> **Jurisdiction:** (1) **Oversight** of the **Department of Justice's** (a) **Criminal Division**, (b) Drug Enforcement Administration, (c) Executive Office for U.S. Attorneys, (d) Office on Violence Against Women, (e) U.S. Marshals Service, (f) Community Oriented Policing Services and related law enforcement grants, (g) Bureau of Prisons, (h) Office of the Pardon Attorney, (i) U.S. Parole

[1] **In the Senate's Committee on the Judiciary, there is a Subcommittee entitled, "Crime and Drugs" in which the Chairman is Joseph R. Biden Jr. (U.S. Vice President-Elect). So the proper persons have been timely, properly and adequately placed on notice of the problems that I not only face, but other African-Americans/Citizens of the public have had to endure.**

Commission, and (j) **Federal Bureau of Investigation**, as it relates to crime or drug policy; (2) Oversight of the U.S. Sentencing Commission; (3) Youth violence and directly related issues; (4) Federal programs under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (including the Runaway and Homeless Youth Act); (5) **Criminal justice and victims' rights policy**; (6) Oversight of the Office of National Drug Control Policy; (7) Oversight of the U.S. Secret Service; (8) Corrections, rehabilitation, reentry and other detention-related policy; and (9) Parole and prohibition policy.

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The Subcommittee on the Constitution, Civil Rights, and Civil Liberties shall have **jurisdiction** over the following subject matters: constitutional amendments, ***constitutional*** rights, **federal *civil*** rights, ***ethics*** in government, other appropriate matters as referred by the chairman, and *relevant* ***oversight.***
(http://judiciary.house.gov/about/subcommittee.html)

How serious is this problem – public corruption, racial bias in the judicial process, etc.? This is addressed in the Complaint I have submitted to the United States Legislature/Congress. Nevertheless I provide additional information I found disturbing and of necessity to address:

1. While I was in Mississippi for the past Christmas holiday, in the Jackson Clarion Ledger's Sunday paper (dated December 28, 2008) there was an article in the paper entitled, ***"Magnolia State Has Share of Corruption."*** (Cut and pasted from: http://www.clarionledger.com/article/20081228/NEWS/812280354/-1/archive) A copy of which is attached hereto. This article includes the following excerpts:

> The recent indictment of Illinois Gov. Rod Blagojevich has resurrected that state's stereotype as the ultimate place for backroom deals, bribes and corruption.
>
> But in the ***past decade***, Mississippi has had *nearly* ***twice*** the per capita rate of public officials convicted than Illinois. . . .
>
> The number of Mississippi's corruption convictions is **substantial**, but only tells part of the story, said Assistant U.S. Attorney John Dowdy of Jackson, who heads the criminal division for the **Southern** District of Mississippi.
>
> "You take into account the number of cases prosecuted by the local district attorneys and the state attorney general, and you see there is a ***pattern*** *of corruption* with all levels of public office, from city to federal," he said.
>
> The Corporate Crime Reporter puts Mississippi in **second** place in public corruption, just behind Louisiana.[2]
>
> The high rankings don't surprise Dowdy. "I do believe that is a fair representation of the true nature of corruption within public office in this state," he said. "It is a problem, and it has been historically." . . .
>
> ***The only reason the state isn't ranked higher nationally in corruption is because most people get away with it,*** he said.

COMMENT: In my situation, not only was the United States Legislature/Congress made aware of this infectious issue, from information obtained during my trip, they clearly ignored my request – I advised them of the reasons I did not submit my Complaint through the representatives (Senators/Congressman) of the state(s), and provided them with sufficient information of concerns of corruption. However, during my visit, it was brought to my attention that my Complaint (and copies) may have been submitted to the Senator(s)/Representatives of my state(s). Clearly doing so **over my objections** and of being notified of my concerns and of the corruption in my state(s). This information for instance is contained on Page 3 and Exhibit 1 of the Complaint submitted to the U.S. Legislature/Congress. Not only that, I provided at Exhibit 2 a letter from Thad Cochran dated June, 1, 2006, in my Complaint. To date nothing. So no, the U.S. Legislature/Congress apparently is aware of the corruption problems growing in the judicial system; however, appears to be looking the other way. Concerns which has led me to believe that Capitol Hill (U.S. Legislature/Congress) may be contributing and/or encouraging such practices in their failure to exercise its jurisdiction. It is obvious that lobbyists are used on Capitol Hill to promote the agenda of those who pay them – thus, it is more profitable for corrupt

[2] However, the prior report had Mississippi as **No. 1.** So in the latest report, it only fell one spot down in the rankings – actually, just changed places with Louisiana.

public officials to pay lobbyist to see that the issues addressed in my Complaint are ignored and that the public is never made aware of it. Thus, money, power and wealth appears to be the way the U.S. Legislature/Congress handles matters. Clearly they have obtained the Complaint filed by me; however, I have heard nothing and when I visited earlier this month, look at how Senator Leahy and Congressman Conyers behaved. Moreover, may have instructed their staff to behave in the manner I experienced.

2. In the Complaint I submitted to the U.S. Legislature/Congress, for instance, they were made aware of the corrupt practices (unlawful/illegal) practices of Constable Jon Lewis (white male) in Jackson, Mississippi. Not only that, the FBI, the Hinds County Board of Supervisors are fully aware of Jon Lewis' corrupt practices. I submitted a formal Complaint to the Hinds County Board of Supervisors about July/August 2006 and a formal Complaint with the FBI on or about June 26, 2006. However, to date, nothing from my understanding has been done and Jon Lewis is still actively serving in such a capacity. A public official who took evidence (tape recording) from my persons on February 14, 2006, kidnapped me (**with the presence of a fire arm – deadly weapon**), had me held hostage at the Hinds County Detention Center until my parents paid the ransom (masked as a bond) to release me. There was no legal grounds for such actions nor the taking of my residence and property. Such acts were committed at the direction of Constable Jon Lewis, Judge(s) and others. Such acts were committed with knowledge that criminal/civil wrongs were being rendered against me. To no avail. Constable Lewis, other public officials and others made a conscious decision to usurp the laws and administer their own prejudicial/racially motivated justice. In fact, I advised Constable Lewis that he was committing legal wrongs to no avail. ***Because he has been allowed to conduct such criminal acts on his own or under the direction of judge(s) and/or others (i.e. Hinds County Board of Supervisors), he does it without fear of punishment or prosecution – placing himself above the laws and unlawfully/illegally taking the laws into his own hands.***

Constable Jon Lewis has been allowed to repeatedly violate laws/statutes governing *"service of process,"* etc. In my case he went as far as **falsifying** the Return (to unlawfully/illegally obtain $35 fee) – keeping in mind he also stole/removed property off my persons (tape recording) and failed to turn such evidence in at the Hinds County Detention Center. Retaining such information for himself in that it contained damaging information as to the criminal acts he engaged in. Therefore, he felt better served to take such evidence and destroy it. Not only that, Judges, public officials, etc. were aware of such criminal behavior and has done nothing.

IT IS IMPORTANT TO NOTE: That in the Complaint I filed with the U.S. Legislature/Congress, they have been made aware of the criminal and civil violations rendered me at the hands of Constable Lewis. (**This is addressed in my Complaint at Pages 28 – 35 along with several supporting EXHIBITS**) The Court(s), Hinds County Board of Supervisors, FBI, etc. are also aware of such corrupt practices. However, from my understanding, Constable Lewis is still employed and the public is definitely at risk.

How bold is Constable Lewis in committing such criminal/civil wrongs? He encourages investigations that he know will not happen. A reasonable mind may conclude because, like Illinois Gov. Rod Blagojevich, he may have threatened to sing – spill the beans on others.

Constable Lewis most likely would not take the heat for such corruption without taking others with him.

IT IS IMPORTANT TO NOTE: After my February 14, 2006 kidnapping at the hands of Constable Lewis, on or about April 19, 2006 (approximately two [2] months later) he is still at it. From information I have seen, it appears he had citizens sending payments to his home address. Why is this so important, because even the Clerk of the Court voiced concerns of such actions of Constable Lewis, I am not aware of any acts taken to deter such criminal practices. See documents attached hereto:

Cut & Pasted From:
http://www.webhostingblogg.com/node/7155?PHPSESSID=8c28dc442737b1067a8e7c482e748b34
Mississippi Briefs. . .

> Hinds County Justice Court Clerk Patricia T. Woods has **questioned** whether Constable Jon Lewis is ***improperly*** *collecting fees*.
>
> Lewis says he is, at most, guilty only of a clerical error and said he has not done anything illegal.
>
> In a letter dated April 7 to Hinds County Administrator Anthony Brister, Woods said *Lewis may be collecting fines and constable fees from people who had already paid*. She said Lewis had sent a letter to a Utica man, and possibly others, telling him to appear in court at a specific time, pay his fine and constable fee. But the man already had pleaded guilty and paid his fine.
>
> Lewis said he sent the letter to the man because he did not realize he had paid the fine.

Cut & Pasted From: http://www.wlbt.com/global/story.asp?s=4786323&ClientType=Printable
Jackson 04/19/06
Supervisors Looking Into Constable's Methods:

> The Hinds County Board of Supervisor's is looking into the methods used by the county's constable. At issue, is how he collects his fees. The constable says he has done nothing wrong.

COMMENT: The Hinds County Board of Supervisors is fully aware that the practices of Constable Jon Lewis are unlawful/illegal; however, to date, I am not aware of any charges brought against him or him being charged with any crimes. I filed a Complaint with the Hinds County Board of Supervisors on or about July/August 2006. The County about this time was also notified of my intent to sue Hinds County for the civil/criminal wrongs rendered me on February 14, 2006. The 04/19/06 article goes on to state:

> "There is absolutely nothing criminal here, nothing wrong," said Constable Jon Lewis.

In a letter to the county administrator, Justice Court Clerk Patricia Woods accused Constable John Lewis of using questionable tactics.

The clerk said Friday, April 7th, several defendants appeared at justice court to pay fines, but a judge wasn't present. A Utica man received a letter telling him to appear, but the man had already paid his speeding ticket in January.

After learning that, the clerk told her staff not to collect any fees from defendants who did not have outstanding warrants.

"I refuse to be a part of his collection process," said Woods in her letter to County Administrator Anthony Brister. "I cannot imagine how many letters were mailed or payments received at his home address."

"I am welcoming an investigation from the auditor's office. I would like it to be looked into very thoroughly," said Lewis.

Constable Lewis says the letter to the defendant about the speeding ticket was a mistake on his part, but he makes no apologies for using tough methods.

In one letter to a defendant, Lewis advised the man not to talk to anyone but him. He told the man not to call the court. Lewis tells defendants that because he says it helps ensure he collects his $35 service fee, which keeps the constable's operation running.

That $35 fee is tacked on if someone doesn't pay their fine and the constable has to serve a warrant. Lewis says he has lost thousands of dollars because of mishandled fees, and he won't let that continue.

The Board of Supervisors held an executive session meeting Monday to discuss the matter. Since justice court falls under the board's jurisdiction, the board's attorney will be investigating.

IT IS IMPORTANT TO NOTE: That the Hinds County Board of Supervisors is fully aware of the criminal acts of Constable Lewis; however, what is being done? Nothing. Moreover, why are they allowing him to continue to break the laws – defy the laws and create his own laws that suit him rather than those that are lawful?

Cut & Paste From: http://www.wapt.com/news/8798163/detail.html
Hinds County Constable Refutes Allegations:

Hinds County Constable Jon Lewis is firing back over allegations that he illegally collected a fee for his services.

> The Hinds County Board of Supervisors called for an internal investigation into accusations that Lewis collected an unauthorized $35 fee for serving criminal and civil warrants.
>
> ***Board president Doug Anderson said those fees are being collected <u>without</u> board approval.***
>
> But Lewis argues that accepting a fee is legal and said serving warrants is the way constables earn money.
>
> "The investigation needs to go forward. I welcome a thorough investigation from the State Auditor's Office. I want them to do this. They need to come in and look. I want everyone of my filed looked at," said Lewis.

IT IS IMPORTANT TO NOTE: <u>Constable Lewis knew that his actions could possibly bring lawsuits</u>. **So from what I have seen, it appears Constable Lewis is trying to get the Board to change the laws to cover-up his criminal acts.** I know he was put on notice on **February 14, 2006**, that I would be seeking actions against him for criminal/civil wrongs rendered me. So the Hinds County Board of Supervisors knew they had a walking liability, corrupt officer, etc.; however, to date may not have done anything to protect the public from the criminal acts of Constable Lewis:

Document Taken From:
http://www.co.hinds.ms.us/pgs/special/minutes/03_06_06.pdf
March 6, 2006 – Board of Supervisors of Hinds County Minutes:

> "Constable Lewis addressed the Board regarding the classification of Constables and the reporting of their fee income on 1099 forms for IRS and PERS purposes. He requested that all fee income for constables be reported on W2's vs. 1099 forms. ***Constables Lewis discussed a potential class action lawsuit Extensive discussion was had on this matter***. <u>No action was taken</u>."

At page 5.

Document Taken From:
http://www.co.hinds.ms.us/pgs/special/minutes/05_01_06.pdf
May 1, 2006 – Board of Supervisors of Hinds County Minutes:

- Update and discussion regarding Constable Jon Lewis.

> The Board attorney next updated the Board on the status of the internal investigation that the Board Attorney was instructed to conduct **<u>regarding allegations that Constable Jon Lewis had violated state law</u>**. The Board Attorney advised the Board that all information regarding this matter had been turned over the **Attorney General's office**, the **State Auditor's Office** the **District Attorney's** office and the **U.S. Attorney's Office (FBI)** as previously instructed by the Board at a prior Board meeting. No action was taken on this matter.

At pages 9 and 10. Look at what government agencies were notified of concerns of Constable Lewis' actions. Was anything done? Yet, Constable Lewis is allowed to continue to be a danger and/or threat to the public/citizens of the State of Mississippi and/or United States.

Cut & Pasted From: http://www.wlbt.com/Global/story.asp?s=9100456
Hinds County 9/30/2008
Controversy in Constable Special Election:

> County constable is a desirable position. For every warrant and summons the constable serves he makes $35. In a large county like Hinds the job can be ***quite lucrative***. Constables also act as bailiffs in justice court and take on other law enforcement duties.

COMMENT: The record evidence in the Courts and/or government agencies will support that Constable Jon Lewis has been allowed to violate state laws and that such violations are done with his knowledge as well as the Hinds County Board of Supervisors' (**and other government agencies**) knowledge of Lewis' criminal activities and/or criminal/civil wrongs against citizens. Moreover, I believe an investigation into Constable Lewis' handling/service of warrants and/or summonses are not in compliance with the statutes/laws governing service of these legal documents. Nevertheless, *he looks to obtain such fees ($35) when he has knowledge he* ***has not*** *served*[3] *legal documents and/or attempts to obtain such fees through unlawful/illegal practices. In my situation involving Constable Lewis, he did not serve any warrants/summonses on me in compliance with the statutes/laws of the State of Mississippi.* He knowingly and deliberately **falsified** information regarding handling of service. **IT'S IMPORTANT TO NOTE:** Constable Lewis also participated in the unlawful seizure of my residence and property on February 14, 2006, unlawfully removed my microcassette recorder from my persons, kidnapped me (**with the presence of a fire arm – deadly weapon**), had me held hostage against my will at the Hind County Detention Center, along with other criminal acts. Said tape recording was evidence to the crimes being committed against me. Although I requested the return of the recording and such criminal acts were reported, to date, nothing has been done.

3. There is a serious epidemic on the rise in the United States. Especially, those concerning Landlord and Tenant matters. You have companies/persons buying up real estate (taking on the role as Landlord) in efforts of making big bucks through fraud and deception and then using corrupt public officials to aid in the unlawful/illegal seizure of property (of Tenant(s)). Not wanting to follow the statutes/laws in place to protect citizens, these Landlords either with the help of corrupt public officials (relying on special favors) or taking the laws into their own hands are committing serious criminal/legal wrongs under the watchful eyes of the Court(s), government agencies and **now** the United States Legislature/Congress.

IT IS IMPORTANT TO NOTE: That the failure of the Court(s) to uphold and enforce the laws/statutes may have encouraged such criminal/civil wrongs as that committed by Constable Jon Lewis. The very criminal acts that O.J. Simpson was charged with have been committed by Constable Jon Lewis and other; however, nothing has been done.

In fact, as recent as Friday, December 26, 2008, a landlord in the Cincinnati, Ohio area, took it upon himself to change the lock on his tenant's residence and when the tenant returned home,

[3] Fraudulent acts.

she had to climb through the window of her residence to obtain property. Apparently, the Landlord was on the lookout, confronted the tenant and as a result of such confrontation, the Landlord wound up stabbing the Tenant which later resulted in the Tenant's death. See articles attached hereto: **Landlord Allegedly Stabs Tenant Over Un-Paid Rent** and **$1M Bond for Landlord Accused of Murder**. Also attached are photographs of the Landlord and Tenant.

WHAT A NEEDLESS AND SENSELESS ACT!!!! A LIFE LOST BECAUSE LANDLORD(S) WANTING TO MAKE QUICK MONEY TAKE THE LAWS INTO THEIR OWN HANDS AND RENDER THEIR OWN JUSTICE (I.E. MURDERING, KIDNAPPING, ETC.) IT IS NOT RIGHT. **A GROWING PROBLEM!!!**

4. From what I gathered, it appears the Mayor of Jackson, Mississippi, Frank Melton (African-American) is being charged with federal civil rights violations regarding an **August 26, 2006**, raid on a duplex. See articles taken from the Clarion Ledger's website attached hereto.

Mayor Melton's raid coming approximately **six (6)** months **after** the unlawful seizure, kidnapping, etc. that I had to endure at the hands of public official(s) (Constable Lewis – white male). However, do you see Constable Lewis (white male) and/or his cohorts being charged with criminal wrongs as those leveled against O. J. Simpson and Mayor Melton? No.

Thank you for your time and consideration in this matter. I am still awaiting the United States Legislature/Congress' response to the Complaint I submitted for filing in July 2008.

Should you have any questions, please do not hesitate to contact me. My direct fax number at my office is (513) 419-6453.

Sincerely,

Denise Henson

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (513) 680-2922

DENISE NEWSOME

FACSIMILE

To:	**Vice President-Elect, Joseph R. Biden, Jr. (202) 224-0139** **Hon. John Conyers, Jr. (202) 225-0072** **Hon. Patrick Leahy (202) 224-3479**	**From:**	Denise Newsome
		Pages:	18 (including blank page)
Re:	***Complaint Filed With United States Legislature/Congress***	**Date:**	12/15/08

☒ **Urgent** ☒ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

Dear Vice President-Elect Biden, Congressman Conyers and Senator Leahy:

Attached is a copy of the pleading entitled, *Notice of Non-Waiver of Constitutional Rights and Civil Rights to Have the United States Legislature/Congress Intervene; Notice of Court's Lack of Jurisdiction to Enter December 1, 2008 Judgment (Docket No. 47) – Said Judgment Null/VOID.* (Civil Action No. 3:07-cv-00560) This is a pleading I have had to file in that the attorney I retained to represent me has come under attack by Defense counsel in this Court and from the record evidence has endured threats of disbarment, etc. in her representation of me. Therefore, as a direct and proximate result of such attacks and threats she has succumbed to such pressures and filed a pleading to withdraw over my objections. The record in this lawsuit has been heavily breached and/or compromised and the Docket the case does not adequately reflect **all** pleadings filed.

In the same attacks that my counsel in the attached lawsuit I believe is the same type that any other attorneys I have retained and/or that has agreed to represent me in matters have had to endure. However, keep in mind I am painted as a "*serious litigator,*" etc. and one that is delusional, paranoid, crazy, etc. Such processes which are a part of the systematic process to destroy me, my life, reputation, pursuit of happiness, pursuit of justice, etc. My attorney in the attached matter having well over twenty (20) years in the legal profession; however, I believe once opposing counsel and the Judges obtained some information regarding some issues with her in Tennessee, they may have used such information to blackmail/coerce, etc. into abandoning me. Of course with the research I conducted on my attorney (in that her **abrupt** turn-about-face and refusal to correspond or file pleadings – in efforts of throwing the case) and the information I was able to obtain, it became clear to me that something was wrong. *My attorney being so positive with the evidence and likely outcome of the lawsuit; and then, abruptly just abandoned me.* It was not until I obtained information from my research and the ***threatening*** letters from *opposing* counsel that was being submitted to my attorney without my knowledge, that I concluded defense tactics being used by opposing counsel to obtain an undue, unlawful and illegal advantage in this lawsuit and other(s).

As you know, I was in Washington, D.C. on Thursday and Friday and visited the offices of the Senator Leahy, Congressman Conyers as well as the Offices of the House of Representatives' Committee on the Judiciary and Senate's Committee on the Judiciary. I left the copies of the ***Emergency Complaint*** filed with the Legislature/Congress with a person who claimed to be counsel for the HR Committee on the Judiciary and gave me a name of Sam Sokol; as well as a copy with Congressman Conyer's office.

There simply is no excuse for the actions of the Judges/Magistrate Judges and attorneys (all of who are officers of the court). Such unlawful, illegal and unethical practices which are occurring under the **watchful eyes** of the House of Representatives and Senate that have jurisdiction over the judicial system, the courts and the officers thereof.

I hope you can understand the ***urgency*** *of my request for the Legislature/Congress' intervention.* Moreover, from the attached pleading and the one provided to your attention on December 10, 2008, in the other lawsuit, that the jurisdictions of the Committee on the Judiciary for both the Senate and House of Representatives are applicable in this matter; and their intervention in such matters, timely requested.

Your attention to this matter is greatly appreciated. Should you have any questions, please do not hesitate to contact me at the above address and phone number (513) 680-2922. My direct fax number at my office is (513) 419-6453.

Sincerely,

Denise Benson

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ACLU official alleges racial profiling at airport

Man says he was victim of profiling, challenges Logan's screening technique



Michael Dwyer / AP

King Downing, the national coordinator of the American Civil Liberties Union's Campaign Against Racial Profiling, leaves Federal Court in Boston, on Dec. 3. Downing says he was the victim of profiling by police at Logan International Airport in Boston, and he has gone to federal court to challenge a screening technique used around the country that relies on suspicious behavior patterns to identify potential terrorists.

Associated Press

updated 12/3/2007 8:02:09 PM ET

BOSTON — The top official in charge of fighting racial profiling for the American Civil Liberties Union says he was the victim of profiling at the Boston airport, and he has gone to federal court to challenge a screening technique that relies on suspicious behavior to identify potential terrorists.

King Downing said he was stopped and questioned by state police in October 2003 after arriving on a flight to attend a meeting on racial profiling.

Downing sued the Massachusetts Port Authority, which operates the airport, and Massachusetts State Police, alleging they

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EXHIBIT 136

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violated his constitutional right against unreasonable search. A trial in the case began Monday in U.S. District Court.

Downing, who is black and wears a short beard, said in his lawsuit that he was stopped by a state trooper and asked to show identification after he left the gate area and made a phone call in the terminal.

When he declined, Downing said, he was told to leave the airport, but was then stopped again. He was surrounded by four state troopers and told that he was under arrest for failing to produce identification.

Downing, an attorney who serves as national coordinator of the ACLU's Campaign Against Racial Profiling, said after he agreed to show his driver's license, the troopers asked to see his airline ticket. He was then allowed to leave, and no charges were filed against him.

In his lawsuit, Downing alleges the behavioral screening system used at Logan International Airport encourages racial profiling. His lawsuit seeks unspecified damage and a ruling to declare the screening system unconstitutional.

Downing was stopped "for no apparent reasons other than his appearance," said Peter Krupp, one of his attorneys. "He knew his rights, and he knew he had done nothing wrong."

In 2002, about a year after terrorists launched the Sept. 11 attacks by hijacking two planes from Logan, the airport began a program called "Behavior Assessment Screening System," which allows police to question passengers whose behavior appears suspicious. Logan was the first airport in the country to use the system.

The Transportation Security Administration has rolled out a similar system at more than 40 of the nation's largest airports. The TSA would not reveal what kinds of behavior authorities look for, but officials at Logan have previously said suspicious activity includes loitering without luggage, wearing heavy clothes on a hot day and watching security methods at the airport.

Logan officials say race played no role in the decision to question Downing. The first trooper to ask Downing for identification was black, and three of the four officers who arrived later were also black, according to court documents. The first trooper said he became suspicious when he saw Downing

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watching him.

Airport officials insisted behavior-pattern recognition helps strengthen security and does not involve racial profiling.

"We welcome the opportunity to defend the program in court," said Matthew Brelis, a spokesman for the Massachusetts Port Authority, which operates the airport.

Critics say the behavioral-recognition technique carries an inherent risk of racial profiling.

"Done right, it is based on behavior. Done wrong, it is based on physical characteristics, superficial characteristics," said Bruce Schneier, chief technology officer at the security firm BT Counterpane. "Unfortunately, it's easy to do it wrong."

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PRESS RELEASE

Jury Finds Unlawful Detention At Logan Airport

Verdict stems from treatment of African-American passenger after arrival in 2003

CONTACT
Peter Krupp, Attorney, Lurie & Krupp LLP, 617-312-3315
Christopher Ott, Communications Manager, 617-470-5553, cott@aclum.org

DATE
December 9, 2007

BOSTON -- Friday evening, the jury in the *Downing v. Massachusetts Port Authority* trial found that state police had unlawfully detained King Downing at Logan Airport in October 2003. Mr. Downing also agreed to a settlement of his claims against the Massachusetts state trooper principally responsible for the unlawful detention, William Thompson.

King Downing, a Harvard-educated lawyer, testified at the trial that he was stopped for questioning by state police troopers after simply using a phone on his way out of Logan Airport on the morning of October 16, 2003. Police demanded to see Mr. Downing's identification and travel documents, which he was under no obligation to provide. After initially being told that he must leave the airport, which he intended to do anyway, Mr. Downing was surrounded by five state troopers and told he was under arrest. Although the police had no reason to stop him, Downing was detained for forty minutes until he finally acceded to police demands for his identification and travel papers.

"The jury found that Mr. Downing was unlawfully detained by the State Police," said attorney Peter B. Krupp, of the firm Lurie & Krupp LLP, who represented Mr. Downing in cooperation with the American Civil Liberties Union of Massachusetts. "The jury verdict puts the state police on notice that its programs, including the post-9/11 Passenger Assessment Screening Program, must assure in the future that voluntary encounters between troopers and members of the traveling public do not become the type of unlawful detention that Mr. Downing experienced."

Downing had stopped on his way out of the airport to use a pay phone outside the secure area, and he contended that the only thing that would have attracted the attention of the trooper was his appearance. Mr. Downing is an African American who wears a beard. Downing testified that while he was on the phone, a state trooper positioned himself just a few feet away where he could easily listen in on Downing's call. When Downing objected, the trooper demanded to see his identification.

Ironically, Mr. Downing is the National Coordinator of the ACLU's Campaign Against Racial Profiling.

Downing's legal team had argued that his detention was the result of the Passenger Assessment Screening System (also known as the Behavior Assessment Screening System). The PASS program was designed to thwart terrorists and was put into effect at Logan Airport in 2003. Similar screening systems are now in use at dozens of airports around the country.

The jury did not find that the incident on Oct. 16, 2003, was necessarily the result of the PASS program, but nonetheless found that the police had unlawfully detained Mr. Downing because they had detained him without reasonable suspicion to believe he had committed any crime. The defendants had steadfastly contended that at all times during the 30-40-minute encounter with the police, Mr. Downing was free to leave the police. The jury rejected this notion.

"A jury with no blacks found that my rights were violated," said King Downing. "This case sends a message to blacks, and to all people, to stand up for their rights."

"This jury verdict upholds an important principle," said Carol Rose, Executive Director of the ACLU of Massachusetts. "In the United States, people cannot be stopped without cause by the police and required to produce identification and papers proving that they have a right to be in a particular place. 'Your papers please' is a phrase that is alien to a free society."

"Police and airport security personnel should be on the lookout for genuinely suspicious behavior, but the law is clear that they may not stop someone unless they have a reasonable suspicion that a crime or an act of terrorism might be committed. The use of behavioral characteristics, like those that were kept secret in this case, does not justify the detention of someone in a non-secure area."

The ACLU of Massachusetts has questioned the use of behavioral pattern recognition out of concern that it increases the likelihood of racial profiling. "The police are going to find suspicious behavior where they look for it," Rose explained. "And experience teaches us that they are more likely to look for it among people of color or a particular ethnicity. We will all be safer if security personnel base their investigations on evidence, not simply racial characteristics."

For more information about the case, see:
http://www.aclu.org/safefree/general/18765prs20041110.html

-end-

Racial Justice | Racial Profiling

Jury Finds African American Passenger Was Unlawfully Detained at Logan Airport

December 10, 2007

FOR IMMEDIATE RELEASE
CONTACT: media@aclu.org

BOSTON - On Friday, a Suffolk Superior Court jury found state police unlawfully detained American Civil Liberties Union attorney King Downing at Logan Airport in October 2003, and Downing agreed to a settlement of his claims against William Thomspon, the state trooper principally responsible for the unlawful detention.

Downing, a Harvard-educated lawyer who is the National Coordinator of the ACLU's Campaign Against Racial Profiling, testified at trial that he was stopped for questioning by state police troopers after simply using a phone on his way out of Logan Airport on the morning of October 16, 2003. Police demanded to see Downing's identification and travel documents, which he was under no obligation to provide. After initially being told that he must leave the airport, which he intended to do anyway, Downing was surrounded by five state troopers and told he was under arrest. Although the police had no reason to stop him, Downing was detained for 40 minutes until he finally acceded to police demands for his identification and travel papers.

"The jury found that Mr. Downing was unlawfully detained by the state police," said Peter B. Krupp, an attorney with the firm Lurie & Krupp LLP, who represented Downing in cooperation with the ACLU of Massachusetts. "The jury verdict puts the state police on notice that its programs, including the post-9/11 Passenger Assessment Screening Program, must assure in the future that voluntary encounters between troopers and members of the traveling public do not become the type of unlawful detention that Mr. Downing experienced."

Downing had stopped on his way out of the airport to use a pay phone outside the secure area, and he contended that the only thing that would have attracted the attention of the trooper was his appearance. Downing is an African American who wears a beard. Downing testified that while he was on the phone, a state trooper positioned himself just a few feet

away where he could easily listen in on Downing's call. When Downing objected, the trooper demanded to see his identification.

The ACLU's lawsuit alleges that Downing's detention was the result of the Passenger Assessment Screening System (PASS, also known as the Behavior Assessment Screening System). The PASS program was designed to thwart terrorists and was put into effect at Logan Airport in 2003. Similar screening systems are now in use at dozens of airports around the country. While the jury did not find that the incident on October 16, 2003 was necessarily the result of the PASS program, it nonetheless found that the police had unlawfully detained Downing because they had detained him without reasonable suspicion to believe he had committed any crime.

"A jury with no blacks found that my rights were violated," said King Downing. "This case sends a message to blacks, and to all people, to stand up for their rights."

"This jury verdict upholds an important principle," said Carol Rose, Executive Director of the ACLU of Massachusetts. "In the United States, people cannot be stopped without cause by the police and required to produce identification and papers proving that they have a right to be in a particular place. 'Your papers please' is a phrase that is alien to a free society.

"Police and airport security personnel should be on the lookout for genuinely suspicious behavior, but the law is clear that they may not stop someone unless they have a reasonable suspicion that a crime or an act of terrorism might be committed. The use of behavioral characteristics, like those that were kept secret in this case, does not justify the detention of someone in a non-secure area," added Rose.

The ACLU of Massachusetts has questioned the use of behavioral pattern recognition out of concern that it increases the likelihood of racial profiling.

"The police are going to find suspicious behavior where they look for it," said Rose. "And experience teaches us that they are more likely to look for it among people of color or a particular ethnicity. We will all be safer if security personnel base their investigations on evidence, not simply racial characteristics."

More information about Downing v. Massachusetts Port Authority can be found online at: www.aclu.org/safefree/general/18765prs20041110.

Published on *American Civil Liberties Union* (http://www.aclu.org)
Source URL: http://www.aclu.org/racial-justice/jury-finds-african-american-passenger-was-unlawfully-detained-logan-airport

WHISARD Compliance Action Report

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

Case ID:	*1537034*	Originating District:	*Columbus OH District Office*
Local Filing Number:	*2009-163-08696*	Investigating. District:	*Columbus OH District Office*
WHMIS Case Number:		Lead Investigator:	*Petric, Joan*
Registration Date:	*02/03/2009*		
Assignment Date:	*02/03/2009*		

Employer Information

Trade Name: *Wood & Lamping, LLP*
Address: *600 Vine St. Suite 2500*
Cincinnati, OH 45202

Legal Name: *Wood & Lamping, LLP Attorneys at*
EIN: *31-0494955*
County: *Hamilton*
NAIC Code: *541110*
No. Of Employees: *50*

Investigation Information

Period Investigated From: *12/01/2008*
To: *01/09/2009*
Investigation Type: [redacted]
Investigation Tool:
Compliance Status: *Compliance (no violations found)*

EXEMPTION 7(E)

BNPI:
Reinvestigation: ☐
Recurring Violation: ☐
Future Compliance Agreed: ☑
Involved in AG: ☐

Recommended Action:

BCDS:	☐	RO/NO Review:	☐
CMP:	☐	Follow Up Investigation:	☐
Litigation:	☐	Other Action:	☐
Civil Action:	☐	Denial of Future Certificate:	☐
Criminal Action:	☐	BW Payment Deadline:	
Submit For Opinion:	☐	Trailer forms attached:	☐

MAY 13 2009

** CMPs computed do not necessarily indicate CMPs assessed.*

Unduplicated Employees Found:	*0*	Unduplicated Employees Agreed:	*0*
Total Amount Computed:	*$0.00*	Total Amount Agreed:	*$0.00*

EXHIBIT 137

WHISARD Compliance Action Report

Conclusions & Recommendations:

Hours: 61. FMLA. EE claims she was denied her right to take FMLA leave. She claims she was terminated for asking for FMLA leave. Contact: Andrea Griffith, Office Manager; stated that at no time did C request or give enough information for her to determine that she needed FMLA leave. Ms. Griffith stated that C's termination was due to the elimination of her position. No violation was found. Ms. Griffith agreed to continued compliance. No further action.

WHI Signature: _____ Date: 5/8/09

Reviewed By: _____ Date: _____

Case ID: 1537034
Wood & Lamping, LLP
600 Vine St., Suite 2500
Cincinnati, Ohio 45202
EIN: 31-0494955

REASON FOR INVESTIGATION

This investigation was initiated based on a complaint filed by Denise Newsome. She alleged that she was terminated for asking for Family Medical Leave. She also alleges that she was denied her right to take FMLA leave.

COVERAGE

The firm has employed 50 or more employees for 20 weeks in the current or preceding calendar year.

ELIGIBILITY

Ms. Newsome was an employee of the covered employer, had worked for at least 12 months, employed at least 1250 hours during the 12 months preceding the commencement of the leave and is employed at a work site where 50 or more employees are employed by the employer within 75 miles of that work site.

QUALIFYING CONDITION/SERIOUS HEALTH CONDITION

Ms. Newsome did not indicate that she had a serious health condition. There is no evidence to indicate that Ms. Newsome gave notice to the firm of her need for FMLA qualifying leave.

EMPLOYER NOTIFICATION

Ms.Newsome stated that in December 2008, she spoke with Andrea Griffith (HR manager at Wood & Lamping) regarding a medical procedure she would need to have completed at the end of January 2009.

Ms.Newsome stated that Ms.Griffith informed her of the process of medical leave under FMLA and sick leave.

STATUS OF COMPLIANCE

Ms. Newsome was hired on or around September 11, 2006. She was terminated on January 9, 2009.

Ms. Newsome states that she gave verbal notice (page 5 of original complaint) in December 2008 and written notice in January 2009 of her need for FMLA leave.

According to Ms. Newsome, she had a conversation with Andrea Griffith about a medical procedure that she needed at the end of January 2009. Ms. Newsome stated that Ms. Griffith told her that she could use paid leave along with her FMLA leave.

Ms. Griffith stated that she only talked to Ms. Newsome about a doctor's appointment later in the month of January 2009. Ms. Griffith stated that there was no mention of a SHC.

Ms. Newsome also stated the she submitted written notice on January 8, 2009. This notice was in the form of an internal leave slip dated January 8, 2009, requesting ½ day off for 'medical' on January 9, 2009.

According to 825.208a of the old regulations, the employee must explain the reasons for the needed leave so as to allow the employer to determine that the leave qualifies under FMLA. Ms. Newsome's request for ½ day off for 'medical' does not give enough information to the employer for determining if it qualifies under FMLA.

Ms. Newsome's request for leave (1/2 day 'medical') was approved by 2 staff attorneys.

On January 9, 2009, Ms. Newsome was informed by Ms. Griffith that her job was eliminated.

Ms. Griffith stated that when Ms. Newsome was terminated, she had not yet received the written notice for ½ day off from Ms. Newsome.

Ms. Griffith stated that Ms. Newsome's termination had nothing to do with FMLA as the firm has granted other employees requests for FMLA. She stated that Ms. Newsome's termination was the result of her job being eliminated. She was the least senior legal secretary and weakest performer. As of today, her position has not been filled.

On March 20, 2009, Wood and Lamping, put forth a settlement offer. The offer stated that Wood and Lamping would pay for the full cost of Ms. Newsome's health insurance for 1 year with the understanding that she would agree to drop all claims against the firm. In a telephone conversation with Ms. Newsome on March 31, 2009, she declined the settlement offer. She also declined the offer in an email on March 31, 2009 to this investigator.

After several attempts to contact Ms. Newsome, contact was made on April 20, 2009 to discuss further settlement issues. She again demanded reinstatement and all back pay. She also requested that she be permitted to take medical leave as 'originally planned.'

This settlement offer was presented to Ms. Griffith at Wood and Lamping. On April 29. 2009, Ms. Griffith declined the offer put forth by Ms. Newsome.

Based on the above information, there was not sufficient evidence to substantiate Ms. Newsome's claim that her rights were violated under FMLA. No evidence was found to show that Ms. Newsome gave Wood and Lamping notice of her intention to take FMLA leave. There is also no evidence to show that the employer denied Ms. Newsome her rights under FMLA.

DISPOSITION

A final conference was held with Ms. Griffith on April 29, 2009. The FMLA was discussed in detail with Ms. Griffith. She stated that she has had other employees on FMLA and there have been no problems. She agreed to continued compliance with the FMLA.

Ms. Newsome was not informed of the final results of the investigation. Ms. Newsome was not satisfied with how the investigation was handled and was not willing to participate in any settlement agreements presented to her. She was only interested in reinstatement and full back pay. She was not willing to hear that violations may not be found.

Every telephone conversation made to Ms. Newsome was met with an angry email the next day. The emails contained threats

It is requested that Ms. Newsome be sent a letter stating that there were no violations found. No further contact will be made between this investigator and Ms. Newsome.

[redacted] EXEMPTION 5

Joan M. Petric
Investigator

Tatiana Irby
Investigator

WOOD LAMPING LLP

SINCE 1927

VACATION REQUEST FORM

Associates and paralegals should coordinate this vacation request with the attorneys with whom they work, get the Department Head's approval, and give this form to the manager of Human Resources. Secretaries and support staff should get approval from the attorney(s)/manager with whom they work and then submit this form to the manager of Human Resources for approval. The original of this form is filed in your attendance record and a copy is returned to you.

NAME: Denise Newsome DATE: 01/08/09

DAY(S) OF REQUEST (Monday-Friday)	DATE(S) OF REQUEST (Month-Day-Year)	TYPE OF DAY (Vacation or Floating Holiday)	TEMP. NEEDED? (for secretary)
Thursday	1/29/09 (1/2 Day - Medical)		No

APPROVED BY: _____
(Attorneys)

APPROVED BY: _____
(Department Head/Manager)

APPROVED BY: _____
(Manager of Human Resources)

****

(To be completed by Human Resources)

Beginning balance of days: _____ Vacation days rolled over from last year
+ _____ Vacation days earned during this year
+ _____ Floating holiday
= _____ Total number of days

Less days already taken: – _____

Less days already scheduled, but not yet taken (including above): – _____

Number of days to schedule: _____ Vacation days
– _____ Floating holiday
= _____ Total number of days

****

Number of sick days available: _____

369026.1
Rev. 01/01/01

FEBRUARY 1, 2009 – TRANSCRIBED VOICEMAIL FROM PAUL BERNINGER

Denise this is Paul Berninger from the law firm. The reason I'm calling you is that I am aware of the lay-off situation that has taken place and I had some conversations with Andrea due to your situation and I've asked for the opportunity to give you a call. I know you wrote a letter addressing some things to C.J. Schmidt regarding health insurance and I wanted to talk to you about that. I believe that the firm should extend your health insurance coverage for a period of time. **I believe that is because I understand that you did say something to Andrea about a need for some kind of medical attention. I don't know what it is and she didn't disclose anything to me in regards to what that was.** But what I want to do is to talk to you about that. Find out what it is that you would want in terms of extension of your medical insurance at our cost for a period of time. So that you could attend to that medical need. I would just let you know that there would be one part that I know that I would have to get from you in order for me to convince the firm to extend medical insurance coverage for some period of time and that would basically be a release. By that, I mean that I would write something up that you would sign that would clearly indicate that you would not (under any circumstances) be able to file any kind of a charge against the firm or file a lawsuit.

Denise Newsome

From: Denise Newsome
Sent: Wednesday, October 15, 2008 1:56 PM
To: Andrea M. Griffith
Subject: RE: MEETING - Can you squeeze me in sometime this afternoon?

Andrea,

Please see the attached document. I am providing with original.

Thanks.
Denise

From: Andrea M. Griffith
Sent: Wednesday, October 15, 2008 12:16 PM
To: Denise Newsome
Subject: RE: MEETING - Can you squeeze me in sometime this afternoon?

Denise,
We do need to meet this afternoon to discuss your being out of the office so much over the last couple of days. Also, you need to inform me in advance on doctor's appointments. 45 minutes before an appointment is not sufficient time. Please see me when you return.
Andrea

From: Denise Newsome
Sent: Wednesday, October 15, 2008 11:26 AM
To: Andrea M. Griffith
Subject: MEETING - Can you squeeze me in sometime this afternoon?

Andrea:

I am going to be leaving to go to the doctor for a 12:15 Sono (the one originally set for Monday that I had to reschedule)
Was wondering do you have time for me this afternoon?

Thanks.
Denise

INTEROFFICE MEMORANDUM

TO: Andrea M. Griffith

FROM: Denise Newsome

DATE: October 15, 2008

RE: RESPONSE TO YOUR E-MAIL OF 10/15/08

As you are aware, per my voicemail messages of October 9, 2008, my apartment was burglarized, etc. I had to leave work not realizing the magnitude of this crime; however, I was devastated and seriously affected by this crime.

On October 11, 2008, I was admitted to the Emergency Room and test were run out of concerns from the symptoms I was having. The doctor recommended that I return to work on 10/14/08, in which I did. (See Document Attached).

My doctor's appointment for 10/10/08 was scheduled way in advance and prior to the October 9, 2008, criminal actions. The appointment that I set for 10/13/08 was made on 10/10/08; however, had to be cancelled and rescheduled for today in that my doctor wanted this test done right away.

Without going into details where things are at, as a direct and proximate result of the 10/09/08 criminal acts rendered me, a Criminal Complaint has been filed with the FBI (Federal Bureau of Investigations), the NAACP has been put on notice and made aware of this crime, as well as other government authorities. I am not at liberty to disclose anymore than this to you.

I apologize for the inconvenience and the impact this has caused in the performance of my work; however, I am doing my best to work through this all to be best of my abilities.

Thank you for your concerns and understanding through the critical times I am dealing with.

Sincerely,

Denise Newsome

Denise Newsome

NORTON HEALTHCARE

10/11/08
327
NEWSOME,DENISE

Return to Work

Norton Suburban Hospital- 4001 Dutchmans Ln. Louisville,KY 40207 (502)893-1000

RETURN TO WORK INSTRUCTIONS

We saw Denise Newsome in our Emergency Department on 10/11/08.
Denise Newsome should be able to return to work on 10/14/08

✓ with no limitations
____ with the following limitations:

If you have questions about care, please have the patient fill out a medical records release form. We would be happy to discuss the care with you once that document has arrived.

Thank you for allowing us to care for your employee.

[redacted]
Physician Signature



J. Lawson Hester

601.987.5305
lhester@wyattfirm.com
Jackson Office

J. Lawson Hester is a member of the Firm's Litigation and Dispute Resolution Service Team. He concentrates his litigation practice in the areas of commercial litigation, business torts, governmental liability, employment law, insurance law and insurance coverage, and general litigation matters.

Representative Litigation

- Recovery of multiple million dollar monetary jury awards for the Firm's clients in complex civil litigation;
- Received jury verdict in excess of $4.4 million in compensatory damages in a complex commercial matter involving claims of breach of fiduciary duty, breach of contract; and unjust enrichment in the context of anti-trust claims;
- Successful defense of a multi-million dollar CERCLA/Superfund cost recovery action brought by the United States of America involving lead and hexavalent chromium contamination at a Mississippi FUDS site (formerly used defense site);
- Defense of multiple class action matters, inclusive of class actions arising from toxic tort exposures, Fair Labor Standards Act claims, and alleged civil rights violations;
- Successful defense of the financial interests of 64 of Mississippi's 82 counties in a variety of civil liability settings, ranging from employment discrimination to wrongful death matters;
- Successful defense of Mississippi public entities, inclusive of the defense of appeals to the United States Supreme Court, involving claims of violations of constitutional rights, inclusive of excessive force claims, police pursuits, free speech violations, and claims for wrongful death;
- Successful defense, inclusive of successful defense of appeals, in direct actions against insurers over numerous significant coverage terms, exclusions, coverage triggers and endorsements;
- Successful defense of multi-million dollar civil RICO and conspiracy claims brought against 23 insurers and/or banking institutions; and
- Successful defense of wrongful death claims arising from structural collapses of or defects in bridges, public roads, railroad grade crossings, road maintenance, elevator defects, intersection/highway designs, and motor vehicle/heavy equipment design and maintenance failures.
- Successful defense through multiple week jury trials of malicious prosecution and wrongful arrest/incarceration claims brought (1) by an elected Judge in his home county against the law enforcement officers who arrested him, and (2) by an individual claiming to have been wrongfully incarcerated and lost in various Mississippi jails for in excess of seven months without any pending criminal charges against him; and (3) numerous "in custody" deaths of arrestees and inmates.

EXHIBIT 138

Reported Cases

- *Cunningham v. City of West Point*, Slip Copy 6, 2009 WL 316331, N.D. Miss., September 29, 2009 (Civil Action No. 1:07CV261-B-D)
- *Stevens v,. City of Jackson, Miss.*, Slip Copy, 2009 WL 435177, S.D. Miss., February 17, 2009 (Civil Action No. 3:07-cv-714-WHB-LRA)
- *Bradley v. City of Jackson, Miss.*, 590 F. Supp. 2d 817, 2008 WL 5060868, S.D. Miss., November 24, 2008 (Civil Action No. 3:08 CV261TSL-JCS)
- *Preferred Transport Co., LLC v. Claiborne County Bd. of Sup'rs*, 32 So. 3d 549, 2010 WL 1292737, Miss. App., April 06, 2010 (No. 2008-CA-01532-COA)
- *Burris v. Davis*, 642 F. Supp. 2d 573, 2009 WL 1565805, S.D. Miss., June 03, 2009 (Civil Action No. 2:06cv233-MTP.)
- *Gilmer v. Trowbridge*, Slip Copy, 2009 WL 4113711, S.D. Miss., November 23, 2009 (Civil Action No. 3:08cv136TSL-JCS.)
- *Dean v. Walker*, Slip Copy, 2009 WL 4855985, S.D. Miss., December 15, 2009 (Civil Action No. 5:08cv157-DCB-JMR.)
- *Gilmer v. Trowbridge*, Slip Copy, 2009 WL 649692, S.D. Miss., March 10, 2009 (Civil Action No. 3:08cv136TSL-JCS.)
- *State Farm and Cas. Co. v. Hood,* 2008 WL 313478, N.D. Miss., February 1, 2008, (No. 3:08CV11-M.)
- *Moreland v. Marion County, Miss.*, 2008 WL 4551443, S.D. Miss., October 09, 2008 (Civil Action No. 2:07cv42-KS-MTP.)
- *Batte v. Taylor*, 2008 WL 879589, S.D.Miss., March 30, 2008 (Civil Action No. 3:06-CV-510-HTW-LRA.)
- *Bradley ex rel. Wrongful Death Beneficiaries of Bradley v. City of Jackson*, 2008 WL 2381517, S.D.Miss., June 05, 2008 (Civil Action No. 3:08CV261-TSL-JCS.)
- *Lofton v. Adams County, Miss.*, 2008 WL 4192039, SD.Miss., September 05, 2008 (civil Action No. 5:07cv80-DCB-JMR.)
- *Davis v. Geo Group, Inc.,* Slip Copy, 2008 WL 5504706, N.D. Miss., April 17, 2008 (No. 3:06CV85-D-A.)
- *Burkes v. Waggoner*, Not Reported in F. Supp. 2d, 2008 WL 695254, S.D.Miss., March 12, 2008 (Civil Action No. 3:06cv142HTW-LRA.)
- *Stevens v. City of Jackson, MS,* Slip Copy, 2009 WL 400411, S.D. Miss., February 17, 2009 (Civil Action No. 3:07-cv-714-WHB-LRA.)
- *Ford v. Global Expertise Oursourcing, Inc.*, 2008 WL 4939530, S.D.Miss., November 17, 2008 (Civil Action No. 4:07CV65 DPJ-JCS.)
- *Brister v. Martin,* 2007 WL 1152906, SD.Miss., April 18, 2007 (Civil Action No. 2:05cv2045-KS-MTP.)
- *Meeks v. Miller*, 956 So.2d 864, 2007 WL 1501083, Miss,., May 24, ¡2007 (No. 2005-CT-00200-SCT.)
- *Blake v. Wilson*, 962 So.2d 705, 2007 WL 1121517, Miss. App. April 17, 2007 (No. 2006-CA-00780-COA.)
- *McCoy v. City of Florence*, 949 So.2d 69, 2006 WL 1984735, Miss. App. July 18, 2006 (No. 2005-CA-00803-COA.)

- *Meeks v. Miller*, 956 So.2d 942, 2006 WL 1737757, Miss. App. June 27, 2006 (No. 2005-CA-00200-COA.)
- *Robinson v. Hosemann*, 918 So. 2d 668, 2005 WL 1385207, Miss., May6 26, 2005 (No. 2004-CA-00043-SCT.)
- *Burton v. Choctaw County*, 730 So. 2d 1, 1997 WL 441931, Miss., August 07, 1997 (No. 95-CA-00071-SCT.)
- *Phelps v. Cowart*, 572 So. 2d 883, 1991 WL 6623, Miss., January 16, 1991 (No. 07-CA-59187.)
- *Brooks v. Stringer*, 303 Fed.Appx. 225, 2008 WL 5262699, C.A.5 (Miss.), December 18, 2008 (No. 07-60357 Summary Calendar.)
- *Burkes v. Waggoner,*, 301 Fed.Appx. 390, 2008 WL 5155230, C.A.5 (Miss.), December 09, 2008 (No. 08-6308 Summary Calendar.)
- *Brumfield v. Hollins*, 551 F.3d 322, 2008 WL 5063881, C.A.5 (Miss.), December 02, 2008 (No. 07-61023.)
- *Acceptance Ins. Co. v. Powe Timber Co., Inc.*, 219 Fed.Appx. 349, 2007 WL 624992, C.A.5 Miss.), February 21, 2007 (No. 06-60216.)
- *Ballard v. Burton*, 444 F.3d 391, 2006n WL 758105, C.A.5 (Miss.), March 24, 2006 (No. 04-60621.)
- *Collins v. Ainsworth*, 177 Fed.Appx. 377, 2005 WL 3502174, C.A.5 (Miss.), December 21, 2005 (No. 05-60341.)
- *Rutland v. Pepper*, 404 F. 3d 921, 2005 WL 675644, 85 Empl. Prac, Dec.P 41, 915, 151 Lab. Cas.P35, 019, 10 Wage & Hour Cas. 2d (BNA) 739, 30 NDLR P 21, C.A.5 (Miss.), March 24, 2005 (No. 04-60374.)
- *Bradley v. City of Jackson, Miss.*, 590 FSupp.2d 817, 2008 WL 5060868, S.D. Miss., November 24, 2008 (Civil Action No. 3:08CV261TSL-JCS.)
- *Ford v. Global Expertise OUrsourcing, Inc.*¸2008 WL 4939530, S.D. Miss., November 17, 2008 (Civil Action 4:07CV65 DPJ_JCS.)
- *Moreland v. Marion County, Miss.* 2008 WL 4551443, S.D. Miss., October 09, 2008 (Civil Action No. 2:07cv42-KS-MTP.)
- *Lofton v. Adams County, Miss.,* 208 WL 4192039, S.D. Miss., September 05, 2008 (Civil Action No. 5:07cv80-DCB-JMR.)
- *State Farm Fire and Cas. Co. v. Hood*, 2008 WL 313478, N.D. Miss., February 01, 2008 (No. 3:08cv11M.)
- *Bolden v. McMillin*, 2007 WL 4287464, S.D. Miss., December 03, 2007 (Civil Action No. 3:07CV00154-HTW-LRA.)
- *Anderson ex rel. Cain v. Perkins*, 532 F.Supp.2d 837, 2007 WL 4179702, S.D. Miss., November 20, 2007 (Civil Action No. 3:06CV473%SL-JCS.)
- *Butler v. Bancorpsouth Bank*, 2007 WL 3237927, S.D. Miss., October 31, 2007 (Civil Action No. 3:05cv262-DPJ-JCS.)
- *Bingham v. Webster County, Miss.*, 2007 WL 2903996, N.D. Miss., October 01, 2007 (Civil Action No. 1:05CV220-D-D.)
- *Moreland v. Marion County, Miss.,* 2007 WL 2746684, S.D. Miss., September 18, 2007 (No. 2:07CV42-KS-MTP.)

- *Dickerson v. Jones County, Mississippi*, 2007 WL 763925, S.D. Miss., March 09, 2007 (Civil Action No. 2:06CV88KS-MTP.)
- *Brassell v. Turner*, 468 F.Supp.2d 854, 2006 WL 3331839, S.D. Miss., November 15, 2006 (Civil Action No. 3:05CV476LS.)
- *Johnson v. Hinds County Public Works*, 2006 WL 2701195, S.D. Miss., September 19, 2006 (Civil Action No. 3:05CV32WSU.)
- *Carite v. Hinds County, Miss.,* 2006 WL 2056674, S.D. Miss., July 21, 2006 (Civil Action No. 3:05 CV493-WHB-JCS.)
- *Passman v. Thames*, 2006 WL 1195627, S.D. Miss., May 02, 2006 (No. Civ. A. 205CV85KSJMR)
- *Acceptance Ins. Co. v. Powe Timber Co., Inc.,* 403 FSupp.2d 552, 2005 WL 3724860, S.D. Miss., November 30, 206 (No. Civ. A. 4:04CV133LN.)
- *Coleman v. Carroll County*, 2005 WL 2133678, N.D. Miss., August 26, 2005 (No. 4:04 CV68 P B.)
- *Ballard v. Burton,* 2004 WL 1778820, N.D. Miss., July 01, 2004 (No. 1:99CV254-D-D.)
- *Campbell v. McMillin*, 83 FSupp.2d 761, 2000 WL 192781, S.D. Miss., February 11, 2006 (No. Civ. A. 3:98-CV0-122BN.)
- *Oliver v. Forrest County General Hosp.*, 785 F. Supp. 590, 1991 WL 325263, 126 Lab.Cas. P 57, 542, S.D. Miss., April 09, 1991 (Civ. A. No. H89-0227(P).)
- *Smith v. Principal Cas. Ins. Co.*, 131 F.R.D. 104, 1990 WL 88181, 17 Fed. R. Serv.3d 38, S.D. Miss., June 27, 1990 (Civ. A. No. J89-0498(B).)

Honors

- AV Rating since 1994 by Martindale Hubbell Law Directory, its highest rating.
- Alpha Lambda Delta
- Omicron Delta Kappa
- Sigma Tau Delta
- Member, Moot Court Board
- Chairman, Trials Division, Vice-Chair of Appellate Advocacy Division
- Recipient, Gray Award for excellence in writing, 1984
- Winner, University of Mississippi Mock Trial Competition, 1986

Education

1984 – B.A., (English and Political Science), University of Mississippi

1986 – J.D., University of Mississippi

Professional Activities and Memberships

- American, Hinds County and Mississippi Bar Associations
- Defense Research Institute
- Mississippi Defense Lawyers Association
- Mississippi and Atlanta Claims Association

Admissions

- Mississippi

- United States District Court of Northern District of Mississippi
- United States District Court of Southern District of Mississippi
- United States Court of Appeals for the Fifth Circuit
- United States Supreme Court

Interests

- Tennis, Hunting, and Saltwater Fishing
- Study of Southern Culture
- Politics and Literature
- Creative Writing

WYATT TARRANT & COMBS LLP

September 5, 2010

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Aetna
Alderwoods Group, Inc.
Allstate Insurance Company
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American National Red Cross
American Snuff
Anthem Blue Cross and Blue Shield
Appleton Papers
Arch Coal, Inc.
Ashland Inc.
Auto Chlor System
AutoZone, Inc.
Aventis Pasteur, Inc.
BAE Systems
Beach Mold & Tool
Beacon Technologies, Inc.
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Cooper Companies
Corning Incorporated
Day Companies, Inc.
Destec Energy, Inc.
Detroit Diesel Corporation
Ebonite International
EFS National Bank
E.I. du Pont de Nemours and Company
Faulkner Real Estate Corporation
First Tennessee Bank, N.A
Franklin Industries Inc.
Fruit of the Loom
Furniture Brands International
GAMBRO Healthcare Patient Services, Inc.
General Electric Company
Georgetown College
Guardian Insurance Company of Canada
Gwatney Chevrolet
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Heaven Hill Distilleries, Inc.
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H.G. Hill Company
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Howmedica, Inc.
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Interlock Industries, Inc.
International Paper Company
Jefferson County, Ky. Board of Education
JPMorgan Chase Bank, N.A.
Liberty Mutual Group
Main Street Realty, Inc.
Mason & Hanger
MeadWestvaco Corporation
Merrill Lynch
Metropolitan Life Insurance Co.
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Mitsubishi Lithographic Presses
Mitsubishi Motor Sales of America, Inc.
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Nashville Wire Products Co.
New United Motor Manufacturing, Inc.
Norton Healthcare
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Orkin Exterminating, Inc.
Owensboro Medical Health System
Perdue Farms, Inc.
Pernod Ricard USA
Pfizer, Inc.
Pfizer Hospital Products Group
PNC Bank, National Association
Podiatry Institute Company of America
Quantum Chemical Corporation
The Raymond Corporation
Red7e
Regions Bank
Reynolds Metals Co.
Rockwell Automation, Inc.
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Sankyo Pharma, Inc.
Schering-Plough Corporation
Schatten Properties
Smith & Nephew, Inc.
Steel Technologies Inc.
Storage USA
Sumitomo Electric Wiring Systems, Inc.
Sumner County, Tennessee
Sypris Solutions, Inc.
Terex Corporation
Thomas & Betts Corp.
Thorntons Inc.
Toyota Motor Sales, U.S.A., Inc.
United Technologies Corporation
U.S. Bank, National Association
Vermeer Manufacturing Company
Wachovia Corporation
WMX Technologies, Inc.

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WYATT TARRANT & COMBS LLP

September 5, 2010

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Fax: 502.589.0309

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120 West Spring Street
3rd Floor
New Albany, IN 47150-3610
Telephone: 812.945.3561
Fax: 812.949.2524

Lexington, KY Directions
Lexington Financial Center
250 West Main Street
Suite 1600
Lexington, KY 40507-1746
Telephone: 859.233.2012
Fax: 859.259.0649

Nashville, TN Directions
2525 West End Avenue
Suite 1500
Nashville, TN 37203-1423
Telephone: 615.244.0020
Fax: 615.256.1726

Memphis, TN Directions
The Renaissance Center
1715 Aaron Brenner Drive
Suite 800
Memphis, TN 38120-4367
Telephone: 901.537.1000
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Transcript of Obama's speech

The following is a transcript of Sen. Barack Obama's speech, as provided by Obama's campaign.

We the people, in order to form a more perfect union.

Two hundred and twenty one years ago, in a hall that still stands across the street, a group of men gathered and, with these simple words, launched America's improbable experiment in democracy.

Farmers and scholars; statesmen and patriots who had traveled across an ocean to escape tyranny and persecution finally made real their declaration of independence at a Philadelphia convention that lasted through the spring of 1787.

The document they produced was eventually signed but ultimately unfinished. It was stained by this nation's original sin of slavery, a question that divided the colonies and brought the convention to a stalemate until the founders chose to allow the slave trade to continue for at least 20 more years, and to leave any final resolution to future generations.

Of course, the answer to the slavery question was already embedded within our Constitution -- a Constitution that had at its very core the ideal of equal citizenship under the law; a Constitution that promised its people liberty, and justice, and a union that could be and should be perfected over time.

And yet words on a parchment would not be enough to deliver slaves from bondage, or provide men and women of every color and creed their full rights and obligations as citizens of the United States.

What would be needed were Americans in successive generations who were willing to do their part -- through protests and struggle, on the streets and in the courts, through a civil war and civil disobedience and always at great risk -- to narrow that gap between the promise of our ideals and the reality of their time.

This was one of the tasks we set forth at the beginning of this campaign -- to continue the long march of those who came before us, a march for a more just, more equal, more free, more caring and more prosperous America.

I chose to run for the presidency at this moment in history because I believe deeply that we cannot solve the challenges of our time unless we solve them together -- unless we perfect our union by understanding that we may have different stories, but we hold common hopes; that we may not look the same and we may not have come from the same place, but we all want to move in the same direction -- towards a better future for our children and our grandchildren.

This belief comes from my unyielding faith in the decency and generosity of the American people. But it also comes from my own American story.

I am the son of a black man from Kenya and a white woman from Kansas. I was raised with the help of a white grandfather who survived a Depression to serve in Patton's Army during World War II and a white grandmother who worked on a bomber assembly line at Fort Leavenworth while he was overseas.

I've gone to some of the best schools in America and lived in one of the world's poorest nations. I am married to a black American who carries within her the blood of slaves and slaveowners -- an inheritance we pass on to our two precious daughters.

I have brothers, sisters, nieces, nephews, uncles and cousins, of every race and every hue, scattered across three continents, and for as long as I live, I will never forget that in no other country on Earth is my story even possible.

It's a story that hasn't made me the most conventional candidate. But it is a story that has seared into my genetic makeup the idea that this nation is more than the sum of its parts -- that out of many, we are truly one.

Throughout the first year of this campaign, against all predictions to the contrary, we saw how hungry the American people were for this message of unity.

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Despite the temptation to view my candidacy through a purely racial lens, we won commanding victories in states with some of the whitest populations in the country. In South Carolina, where the Confederate Flag still flies, we built a powerful coalition of African-Americans and white Americans.

This is not to say that race has not been an issue in the campaign. At various stages in the campaign, some commentators have deemed me either "too black" or "not black enough."

We saw racial tensions bubble to the surface during the week before the South Carolina primary. The press has scoured every exit poll for the latest evidence of racial polarization, not just in terms of white and black, but black and brown as well.

And yet, it has only been in the last couple of weeks that the discussion of race in this campaign has taken a particularly divisive turn.

On one end of the spectrum, we've heard the implication that my candidacy is somehow an exercise in affirmative action, that it's based solely on the desire of wide-eyed liberals to purchase racial reconciliation on the cheap.

On the other end, we've heard my former pastor, Rev. Jeremiah Wright, use incendiary language to express views that have the potential not only to widen the racial divide, but views that denigrate both the greatness and the goodness of our nation -- that rightly offend white and black alike.

I have already condemned, in unequivocal terms, the statements of Rev. Wright that have caused such controversy. For some, nagging questions remain.

Did I know him to be an occasionally fierce critic of American domestic and foreign policy? Of course. Did I ever hear him make remarks that could be considered controversial while I sat in church? Yes. Did I strongly disagree with many of his political views? Absolutely -- just as I'm sure many of you have heard remarks from your pastors, priests or rabbis with which you strongly disagreed.

But the remarks that have caused this recent firestorm weren't simply controversial. They weren't simply a religious leader's effort to speak out against perceived injustice.

Instead, they expressed a profoundly distorted view of this country -- a view that sees white racism as endemic, and that elevates what is wrong with America above all that we know is right with America, a view that sees the conflicts in the Middle East as rooted primarily in the actions of stalwart allies like Israel, instead of emanating from the perverse and hateful ideologies of radical Islam.

As such, Rev. Wright's comments were not only wrong but divisive, divisive at a time when we need unity; racially charged at a time when we need to come together to solve a set of monumental problems -- two wars, a terrorist threat, a falling economy, a chronic health care crisis and potentially devastating climate change; problems that are neither black or white or Latino or Asian, but rather problems that confront us all.

Given my background, my politics, and my professed values and ideals, there will no doubt be those for whom my statements of condemnation are not enough. Why associate myself with Rev. Wright in the first place, they may ask? Why not join another church?

And I confess that if all that I knew of Rev. Wright were the snippets of those sermons that have run in an endless loop on the television and YouTube, or if Trinity United Church of Christ conformed to the caricatures being peddled by some commentators, there is no doubt that I would react in much the same way

But the truth is, that isn't all that I know of the man. The man I met more than 20 years ago is a man who helped introduce me to my Christian faith, a man who spoke to me about our obligations to love one another; to care for the sick and lift up the poor.

He is a man who served his country as a U.S. Marine, who has studied and lectured at some of the finest universities and seminaries in the country, and who for over thirty years led a church that serves the community by doing God's work here on Earth -- by housing the homeless, ministering to the needy, providing day care services and scholarships and prison ministries, and reaching out to those suffering from HIV/AIDS.

In my first book, "Dreams From My Father," I described the experience of my first service at Trinity:

"People began to shout, to rise from their seats and clap and cry out, a forceful wind carrying the reverend's voice up into the rafters....And in that single note -- hope! -- I heard something else; at the foot of that cross, inside the thousands of churches across the city, I imagined the stories of ordinary black people merging with the stories of David and Goliath, Moses and Pharaoh, the Christians in the lion's den, Ezekiel's field of dry bones.

"Those stories -- of survival, and freedom, and hope -- became our story, my story; the blood that had spilled was our blood, the tears our tears; until this black church, on this bright day, seemed once more a vessel carrying the story of a people into future generations and into a larger world.

"Our trials and triumphs became at once unique and universal, black and more than black; in chronicling our journey, the stories and songs gave us a means to reclaim memories that we didn't need to feel shame about...memories that all people might study and cherish -- and with which we could start to rebuild."

That has been my experience at Trinity. Like other predominantly black churches across the country, Trinity embodies the black community in its entirety -- the doctor and the welfare mom, the model student and the former gang-banger.

Like other black churches, Trinity's services are full of raucous laughter and sometimes bawdy humor. They are full of dancing, clapping, screaming and shouting that may seem jarring to the untrained ear.

The church contains in full the kindness and cruelty, the fierce intelligence and the shocking ignorance, the struggles and successes, the love and yes, the bitterness and bias that make up the black experience in America.

And this helps explain, perhaps, my relationship with Rev. Wright. As imperfect as he may be, he has been like family to me. He strengthened my faith, officiated my wedding, and baptized my children.

Not once in my conversations with him have I heard him talk about any ethnic group in derogatory terms, or treat whites with whom he interacted with anything but courtesy and respect. He contains within him the contradictions -- the good and the bad -- of the community that he has served diligently for so many years.

I can no more disown him than I can disown the black community. I can no more disown him than I can my white grandmother -- a woman who helped raise me, a woman who sacrificed again and again for me, a woman who loves me as much as she loves anything in this world, but a woman who once confessed her fear of black men who passed by her on the street, and who on more than one occasion has uttered racial or ethnic stereotypes that made me cringe.

These people are a part of me. And they are a part of America, this country that I love.

Some will see this as an attempt to justify or excuse comments that are simply inexcusable. I can assure you it is not. I suppose the politically safe thing would be to move on from this episode and just hope that it fades into the woodwork.

We can dismiss Rev. Wright as a crank or a demagogue, just as some have dismissed Geraldine Ferraro, in the aftermath of her recent statements, as harboring some deep-seated racial bias.

But race is an issue that I believe this nation cannot afford to ignore right now. We would be making the same mistake that Rev. Wright made in his offending sermons about America -- to simplify and stereotype and amplify the negative to the point that it distorts reality.

The fact is that the comments that have been made and the issues that have surfaced over the last few weeks reflect the complexities of race in this country that we've never really worked through -- a part of our union that we have yet to perfect.

And if we walk away now, if we simply retreat into our respective corners, we will never be able to come together and solve challenges like health care, or education, or the need to find good jobs for every American.

Understanding this reality requires a reminder of how we arrived at this point. As William Faulkner once wrote, "The past isn't dead and buried. In fact, it isn't even past." We do not need to recite here the history of racial injustice in this country.

But we do need to remind ourselves that so many of the disparities that exist in the African-American community today can be directly traced to inequalities passed on from an earlier generation that suffered under the brutal legacy of slavery and Jim Crow.

Segregated schools were, and are, inferior schools; we still haven't fixed them, fifty years after Brown v. Board of Education, and the inferior education they provided, then and now, helps explain the pervasive achievement gap between today's black and white students.

Legalized discrimination -- where blacks were prevented, often through violence, from owning property, or loans were not granted to African-American business owners, or black homeowners could not access FHA mortgages, or blacks were excluded from unions, or the police force, or fire departments -- meant that black families could not amass any meaningful wealth to bequeath to future generations.

That history helps explain the wealth and income gap between black and white, and the concentrated pockets of poverty that persists in so many of today's urban and rural communities.

A lack of economic opportunity among black men, and the shame and frustration that came from not being able to provide for one's family, contributed to the erosion of black families -- a problem that welfare policies for many years may have worsened.

And the lack of basic services in so many urban black neighborhoods -- parks for kids to play in, police walking the beat, regular garbage pick-up and building code enforcement -- all helped create a cycle of violence, blight and neglect that continue to haunt us.

This is the reality in which Rev. Wright and other African-Americans of his generation grew up. They came of age in the late fifties and early sixties, a time when segregation was still the law of the land and opportunity was systematically constricted.

What's remarkable is not how many failed in the face of discrimination, but rather how many men and women overcame the odds; how many were able to make a way out of no way for those like me who would come after them.

But for all those who scratched and clawed their way to get a piece of the American Dream, there were many who didn't make it -- those who were ultimately defeated, in one way or another, by discrimination.

That legacy of defeat was passed on to future generations -- those young men and, increasingly, young women who we see standing on street corners or languishing in our prisons, without hope or prospects for the future. Even for those blacks who did make it, questions of race, and racism, continue to define their worldview in fundamental ways.

For the men and women of Rev. Wright's generation, the memories of humiliation and doubt and fear have not gone away; nor has the anger and the bitterness of those years.

That anger may not get expressed in public, in front of white co-workers or white friends. But it does find voice in the barbershop or around the kitchen table. At times, that anger is exploited by politicians, to gin up votes along racial lines, or to make up for a politician's own failings.

And occasionally it finds voice in the church on Sunday morning, in the pulpit and in the pews. The fact that so many people are surprised to hear that anger in some of Rev. Wright's sermons simply reminds us of the old truism that the most segregated hour in American life occurs on Sunday morning.

That anger is not always productive; indeed, all too often it distracts attention from solving real problems; it keeps us from squarely facing our own complicity in our condition, and prevents the African-American community from forging the alliances it needs to bring about real change.

But the anger is real; it is powerful; and to simply wish it away, to condemn it without understanding its roots, only serves to widen the chasm of misunderstanding that exists between the races.

In fact, a similar anger exists within segments of the white community. Most working- and middle-class white Americans don't feel that they have been particularly privileged by their race.

Their experience is the immigrant experience -- as far as they're concerned, no one's handed them anything, they've built it from scratch. They've worked hard all their lives, many times only to see their jobs shipped overseas or their pension dumped after a lifetime of labor.

They are anxious about their futures, and feel their dreams slipping away; in an era of stagnant wages and global competition, opportunity comes to be seen as a zero sum game, in which your dreams come at my expense.

So when they are told to bus their children to a school across town; when they hear that an African-American is getting an advantage in landing a good job or a spot in a good college because of an injustice that they themselves never committed; when they're told that their fears about crime in urban neighborhoods are somehow prejudiced, resentment builds over time.

Like the anger within the black community, these resentments aren't always expressed in polite company. But they have helped shape the political landscape for at least a generation.

Anger over welfare and affirmative action helped forge the Reagan Coalition. Politicians routinely exploited fears of crime for their own electoral ends. Talk show hosts and conservative commentators built entire careers unmasking bogus claims of racism while dismissing legitimate discussions of racial injustice and inequality as mere political correctness or reverse racism.

Just as black anger often proved counterproductive, so have these white resentments distracted attention from the real culprits of the middle-class squeeze -- a corporate culture rife with inside dealing, questionable accounting practices and short-term greed; a Washington dominated by lobbyists and special interests; economic policies that favor the few over the many.

And yet, to wish away the resentments of white Americans, to label them as misguided or even racist, without recognizing they are grounded in legitimate concerns -- this too widens the racial divide, and blocks the path to understanding.

This is where we are right now. It's a racial stalemate we've been stuck in for years. Contrary to the claims of some of my critics, black and white, I have never been so naive as to believe that we can get beyond our racial divisions in a single election cycle, or with a single candidacy -- particularly a candidacy as imperfect as my own.

But I have asserted a firm conviction -- a conviction rooted in my faith in God and my faith in the American people -- that working together we can move beyond some of our old racial wounds, and that in fact we have no choice if we are to continue on the path of a more perfect union.

For the African-American community, that path means embracing the burdens of our past without becoming victims of our past. It means continuing to insist on a full measure of justice in every aspect of American life.

But it also means binding our particular grievances -- for better health care, and better schools, and better jobs -- to the larger aspirations of all Americans, the white woman struggling to break the glass ceiling, the white man whose been laid off, the immigrant trying to feed his family.

And it means taking full responsibility for own lives -- by demanding more from our fathers, and spending more time with our children, and reading to them, and teaching them that while they may face challenges and discrimination in their own lives, they must never succumb to despair or cynicism; they must always believe that they can write their own destiny.

Ironically, this quintessentially American -- and yes, conservative -- notion of self-help found frequent expression in Rev. Wright's sermons. But what my former pastor too often failed to understand is that embarking on a program of self-help also requires a belief that society can change.

The profound mistake of Rev. Wright's sermons is not that he spoke about racism in our society. It's that he spoke as if our society was static; as if no progress has been made; as if this country -- a country that has made it possible for one of his own members to run for the

highest office in the land and build a coalition of white and black, Latino and Asian, rich and poor, young and old -- is still irrevocably bound to a tragic past.

But what we know -- what we have seen -- is that America can change. That is the true genius of this nation. What we have already achieved gives us hope -- the audacity to hope -- for what we can and must achieve tomorrow.

In the white community, the path to a more perfect union means acknowledging that what ails the African-American community does not just exist in the minds of black people; that the legacy of discrimination -- and current incidents of discrimination, while less overt than in the past -- are real and must be addressed.

Not just with words, but with deeds -- by investing in our schools and our communities; by enforcing our civil rights laws and ensuring fairness in our criminal justice system; by providing this generation with ladders of opportunity that were unavailable for previous generations.

It requires all Americans to realize that your dreams do not have to come at the expense of my dreams; that investing in the health, welfare and education of black and brown and white children will ultimately help all of America prosper.

In the end, then, what is called for is nothing more, and nothing less, than what all the world's great religions demand -- that we do unto others as we would have them do unto us. Let us be our brother's keeper, Scripture tells us. Let us be our sister's keeper. Let us find that common stake we all have in one another, and let our politics reflect that spirit as well.

For we have a choice in this country. We can accept a politics that breeds division, and conflict, and cynicism. We can tackle race only as spectacle -- as we did in the O.J. trial -- or in the wake of tragedy, as we did in the aftermath of Katrina -- or as fodder for the nightly news.

We can play Rev. Wright's sermons on every channel, every day and talk about them from now until the election, and make the only question in this campaign whether or not the American people think that I somehow believe or sympathize with his most offensive words.

We can pounce on some gaffe by a Hillary supporter as evidence that she's playing the race card, or we can speculate on whether white men will all flock to John McCain in the general election regardless of his policies.

We can do that.

But if we do, I can tell you that in the next election, we'll be talking about some other distraction. And then another one. And then another one. And nothing will change.

That is one option. Or, at this moment, in this election, we can come together and say, "Not this time." This time we want to talk about the crumbling schools that are stealing the future of black children and white children and Asian children and Hispanic children and Native American children.

This time we want to reject the cynicism that tells us that these kids can't learn; that those kids who don't look like us are somebody else's problem. The children of America are not those kids, they are our kids, and we will not let them fall behind in a 21st Century economy. Not this time.

This time we want to talk about how the lines in the emergency room are filled with whites and blacks and Hispanics who do not have health care, who don't have the power on their own to overcome the special interests in Washington, but who can take them on if we do it together.

This time we want to talk about the shuttered mills that once provided a decent life for men and women of every race, and the homes for sale that once belonged to Americans from every religion, every region, every walk of life.

This time we want to talk about the fact that the real problem is not that someone who doesn't look like you might take your job; it's that the corporation you work for will ship it overseas for nothing more than a profit.

This time we want to talk about the men and women of every color and creed who serve together, and fight together, and bleed together under the same proud flag.

We want to talk about how to bring them home from a war that never should've been authorized and never should've been waged, and we want to talk about how we'll show our patriotism by caring for them, and their families, and giving them the benefits they have earned.

I would not be running for president if I didn't believe with all my heart that this is what the vast majority of Americans want for this country. This union may never be perfect, but generation after generation has shown that it can always be perfected.

And today, whenever I find myself feeling doubtful or cynical about this possibility, what gives me the most hope is the next generation -- the young people whose attitudes and beliefs and openness to change have already made history in this election.

There is one story in particularly that I'd like to leave you with today -- a story I told when I had the great honor of speaking on Dr. King's birthday at his home church, Ebenezer Baptist, in Atlanta.

There is a young, 23-year-old white woman named Ashley Baia who organized for our campaign in Florence, South Carolina. She had been working to organize a mostly African-American community since the beginning of this campaign, and one day she was at a roundtable discussion where everyone went around telling their story and why they were there.

And Ashley said that when she was 9 years old, her mother got cancer. And because she had to miss days of work, she was let go and lost her health care. They had to file for bankruptcy, and that's when Ashley decided that she had to do something to help her mom.

She knew that food was one of their most expensive costs, and so Ashley convinced her mother that what she really liked and really wanted to eat more than anything else was mustard and relish sandwiches. Because that was the cheapest way to eat.

She did this for a year until her mom got better, and she told everyone at the roundtable that the reason she joined our campaign was so that she could help the millions of other children in the country who want and need to help their parents, too.

Now Ashley might have made a different choice. Perhaps somebody told her along the way that the source of her mother's problems were blacks who were on welfare and too lazy to work, or Hispanics who were coming into the country illegally. But she didn't. She sought out allies in her fight against injustice.

Anyway, Ashley finishes her story and then goes around the room and asks everyone else why they're supporting the campaign. They all have different stories and reasons. Many bring up a specific issue. And finally they come to this elderly black man who's been sitting there quietly the entire time.

And Ashley asks him why he's there. And he does not bring up a specific issue. He does not say health care or the economy. He does not say education or the war. He does not say that he was there because of Barack Obama. He simply says to everyone in the room, "I am here because of Ashley."

"I'm here because of Ashley." By itself, that single moment of recognition between that young white girl and that old black man is not enough. It is not enough to give health care to the sick, or jobs to the jobless, or education to our children.

But it is where we start. It is where our union grows stronger. And as so many generations have come to realize over the course of the two-hundred and twenty one years since a band of patriots signed that document in Philadelphia, that is where the perfection begins.

All About Barack Obama • U.S. Presidential Election

Find this article at:
http://www.cnn.com/2008/POLITICS/03/18/obama.transcript

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February 12, 2009

VIA E-MAIL: petric.joan@dol.gov
Ms. Joan Petric
United States Department of Labor
Telephone: (937) 225-2888

RE: ***Wood & Lamping, LLP***
File No. 1537034

Dear Ms. Petric:

In follow up to our telephone conversation on this morning, attached please find the following documents:

1. January 11, 2009 E-mail 2009 to Andrea Griffith & C.J. Schmidt.[1]
2. January 30, 2009 Facsimile/E-mail to Andrea Griffith & C.J. Schmidt.
3. February 2, 2009 Facsimile/E-mail to Paul Berninger.
4. February 4, 2009 (Received 2/5/09) Letter **from** Paul R. Berninger.
5. February 6, 2009 Facsimile/E-mail to Paul R. Berninger.
6. February 6, 2009 Letter/Facsimile to David Meranus (Attorney representing company suing me) – provided Paul Berninger, Andrea Griffith, C.J. Schmidt and U.S. Legislature/Congress with copy of this letter).

For your review, I have attached the Statutes (U.S. Codes) governing the **Secretary of Labor's**/Department of Labor"s duty to INVESTIGATE this charge to insure that Wood & Lamping is in compliance with the FMLA. (29 USCA § 2616). The Secretary of Labor"s filing of lawsuit on my behalf in court if violations are found – in the interest of justice and equal protection of the laws/due process of laws, etc. afforded to me under the applicable statutes/laws governing such matters, I do not believe that I should be required to bring a private lawsuit. The laws are clear that it is the duty and/or responsibility of the Secretary of Labor to bring action to deter violations under the FMLA. Moreover, see that the applicable **INJUNCTION** is imposed along with any other relief I am entitled to. (29 USCA § 2617 – Enforcement). I believe that an investigation into this matter, will reveal that Wood & Lamping interfered with rights secured and/or guaranteed under the Family and Medical Leave Act (FMLA), United States Constitution and other statutes/laws rendering me

[1] Realized after leaving house I forgot hard copy of this letter; therefore sending e-mail copy.

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protection from such unlawful/illegal practices rendered against me. (29 USCA § 2615) - I have cut & pasted these statutes and attached them hereto.

> Conducting a **Thorough** Investigation[2]
> Because discrimination often is **subtle**, and there *rarely* is a "**smoking gun**," [Fn. 45 - *See Aman v. Cort Furniture Rental Corp.,* 85 F.3d 1074, 1081-82 (3rd Cir. 1996)("It has become easier to coat various forms of discrimination with the appearance of propriety, or to ascribe some other less odious intention to what is in reality discriminatory behavior. In other words, while discriminatory conduct persists, violators have learned not to leave the proverbial „smoking gun" behind."); *cf. McDonnell Douglas Corp. v. Green,* 411 U.S. 792, 801 (1973)("it is abundantly clear that Title VII tolerates no racial discrimination, subtle or otherwise").] determining whether race played a role in the decisionmaking requires examination of all of the surrounding facts and circumstances. The presence or absence of any one piece of evidence often will not be determinative. Sources of information can include witness statements, including consideration of their credibility; documents; direct observation; and statistical evidence such as EEO-1 data, among others. See EEOC Compl. Man., Vol. I, Sec. 26, Selection and Analysis of Evidence." A non-exhaustive list of important areas of inquiry and analysis is set out below.

It is clear that Wood & Lamping deprived me rights under the FMLA that they afforded to whites similarly situated.

I believe the laws are clear as to what I am entitled to and the Department of Labor's records should contain the applicable policies and procedures to be followed regarding the handling of such claims. *I should not be required to have to bring a private lawsuit, when the Secretary of Labor has the legal authority and jurisdiction to bring legal action on my behalf as it has done for others in the past where violations have been found.*

I would like to add and/or reiterate some of the following case statutes/laws to support my FMLA Complaint and the relief sought:

> Regarding any argument Wood & Lamping may assert regarding "reduction-in-force, etc." the law is clear:
>
> *Hodgens v. General Dynamics Corp,* 144 F.3d 151(1st Cir., 1998)
>
> [6] Employees' rights to obtain leave under FMLA are essentially prescriptive, setting substantive floors for conduct by employers, and creating entitlements for employees. Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C.A. § 2601 et seq.

[2] EEOC Compliance Manual Section 15: Race and Color Discrimination

[9] Employer's motive is relevant to whether employer has violated proscriptive provisions of FMLA protecting from discrimination those employees who exercise their rights to leave; the issue is whether employer took the adverse action because of a prohibited reason or for a legitimate nondiscriminatory reason. Family and Medical Leave Act of 1993, § 105(a)(1, 2), 29 U.S.C.A. § 2615(a)(1, 2).

[18] *FMLA protects employee who visits a doctor with symptoms that are eventually diagnosed as constituting a serious health condition, even if, at the time of the initial medical appointments, the illness has not yet been diagnosed nor its degree of seriousness determined.* Family and Medical Leave Act of 1993, § 102(a)(1)(D), 29 U.S.C.A. § 2612(a)(1)(D); 29 C.F.R. § 825.114(b).

[21] For employee to be unable to perform his or her job within meaning of FMLA section entitling employee to 12 weeks of leave for serious health condition making employee unable to perform his or her job, it will suffice if employee is unable to perform job because of need to obtain medical treatment or diagnosis; *he or she does not have to be physically unable to work.* Family and Medical Leave Act of 1993, § 102(a)(1)(D), 29 U.S.C.A. § 2612(a)(1)(D); 29 C.F.R. § 825.114(a)(2)(i), (b).

[23] Employer **may not** use *reduction-in-force (RIF),* reorganization, or improved-efficiency rationale as pretext to mask actual discrimination or retaliation for employee's exercise of FMLA rights; the mere incantation of the mantra of "efficiency" is not a talisman insulating an employer from liability for invidious discrimination. Family and Medical Leave Act of 1993, § 105(a), 29 U.S.C.A. § 2615(a); 29 C.F.R. § 825.220.

> n.23 - But an employer **may not** use its RIF/reorganization/improved-efficiency rationale as a *pretext* **to mask** *actual discrimination* or *retaliation*; the mere incantation of the mantra of "efficiency" is not a talisman insulating an employer from liability for invidious discrimination. See McDonnell Douglas, 411 U.S. at 804, 93 S.Ct. 1817 (employer **may not** use an *ostensibly legitimate reason for an adverse action* ***as a pretext*** *for discrimination that is prohibited by statute*); 29 U.S.C. § 2615(a); 29 C.F.R. § 825.220; cf. INS v. Chadha, 462 U.S. 919, 944, 103 S.Ct. 2764, 77 L.Ed.2d 317 (1983): "Convenience and efficiency are not the primary objectives-or the hallmarks-of democratic government." Nor are they the objectives of public policy underlying statutes like the FMLA or the ADA.

[25]Even if employer's articulated reason for its adverse employment action is facially neutral, as in the case of a reduction in force (RIF), *if* ***in reality the employer acted for reason prohibited by the FMLA's retaliation provision****, then its asserted legitimate reason and its ostensibly nondiscriminatory*

selection criteria as to who is subject to RIF ***cannot insulate*** *it from liability*. Family and Medical Leave Act of 1993, § 105(a), 29 U.S.C.A. § 2615(a).

> N.25 - Because of the availability of *seemingly neutral rationales* under which an employer ***can hide its discriminatory intent***, and because of the difficulty of accurately determining whether an employer's motive is legitimate or is a pretext for discrimination, there is reason to be concerned about the possibility *that an employer* ***could manipulate*** *its decisions to purge employees it wanted to eliminate*. See *Weldon v. Kraft, Inc.*, 896 F.2d 793, 798 (3d Cir.1990) (Subjective evaluations of performance "are more susceptible of abuse and more likely to mask pretext" than objective job qualifications.) (internal quotation marks omitted). **The law does not permit this**. Even if an employer's actions and articulated reasons are facially neutral (e.g., a RIF), *if in reality the employer acted for a prohibited reason* ***(e.g., retaliation for exercising a protected right)***, then its asserted legitimate reason for the RIF and its ostensibly nondiscriminatory selection criteria as to who gets RIFed ***cannot*** **insulate** *it from liability*. As Judge Posner wrote in the context of . . . discrimination, "[a] RIF is not an open sesame to discrimination against a . . .person. Even if the employer has a compelling reason wholly unrelated to the disabilities of any of its employees to reduce the size of its work force, this does not entitle it to use the occasion as a convenient opportunity to get rid of its . . . workers." *Matthews v. Commonwealth Edison Co.,* 128 F.3d 1194, 1195 (7th Cir.1997) (citation omitted). ***Nor can it be an opportunity to get rid of workers who exercise their FMLA right to take medical leave for serious medical conditions***. See 29 U.S.C. § 2615(a).

OHIO LAW:

Bradley v. Mary Rutan Hosp. Assoc., 322 F.Supp.2d 926 (S.D.Ohio.E.Div.,2004) - An employer violates the Family Medical Leave Act (FMLA) when it violates either the FMLA statute itself or its implementing regulations. Family and Medical Leave Act of 1993, §§ 104, 105, 29 U.S.C.A. §§ 2614, 2415; 29 C.F.R. § 825.220(b).

Hollins v. Ohio Bell Telephone Co., 496 F.Supp.2d 864(S.D.Ohio.W.Div.,2007) - When an employee complies with the requirements of the Family and Medical Leave Act (FMLA), the employee is entitled to certain substantive rights under the Act, including the right to take FMLA leave and the right, upon return from the leave, to be restored to the position of employment held when the leave commenced or to an equivalent

> position. Family and Medical Leave Act of 1993, §§ 102, 104, 29 U.S.C.A. §§ 2612, 2614.
>
> *Schmauch v. Honda of America Manufacturing, Inc.,* 295 F.Supp.2d 823(S.D.Ohio.E.Div.,2003) - Employers have prescriptive obligation under the FMLA, i.e., they must grant employees substantive rights guaranteed by the FMLA, and they have a proscriptive obligation, i.e., they may not penalize employees for exercising such rights. Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C.A. § 2601 et seq.
>
> *Skrjanc v. Great Lakes Power Service Co.,* 272 F.3d 309(C.A.6.Ohio,2001) - The FMLA protects an employee's right to be treated the same as other similarly situated employees. Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C.A. § 2601 et seq.

As I shared with you, the offer by Wood & Lamping – payment of medical coverage in that I do not file any charges, lawsuits against it for the violations (unlawful/illegal acts) rendered me *are* ***clearly in violation*** *of my protected rights under the FMLA*, Constitution, Civil Rights Act, etc. I took such an offer as a means to extort and/or bribe me to waive protected rights secured to me under the statutes/laws governing such matters. I **WILL NOT** waive protected rights. Wood & Lamping violated the laws and therefore, is subject to the consequences for said violations. As I shared with you, their unlawful/illegal acts (i.e. taking of evidence Policies & Procedures Manual, etc.) clearly supports PRETEXT. Not only that, to be offering to provide me medical coverage ONLY is knowledge that they have committed violation(s) – this offer **is not** being made in good faith, but for purposes of their own SELFISHNESS and interest with ***total disregard*** to my legal and/or protected rights. The additional information that has surfaced since my termination also brings to light the criminal/civil wrongs of Wood & Lamping against me to which they and their cohorts are liable. I **do not** wish to waive rights secured/guaranteed to me and am requesting that the Secretary of Labor bring the applicable actions to deter the legal wrongs rendered me.

> *McConnell v. Applied Performance Technologies, Inc.,* 98 Fed.Appx. 397 (C.A.6.Ohio,2004) - Former employee **could not** waive claims for violations of Fair Labor Standards Act (FLSA) in settlement agreement with employer. Fair Labor Standards Act of 1938, § 1 et seq., 29 U.S.C.A. § 201 et seq.

I recall your asking whether or not I provided Wood & Lamping with Certification and/or the appropriate form for this leave. I followed the process as normal. If there was any other form Wood & Lamping required, then it should have been provided to me to take with me to my January 29, 2009 appointment and the additional time that would be needed, would have been provided. However, to prematurely terminate my employment and interfere with my rights under the FMLA, etc. is clearly unlawful/illegal and in violation of my protected rights. The acts of Wood & Lamping were willful, malicious and wanton and deliberately done to interfere with my rights under the FMLA; as well as engaging (it appears) in other criminal/civil wrongs against me. This is not mere speculation; I have produced factual/evidential material to support the ill motives of Wood & Lamping.

> *Killian v. Yorozu Automotive Tennessee, Inc.,* 454 F.3d 549 (6th Cir. 2006) - Even if employee fails to provide medical certification in timely fashion, employer's remedy under FMLA regulations is delayed leave, not termination. Family and Medical Leave Act of 1993, § 103(e), 29 U.S.C.A. § 2613(e); 29 C.F.R. §§ 825.305(b), 825.311.

In the interest of justice, the Secretary of Labor may bring a lawsuit on my behalf to obtain any other relief that I am entitled to under the FMLA and I am entitled to a JURY TRIAL:

> *Helmly v. Stone Container Corp.,* 957 F.Supp. 1274 (1997) - **Right to jury trial** exists under Family and Medical Leave Act (FMLA), even though FMLA, like its sister statute Fair Labor Standards Act (FLSA), which also provides right to jury trial, is silent on the issue. Fair Labor Standards Act of 1938, § 1 et seq., 29 U.S.C.A. § 201 et seq.; Family and Medical Leave Act of 1993, § 2 et seq., 29 U.S.C.A. § 2601 et seq.
>
> *Right to a Jury Trial in Family and Medical Leave Act Claims*
>
> Even if the motion had been timely filed it would have been denied. While the text of the Family and Medical Leave Act, 29 U.S.C. § 2601 et seq. ("FMLA"), is conspicuously silent as to the right of trial by jury, this Court has already indicated that the FMLA is a closer companion to the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. ("FLSA"), than to the Title VII legislation referenced by Defendants. See Court's Order of November 4, 1996, p. 13 (quoting *Freemon v. Foley,* 911 F.Supp. 326, 330 (N.D.Ill.1995)). Though the relief available under the civil enforcement provisions of the FLSA, 29 U.S.C. § 216(c), is nearly identical to that available under the FMLA, 29 U.S.C. § 2617(a), the text of the FLSA contains no explicit right to a jury trial. Despite this seemingly glaring omission, our predecessor circuit held that the damages provisions of the statute were actions at law and therefore "on proper demand, are triable before a jury." *Wirtz v. Jones,* 340 F.2d 901, 904 (5th Cir.1965) FN1 (citing *Lewis v. Times Publishing Co.,* 185 F.2d 457 (5th Cir.1950); *Olearchick v. American Steel Foundries,* 73 F.Supp. 273 (W.D.Pa.1947)). This legal conclusion was clearly ratified by the Supreme Court in *Lorillard v. Pons,* 434 U.S. 575, 576, 98 S.Ct. 866, 867-68, 55 L.Ed.2d 40 (1978), when it pronounced that there exists a Seventh Amendment jury trial right under the civil enforcement damages provisions of the FLSA despite the absence of any language creating that right.
>
> > FN1. The Eleventh Circuit adopted as binding precedent all of the decisions of the former Fifth Circuit handed down prior to October 1, 1981. *Bonner v. City of Prichard,* 661 F.2d 1206, 1209 (11th Cir.1981). In fact, the *Wirtz v. Jones* case has been expressly recognized as current binding authority in the Eleventh Circuit. See *EEOC v. Chrysler Corp.,* 759 F.2d 1523, 1525 (11th Cir.1985).

Additionally, where, as here, a statute is silent as to a given issue, if the district court "ascertains that Congress had an intention on the precise question at issue, that intention is the law and must be given effect." *Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc.,* 467 U.S. 837, 843 n. 9, 104 S.Ct. 2778, 2781 n. 9, 81 L.Ed.2d 694 (1984). One commentator has examined the evident adoption of the procedural provisions of the FLSA within the FMLA and concluded that Congress intended to incorporate sub silentio the right to a jury trial for damages under the FMLA: "By incorporating the procedural provisions of the FLSA, Congress presumably signaled its intent to afford a right to jury trial in private civil actions under the FMLA." Frank Morris, Family and Medical Leave Act of 1993, p. 17 (1994).

In reviewing the legislative history of the FMLA, it is all too certain that Congress did intend to align the procedures of the FMLA with those of the FLSA. See Senate Committee on Labor and Human Resources Majority Report on 1993 S. 5, Sections I and IV, S. Rep. 103-3 (1993); House Committee on Education and Labor Report on 1993 H.R. 1, H.R. Rep. 103-8(I), U.S.Code Cong. & Admin.News 1993, 3. Through this analysis, it appears that the remarks of Professor Morris are prescient and that the jury trial right pronounced in Lorillard is to be found in the FLSA's sister statute, the FMLA.

Furthermore, it is evident from the comments of disdain from the opposition that Congress intended to provide a jury trial right under the statute. Rising in opposition to what was then House Resolution 1, Rep. Harris W. Fawell (R-IL), gave this summary of what the future FMLA would mean for employers such as Defendants: "Employers *1276 will be subject to a Federal jury trial and possible damages, liquidated damages, expert witness fees, mandated legal fees, injunctions to rehire, promote, and so forth." 139 Cong. Rec. H391 (daily ed. February 3, 1993). Additionally, the House Committee on Education and Labor's Minority Report gave this summary of the changes made in the FMLA since the time it was twice vetoed by President Bush during his administration:

H.R. 1 has been considerably improved over past versions of the legislation considered by this Committee. Damages have been reduced from potentially quadruple lost backpay and benefits to double cost backpay and benefits, with interest, plus attorneys' fees and expert witness fees. Further, the enforcement structure of the bill has been simplified; however, it still retains the same two enforcement pillars of H.R. 2, as reported in the previous Congress-that is, DOL enforcement and private law suits, with jury trials.

H.R.Rep. No. 103-8 (1993).

Legislative history subsequent to President Clinton's enactment of the bill also indicates that Congress had no intention other than to silently include the

> jury trial right. In support of his bill designed to extend the protections of the recently passed FMLA to employees of Congress, Rep. William F. Goodling (R-PA), stated that the purpose of the bill was simply to give "a private cause of action by House employees in Federal district court against Members, including the same procedures (including jury trials) and the same damages, attorney fees, and court costs as would be available against private sector employees." 139 Cong. Rec. E-1597 (daily ed. June 23, 1993).
>
> Given the parallel procedural structure between the FMLA and the FLSA and given the legislative history which clearly presumes a right to a jury trial, this Court can only conclude that the United States Magistrate Judge in *Hicks v. Maytag Corp.,* 1995 WL 908171 (E.D.Tenn.1995), was incorrect when he declared that there is no right to a jury trial in an FMLA case. A plaintiff in an FMLA case possesses the right to have a jury determine whether an employer is liable and to what extent, in damages, that employer is liable to the employee. In the instant case, Plaintiff properly asserted the right to a jury trial and he will have a jury hear all of his claims, including the FMLA claim. Any portion of Plaintiff's claim sounding in equity (i.e., for reinstatement, promotion, or the like) will, of course, be decided by the undersigned judge and will not be considered by the jury.
>
> *Helmly v. Stone Container Corp.*
> 957 F.Supp. 1274, 3 Wage & Hour Cas.2d (BNA) 1629, 9 NDLR P 269

I am certain that Wood & Lamping"s acts are in violation of my protected rights and that of the FMLA. Moreover, that their reasons provided to me for termination is FALSE and PRETEXT. Wood & Lamping was aware that I was presently engaged in protected activities as well as its obtaining knowledge of past participation in protected activities – it elected to continue its unlawful/illegal practices in efforts of aiding David Meranus in the lawsuit they knew and/or should have known was going to be filed against me. In efforts of aiding Mr. Meranus and his client(s); Wood & Lamping made a conscious decision to interfere with my rights under the FMLA as well as other protected rights to aid Mr. Meranus. I have the legal right to seek recovery of and against Wood & Lamping and Mr. Meranus and others under a separate action. Therefore, as a matter of law, I **AM NOT** required to WAIVE any rights (and therefore **do not**) to appease Wood & Lamping – let them reap from the consequences of their actions.

Given the facts, evidence and legal conclusions presented, not only in my FMLA Complaint, but also the attached documents, I believe a reasonable mind may conclude that it is not in my best interest and/or well being to return to Wood & Lamping. Not only that, Wood & Lamping has engaged (in acts clearly prohibited by statutes/laws) with others to blacklist me and to keep me from working – i.e. financially devastate me, deprive me life, liberties and the pursuit of happiness. It is clear that I have tried to move on with my life; however, the stalking, harassment, etc. of persons like Mr. Meranus (and/others on behalf of their clients) is unlawful/illegal and criminal in nature. Wood & Lamping engaged in such wrongs and clearly from their acts do not want me in their employment. Therefore, let them provide me with the relief I am entitled to under the FMLA for such violations:

EMPLOYER CREDIBILITY[3]

The credibility of the employer‟s explanation is key and must be judged in light of all the evidence obtained during the investigation. If an employer‟s explanation for the employee‟s treatment ultimately is not credible, that is powerful evidence that discrimination is the most likely explanation. [Fn. 59 – *See Reeves,*[4] 530 U.S. at 147 ("Proof that the defendant‟s explanation is unworthy of credence is simply one form of circumstantial evidence that is probative of intentional discrimination, and it may be quite persuasive. Proving the employer‟s reason false becomes part of (and often considerably assists) the greater enterprise of proving that the real reason was intentional discrimination. In appropriate circumstances, the trier of fact can reasonably infer from the falsity of the explanation that the employer is dissembling to cover up a discriminatory purpose. Such an inference is consistent with the general principle of evidence law that the factfinder is entitled to consider a party‟s dishonesty about a material fact as affirmative evidence of guilt.")(citations and internal quotation marks omitted).] An employer‟s credibility will be undermined if its explanation is unsupported by or contrary to the balance of the facts. Similarly, the credibility of the explanation can be called into question if it is unduly vague, [Fn. 60 – Employers have leeway to make subjective decisions, but regardless of whether the reasons are objective or subjective, the employer‟s "explanation of its legitimate reasons must be clear and reasonably specific" so that "the plaintiff is afforded a „full and fair opportunity‟ to demonstrate pretext." *See Texas Dep't of Community Affairs v. Burdine,* 450 U.S. 248, 258 (1981). **The explanation <u>must</u> be clearly set forth through the *presentation of <u>evidence</u>***. *Id.* at 255. A person evaluating a decision based on subjective factors should do so carefully because subjective factors "are more susceptible of abuse and more likely to mask pretext." *See Goosby v. Johnson & Johnson Med., Inc.,* 228 F.3d 313, 320 (3rd Cir. 2000)(citation and quotation marks omitted)] appears to be an after-the-fact explanation, or appears otherwise fabricated (e.g., the explanation shifts, or inconsistent reasons are given). . . .

Elements of Damages – In General: All employment-related losses for salaried and hourly wage employees are recoverable in a wrongful discharge suit, regardless of whether the action sounds in contract or tort. Thus, the employee may recover back pay, bonuses, and commissions that would have been earned but for the dismissal. The employee‟s recovery may include damages for loss of fringe benefits. . . The employee is also entitled to recover the cost of securing other employment, and this cost may include moving expenses. The amount of the award for back pay and loss of fringe benefits during the employee‟s period of unemployment may be offset by the amount of unemployment insurance, if any, received by the employee during that time.. . the employee has no duty to seek inferior employment, and the burden of proof of the employee‟s failure to mitigate damages is on the employer. Moreover, it has been held that the employer may be estopped from raising the issue of the employee‟s duty to mitigate damages if the employee‟s dismissal was maliciously motivated.. . . Damages for

[3] EEOC Compliance Manual Section 15: Race and Color Discrimination
[4] *Reeves v. Sanderson Plumbing Prods., Inc.,* 530 U.S. 133 (2000).

> consequential losses and emotional distress generally are not allowed in a wrongful discharge case if the cause of action sounds entirely in contract. Where the action sounds in tort alone, or in both contract and tort, such compensatory damages are allowed. . . Plaintiff testified that as a result of the firing he suffered emotional distress by way of humiliation and lost confidence and trust. . . The court held that this evidence supported an award of compensatory damages.. . . Punitive damages are recoverable in an action for bad faith wrongful discharge if the defendant‟s conduct is sufficiently culpable.. . . The amount of punitive damages or exemplary damages to be awarded is a matter for the discretion of the jury; it depends on the circumstances of the particular case. Punitive damages must bear a reasonable relationship to the actual damages sustained by the plaintiff, though there is no fixed ratio by which punitive and actual damages are properly proportioned. An appellate court generally will not substitute its judgment for that of the trier of fact as to the amount of punitive damages to be awarded. . . . Plaintiff was discharged on the ground of poor work performance, after the employer‟s incomplete and insufficient investigation of the charges that had been brought against plaintiff by coemployees. ***Plaintiff experienced substantial difficulty finding subsequent employment, and she ultimately had to leave the state. She had lived and worked in a small community where a dismissal for poor work performance would necessarily have an adverse consequence on her reputation and ability to earn a livelihood***. One of the charges against her had been fabricated and her personnel file had been altered to support the allegation. An award of punitive damages against her former employer was affirmed on the basis of this evidence. . . .Plaintiff had a . . . faithful performance until she was fired by a vindictive supervisor . . .At the trial of Plaintiff‟s wrongful discharge case, expert witnesses testified that the employer had violated its own personnel practices and policies in thirteen separate instances; and the employer‟s evidence at trial was often inconsistent and even contradictory as to whether plaintiff was fired . . . as a part of a reduction-in-force program. In addition, the president of the company for which she had worked had revealed a calloused attitude toward. . . plaintiff in particular. . . An award of exemplary damages against the plaintiff‟s former employer was affirmed on appeal (verdict for $95,000 economic damages, $100,000 compensatory damages for mental distress, and $1,300,000 punitive damages). [FN 89] *Flanigan v. Prudential Federal Sav. & Loan Asso.* (1986), 720 P2d 257. . . 105 CCH LC ¶ 55614 (verdict for $95,000 economic damages, $100,000 compensatory damages for mental distress, and $1,300,000 punitive damages). See also *Cancellier v. Federated Dept. Stores* (1982) 672 F.2d 1312. . . 48 Am. Jur. Proof of Facts 2d 235-240.

Any assertion (if any) by Wood & Lamping regarding RIF for economic or financial reasons is to be met with them turning over financial records – the Secretary of Labor cannot merely take their word for this, clear factual evidence is required to rebut that facts, evidence and legal conclusions presented in my FMLA Complaint and the attached correspondence:

> In assessing punitive damages, juries may be allowed to consider evidence of the defendant‟s wealth and financial affairs. The rationale is that the award should be in an amount sufficient to have an impact on the defendant‟s attitudes and conduct in the future, so as to act as a deterrent to future wrongful conduct of the type under attack. In other words, the wealthier the defendant, the larger should be the assessment of punitive damages. Accordingly, where punitive damages are claimed, the plaintiff may be allowed to conduct some discovery into the subject of the defendant‟s financial affairs in most jurisdictions. . . . Plaintiff‟s counsel should anticipate that discovery into the subject of defendant‟s financial affairs will be strenuously resisted by the defense. Accordingly, the discovery plan in a wrongful discharge case should include an effective method of obtaining as much information on the subject of the defendant‟s wealth as the situation will permit in an expedient and efficacious manner. Thus, where liberal or unrestricted discovery into the subject of defendant‟s wealth is allowed, counsel should consider seeking the disclosure of the following items of information:
>
> - The current net worth of the employer
> - Total annual sales or gross income for the last fiscal year and one or more prior fiscal years
> - The net annual income for the past fiscal year and one or more prior fiscal years
> - The identity and values of all capital assets
> - The nature and amount of defendant‟s liabilities and obligations
> - Copies of the employer‟s tax returns whenever such discovery is permitted by the court.

I believe a reasonable mind may conclude that Wood & Lamping‟s areas of practice, taking of documents/evidence will support they were fully aware of the criminal/civil wrongs being committed; however, made a conscious decision to move forward anyhow.

Ms. Petric, please see my FMLA Complaint, I have set forth the relief I am seeking. Also have attaché the applicable statute (29 USCA § 2617) to support the relief I am entitled to.

Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,

ELECTRONIC COPY

Denise Newsome

Enclosures
cc: Personal File

VOGEL DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922 or 601/885-9536

March 18, 2010

RESPONSE REQUESTED BY 04/02/2010

VIA PRIORITY MAIL & EMAIL - 2306 1570 0001 0585 6164
ATTN: Barack H. Obama – U.S. President
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500-0005
Phone: (202) 456-1414
Fax: (202) 456-2461

VIA PRIORITY MAIL & EMAIL – 0307 1790 0000 7318 1166
ATTN: Eric H. Holder, Jr. – U.S. Attorney Genera
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0009
Phone: (202) 514-2001
Fax: (202) 307-6777

VIA PRIORITY MAIL & EMAIL – 0306 3030 0002 5599 6755
ATTN: Hilda L. Solis – Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210-0001
Phone: (202) 693-6000
Fax: (202) 693-6111

VIA PRIORITY MAIL & EMAIL – 0306 3030 0002 5599 6724
ATTN: Timothy F. Geithner – Secretary
U.S. Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220-0001
Phone: (202) 622-1100
Fax: (202) 622-0073

VIA PRIORITY MAIL & EMAIL – 2306 1570 0001 0585 6188
ATTN: Douglas H. Shulman - Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224-0001
Phone: (202) 622-9511
Fax: (202) 622-5756

VIA PRIORITY MAIL & EMAIL – 0309 1830 0000 0659 9971
ATTN: Arne Duncan – Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20001
Phone: (202) 401-3000
Fax: (202) 401-0596

Dear President Obama
Attorney General Holder
Secretary Solis
Secretary Geithner
Commissioner Shulman
Secretary Duncan:

RE: Vogel Denise Newsome
EXECUTIVE DEPARTMENT'S ENGAGEMENT IN CRIMINAL ACTS
OBAMA ADMINISTRATION'S OBSTRUCTING JUSTICE

PLEASE TAKE NOTICE:

That Vogel Denise Newsome ("Newsome") is hereby requesting that the UNLAWFUL/ILLEGAL/ CRIMINAL acts leveled against her by the United States Government cease. President Obama is being contacted because he is Head of the Executive Department and **FULLY** aware of what is going on with Newsome – i.e. *Newsome providing him with documentation that is provided to those under his Administration so President Obama **CANNOT** claim "Lack of Knowledge."* As the President of the United States, the U.S. Department of Justice, U.S. Department of Labor, U.S. Department of Treasury and their sub-departments *fall under President Barack Obama's Administration **and** Supervision*. Furthermore, this is documentation to support President Barack Obama and his Administration's failure to uphold the laws of the United States

EXHIBIT 141

6) President Obama and his Administration's handling of Complaints submitted by Newsome is clearly an OBSTRUCTION OF JUSTICE. In fact, such ADVERSE and UNDULLY delays are OBSTRUCTING legal matters from going forward. Newsome for example attach correspondence recently received from LIBERTY MUTUAL and its insured's counsel (Michael E. Lively) dated March 5, 2010. Evidencing how such DIALATORY and OBSTRUCTION OF JUSTICE by the Obama Administration is hindering other legal process involving Newsome and others. Moreover, is preventing Newsome from moving forward. Newsome has an attorney interested in this matter willing to assist in legal representation. However, again, all is being HINDERED because of President Barack Obama and his Administration's FAILURE TO PROSECUTE. Moreover, FAILURE TO ADVISE OF THE STATUS OF LEGAL MATTERS BROUGHT TO HIS ATTENTION!

So this is Newsome's story and EXPOSURE to United States Citizens of what President Barack Obama and his Administration are doing behind their backs and behind closed doors. *If President Barack Obama and his Administration can be this **RUTHLESS** and OBSTRUCT THE ADMINISTRATION OF JUSTICE, what else is his Administration hiding from the PUBLIC?????*

The United States Citizens need to know President Barack Obama and his Administration's role in COVERING UP criminal/civil wrongs of Newsome's employer(s). Moreover, allowing employer(s) to KNOWINGLY and DELIBERATELY provide FALSE information during a federal investigation. It is a good thing that Newsome has the tape recording and documentation to support such criminal practices. Oh, CITIZENS need to know that the Department of Justice has prosecuted employer(s) for engaging in such criminal acts (i.e. providing of false statements during federal investigation); however, leave it to Newsome to bring her Complaints and the Department of Justice and expect fair and equal treatment in the handling thereof, just to be subjected to DISCRIMINATORY practices in the handling of said complaints. All under the WATCHFUL eyes and ADMINISTRATION of President Barack Obama, Eric Holder, Solis and others.

Newsome is requesting a response to this instant letter on how the matters before each of the above referenced Departments are being handled as well as when records in the Department of Labor previously requested will be made available to her for reviewing and copying. *Newsome is requesting said RESPONSE to this letter **by April 2, 2010**.*

Should either of you have questions or comments, please do not hesitate to contact Newsome at **513/680-2922** or **(601) 885-9536**.

Sincerely,

Vogel Denise Newsome

Enclosures
cc: Citizens/Public/Media (via e-mail)

031810 – USPS MAILING CONFIRMATION via EMAIL (ObamaHolderSolisGeithnerShulmanDuncan)

This is a post-only message. Please do not respond.

D New has requested that you receive a Track & Confirm update, as shown below.

Track & Confirm e-mail update information provided by the U.S. Postal Service.

Label Number: 2306 1570 0001 0585 6164

Service Type: Priority Mail Signature Confirmation

Shipment Activity Location Date & Time

Delivered WASHINGTON DC 20500 03/25/10 4:50am

Notice Left WASHINGTON DC 20500 03/24/10 10:52am

Arrival at Unit WASHINGTON DC 20022 03/24/10 9:57am

Processed through Sort CINCINNATI OH 45235 03/18/10 10:28pm
Facility

Acceptance CINCINNATI OH 45234 03/18/10 5:32pm

Reminder: Track & Confirm by email

Date of email request: 03/21/10

Future activity will continue to be emailed for up to 2 weeks from the Date of Request shown above. If you need to initiate the Track & Confirm by email process again at the end of the 2 weeks, please do so at the USPS Track & Confirm web site at http://www.usps.com/shipping/trackandconfirm.htm

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USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at

http://www.usps.com/shipping/trackandconfirmfaqs.htm

This is a post-only message. Please do not respond.

D New has requested that you receive a Track & Confirm update, as shown below.

Track & Confirm e-mail update information provided by the U.S. Postal Service.

Label Number: 0307 1790 0000 7318 1166

Service Type: Priority Mail Delivery Confirmation

Shipment Activity Location Date & Time

Notice Left WASHINGTON DC 20530 03/23/10 10:59am

Arrival at Unit WASHINGTON DC 20022 03/23/10 8:18am

Processed through Sort CINCINNATI OH 45235 03/18/10 10:29pm
Facility

Acceptance CINCINNATI OH 45234 03/18/10 5:30pm

Reminder: Track & Confirm by email

Date of email request: 03/21/10

Future activity will continue to be emailed for up to 2 weeks from the Date of Request shown above. If you need to initiate the Track & Confirm by email process again at the end of the 2 weeks, please do so at the USPS Track & Confirm web site at http://www.usps.com/shipping/trackandconfirm.htm

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USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at
http://www.usps.com/shipping/trackandconfirmfaqs.htm

This is a post-only message. Please do not respond.

D New has requested that you receive a Track & Confirm update, as shown below.

Track & Confirm e-mail update information provided by the U.S. Postal Service.

Label Number: 0306 3030 0002 5599 6755

Service Type: Priority Mail Delivery Confirmation

Shipment Activity Location Date & Time

Delivered WASHINGTON DC 20210 03/23/10 11:26am

Arrival at Unit WASHINGTON DC 20022 03/23/10 9:07am

Processed through Sort CINCINNATI OH 45235 03/18/10 10:33pm
Facility

Acceptance CINCINNATI OH 45234 03/18/10 5:31pm

Reminder: Track & Confirm by email

Date of email request: 03/21/10

Future activity will continue to be emailed for up to 2 weeks from the Date of Request shown above. If you need to initiate the Track & Confirm by email process again at the end of the 2 weeks, please do so at the USPS Track & Confirm web site at http://www.usps.com/shipping/trackandconfirm.htm

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USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at
http://www.usps.com/shipping/trackandconfirmfaqs.htm

This is a post-only message. Please do not respond.

D New has requested that you receive a Track & Confirm update, as shown below.

Track & Confirm e-mail update information provided by the U.S. Postal Service.

Label Number: 0306 3030 0002 5599 6724

Service Type: Priority Mail Delivery Confirmation

Shipment Activity Location Date & Time

Delivered WASHINGTON DC 20220 03/24/10 10:56am

Arrival at Unit WASHINGTON DC 20022 03/24/10 9:41am

Processed through Sort CINCINNATI OH 45235 03/18/10 10:43pm
Facility

Acceptance CINCINNATI OH 45234 03/18/10 5:31pm

Reminder: Track & Confirm by email

Date of email request: 03/21/10

Future activity will continue to be emailed for up to 2 weeks from the Date of Request shown above. If you need to initiate the Track & Confirm by email process again at the end of the 2 weeks, please do so at the USPS Track & Confirm web site at http://www.usps.com/shipping/trackandconfirm.htm

---

USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at
http://www.usps.com/shipping/trackandconfirmfaqs.htm

This is a post-only message. Please do not respond.

D New has requested that you receive a Track & Confirm update, as shown below.

Track & Confirm e-mail update information provided by the U.S. Postal Service.

Label Number: 0309 1830 0000 0659 9971

Service Type: Priority Mail Delivery Confirmation

Shipment Activity Location Date & Time

Delivered WASHINGTON DC 20202 03/31/10 11:27am

Arrival at Unit WASHINGTON DC 20022 03/31/10 9:08am

Processed through Sort CINCINNATI OH 45235 03/18/10 10:33pm
Facility

Acceptance CINCINNATI OH 45234 03/18/10 5:32pm

Reminder: Track & Confirm by email

Date of email request: 03/21/10

Future activity will continue to be emailed for up to 2 weeks from the Date of Request shown above. If you need to initiate the Track & Confirm by email process again at the end of the 2 weeks, please do so at the USPS Track & Confirm web site at http://www.usps.com/shipping/trackandconfirm.htm

---

USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at
http://www.usps.com/shipping/trackandconfirmfaqs.htm

This is a post-only message. Please do not respond.

D New has requested that you receive a Track & Confirm update, as shown below.

Track & Confirm e-mail update information provided by the U.S. Postal Service.

Label Number: 2306 1570 0001 0585 6188

Service Type: Priority Mail Signature Confirmation

Shipment Activity Location Date & Time

Delivered WASHINGTON DC 20224 03/24/10 6:49am

Notice Left WASHINGTON DC 20224 03/23/10 11:01am

Arrival at Unit WASHINGTON DC 20022 03/23/10 10:38am

Acceptance CINCINNATI OH 45234 03/18/10 5:32pm

Reminder: Track & Confirm by email

Date of email request: 03/21/10

Future activity will continue to be emailed for up to 2 weeks from the Date of Request shown above. If you need to initiate the Track & Confirm by email process again at the end of the 2 weeks, please do so at the USPS Track & Confirm web site at http://www.usps.com/shipping/trackandconfirm.htm

---

USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at http://www.usps.com/shipping/trackandconfirmfaqs.htm

VOGEL DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922 or 601/885-9536

April 16, 2010

RESPONSE REQUESTED BY 05/03/2010

VIA PRIORITY MAIL & EMAIL - 23061570000104427389
ATTN: Barack H. Obama – U.S. President
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500-0005
Phone: (202) 456-1414
Fax: (202) 456-2461

VIA PRIORITY MAIL & EMAIL – 23061570000104427396
ATTN: Eric H. Holder, Jr. – U.S. Attorney Genera
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0009
Phone: (202) 514-2001
Fax: (202) 307-6777

VIA PRIORITY MAIL & EMAIL – 23061570000104427402
ATTN: Hilda L. Solis – Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210-0001
Phone: (202) 693-6000
Fax: (202) 693-6111

VIA PRIORITY MAIL – 03082040000022036194
ATTN: Timothy F. Geithner – Secretary
U.S. Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220-0001
Phone: (202) 622-1100
Fax: (202) 622-0073

VIA PRIORITY MAIL – 03082040000022036149
ATTN: Douglas H. Shulman - Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224-0001
Phone: (202) 622-9511
Fax: (202) 622-5756

VIA PRIORITY MAIL – 03082040000022036156
ATTN: Arne Duncan – Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20001
Phone: (202) 401-3000
Fax: (202) 401-0596

Dear President Obama
Attorney General Holder
Secretary Solis
Secretary Geithner
Com missioner Shulman
Secretary Duncan:

RE: Vogel Denise Newsome
EXECUTIVE DEPARTMENT'S ENGAGEMENT IN CRIMINAL ACTS
OBAMA ADMINISTRATION'S OBSTRUCTING JUSTICE

PLEASE TAKE NOTICE:

WARNING: This docum ent contains **HIGHLY** sensitive inf ormation a nd m aterial for thos e who are in DENIAL and REFUSE to know the tr uth regardi ng the RACIAL INJUSTICES in the U nited States. Furthermore, will shed additional light on the ***ROLE of the First*** alleged African-American President (Barack Obama) and U.S. Attorney General (Eric Holder) and their COVER-UP of such practices leveled against African-Americans and/or people of color. Furthermore, for those who are in DENIAL and cannot believe that the United States first alleged African-American President/U.S. Attorney General would have a ROLE in the

and/or ***physically***. Many African-Americans and/or people of color are going to be so disappointed to know that President Barack Obama and U.S. Attorney General Eric Holder ***are attempting to COVER-UP criminal acts of their OPPRESSORS***; while many will also remain in DENIAL (*even with the EVIDENCE slapping them in the face – i.e because of the shackles on their minds and scales on their eyes*) that the person (President Barack Obama) that they have taken to be their Saviour would be a part of CORRUPTION and the RACIAL INJUSTICES leveled against them.

Newsome believes the PUBLIC/WORLD is entitled to know whether President Barack Obama and his Administration's FAILURE to act on Complaints brought to their attention is a direct and proximate result of a CONSPIRACY that he and his Administration has sought to COVER-UP regarding the criminal/civil wrongs reported because those involved are KEY FINANCIAL CONTRIBUTORS and ADVISORS/LOBBYISTS of President Obama and those in his Administration and/or close relations with him.

Other World Leaders/NATIONS will not be like the United States Government Officials and willing to look the other way. Neither does Newsome believe they will take very kindly knowing of President Barack Obama's ROLE in CONSPIRACY leveled against Newsome and the COVER-UP of crimes/civil wrongs leveled against her.

Again, Newsome is requesting a response to this instant letter and the demands therein **on or before MAY 3, 2010**.

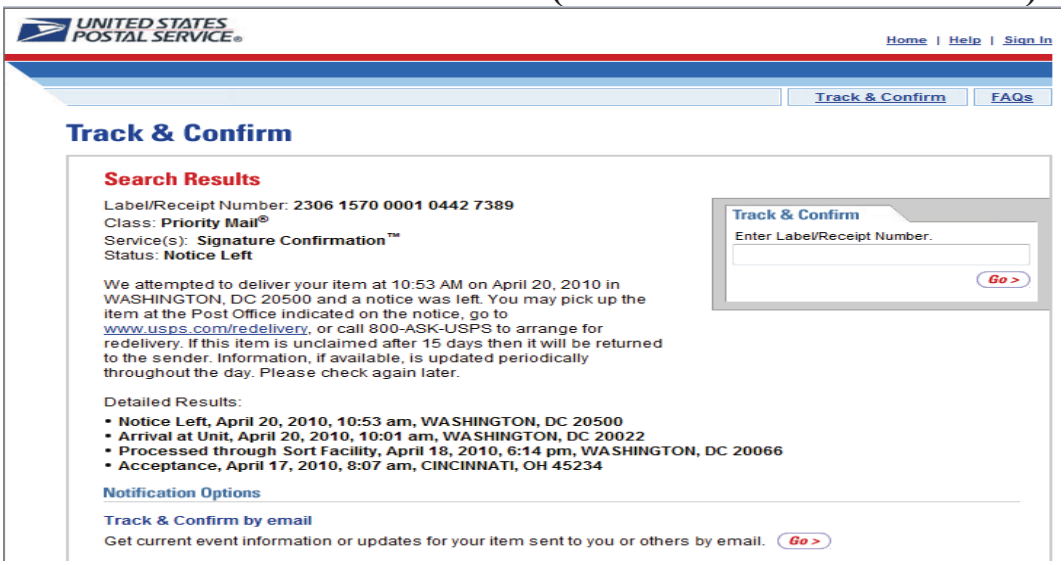
Should either of you have questions or comments, please do not hesitate to contact Newsome at **513/680-2922** or **(601) 885-9536**.

Sincerely,

Vogel Denise Newsome

Enclosures
cc: Citizens/Public/Media (via e-mail)
United Nations Leaders/Media (via e-mail)

04/16/10 – MAILING RECEIPTS (LettersToObamaHolderSolis)



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Label/Receipt Number: **2306 1570 0001 0442 7389**
Class: **Priority Mail®**
Service(s): **Signature Confirmation™**
Status: **Notice Left**

We attempted to deliver your item at 10:53 AM on April 20, 2010 in WASHINGTON, DC 20500 and a notice was left. You may pick up the item at the Post Office indicated on the notice, go to www.usps.com/redelivery, or call 800-ASK-USPS to arrange for redelivery. If this item is unclaimed after 15 days then it will be returned to the sender. Information, if available, is updated periodically throughout the day. Please check again later.

Track & Confirm
Enter Label/Receipt Number.
Go >

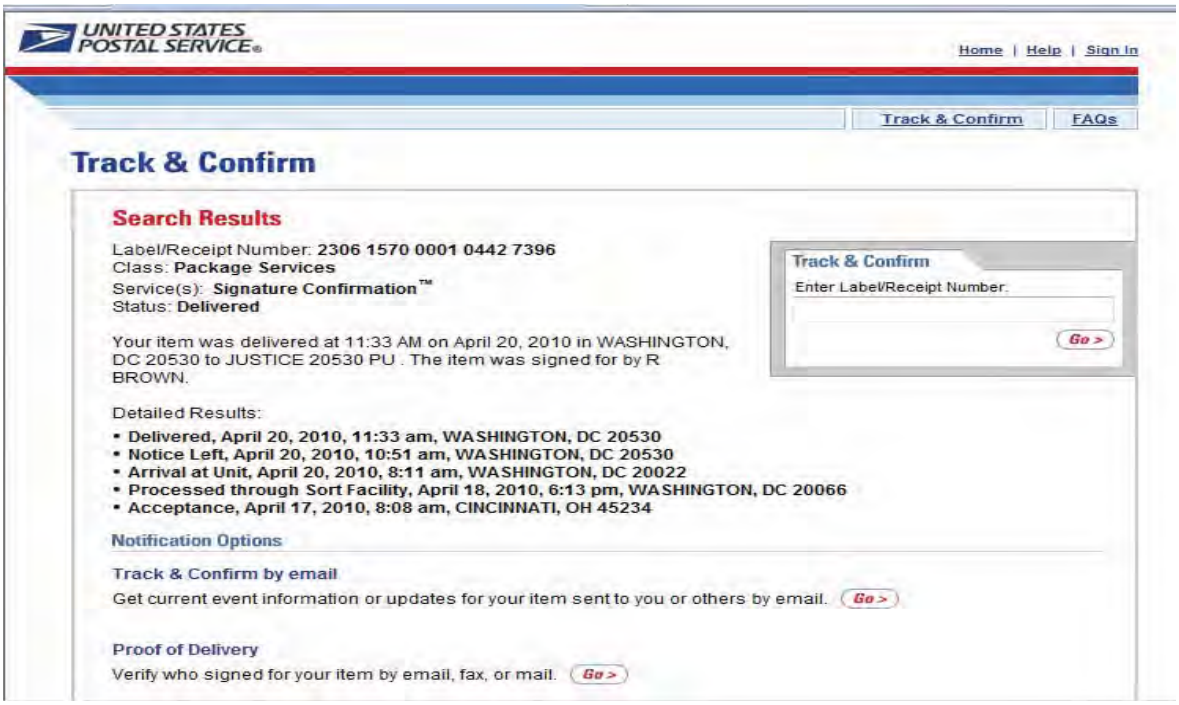
Detailed Results:

- **Notice Left, April 20, 2010, 10:53 am, WASHINGTON, DC 20500**
- **Arrival at Unit, April 20, 2010, 10:01 am, WASHINGTON, DC 20022**
- **Processed through Sort Facility, April 18, 2010, 6:14 pm, WASHINGTON, DC 20066**
- **Acceptance, April 17, 2010, 8:07 am, CINCINNATI, OH 45234**

Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. Go >



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Search Results

Label/Receipt Number: **2306 1570 0001 0442 7396**
Class: **Package Services**
Service(s): **Signature Confirmation™**
Status: **Delivered**

Your item was delivered at 11:33 AM on April 20, 2010 in WASHINGTON, DC 20530 to JUSTICE 20530 PU . The item was signed for by R BROWN.

Track & Confirm
Enter Label/Receipt Number.
Go >

Detailed Results:

- **Delivered, April 20, 2010, 11:33 am, WASHINGTON, DC 20530**
- **Notice Left, April 20, 2010, 10:51 am, WASHINGTON, DC 20530**
- **Arrival at Unit, April 20, 2010, 8:11 am, WASHINGTON, DC 20022**
- **Processed through Sort Facility, April 18, 2010, 6:13 pm, WASHINGTON, DC 20066**
- **Acceptance, April 17, 2010, 8:08 am, CINCINNATI, OH 45234**

Notification Options

Track & Confirm by email

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Proof of Delivery

Verify who signed for your item by email, fax, or mail. Go >


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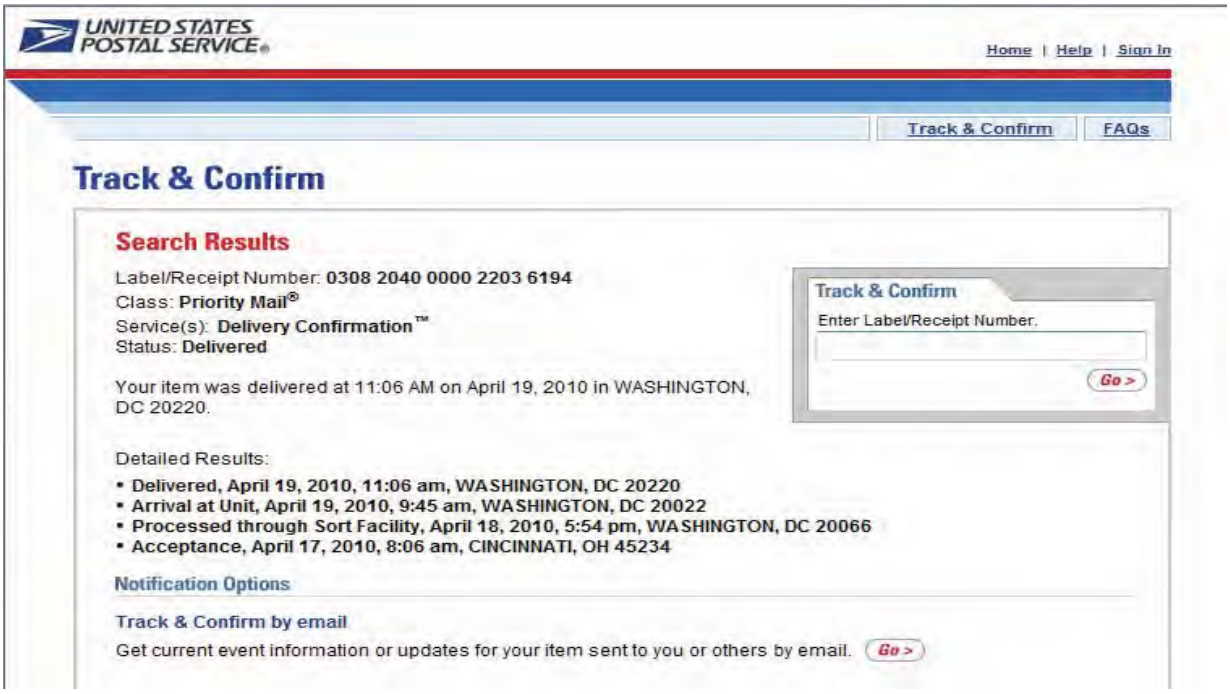
Search Results
Label/Receipt Number: 2306 1570 0001 0442 7402
Class: Priority Mail®
Service(s): Signature Confirmation™
Status: Delivered
Your item was delivered at 10:45 AM on April 19, 2010 in WASHINGTON, DC 20210 to LABOR 20210 R5 . The item was signed for by D HEAD.
Track & Confirm
Enter Label/Receipt Number.
Go >
Go to Track an
Detailed Results:
• Delivered, April 19, 2010, 10:45 am, WASHINGTON, DC 20210
• Arrival at Unit, April 19, 2010, 8:55 am, WASHINGTON, DC 20022
• Processed through Sort Facility, April 18, 2010, 5:53 pm, WASHINGTON, DC 20066
• Acceptance, April 17, 2010, 8:07 am, CINCINNATI, OH 45234
Notification Options
Track & Confirm by email
Get current event information or updates for your item sent to you or others by email. Go >
Proof of Delivery
Verify who signed for your item by email, fax, or mail. Go >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Search Results
Label/Receipt Number: 0308 2040 0000 2203 6194
Class: Priority Mail®
Service(s): Delivery Confirmation™
Status: Delivered
Your item was delivered at 11:06 AM on April 19, 2010 in WASHINGTON, DC 20220.
Track & Confirm
Enter Label/Receipt Number.
Go >
Detailed Results:
• Delivered, April 19, 2010, 11:06 am, WASHINGTON, DC 20220
• Arrival at Unit, April 19, 2010, 9:45 am, WASHINGTON, DC 20022
• Processed through Sort Facility, April 18, 2010, 5:54 pm, WASHINGTON, DC 20066
• Acceptance, April 17, 2010, 8:06 am, CINCINNATI, OH 45234
Notification Options
Track & Confirm by email
Get current event information or updates for your item sent to you or others by email. Go >

VOGEL DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922 or 601/885-9536

May 11, 2010

VIA PRIORITY MAIL & EMAIL – 2306 1570 0001 0442 2452
ATTN: Barack H. Obama – U.S. President
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500-0005
Phone: (202) 456-1414
Fax: (202) 456-2461

VIA PRIORITY MAIL & EMAIL – 2305 1590 0001 6380 5246
ATTN: Eric H. Holder, Jr. – U.S. Attorney Genera
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0009
Phone: (202) 514-2001
Fax: (202) 307-6777

VIA PRIORITY MAIL – 0309 1830 0001 9669 9178
ATTN: Arne Duncan – Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20001
Phone: (202) 401-3000
Fax: (202) 401-0596

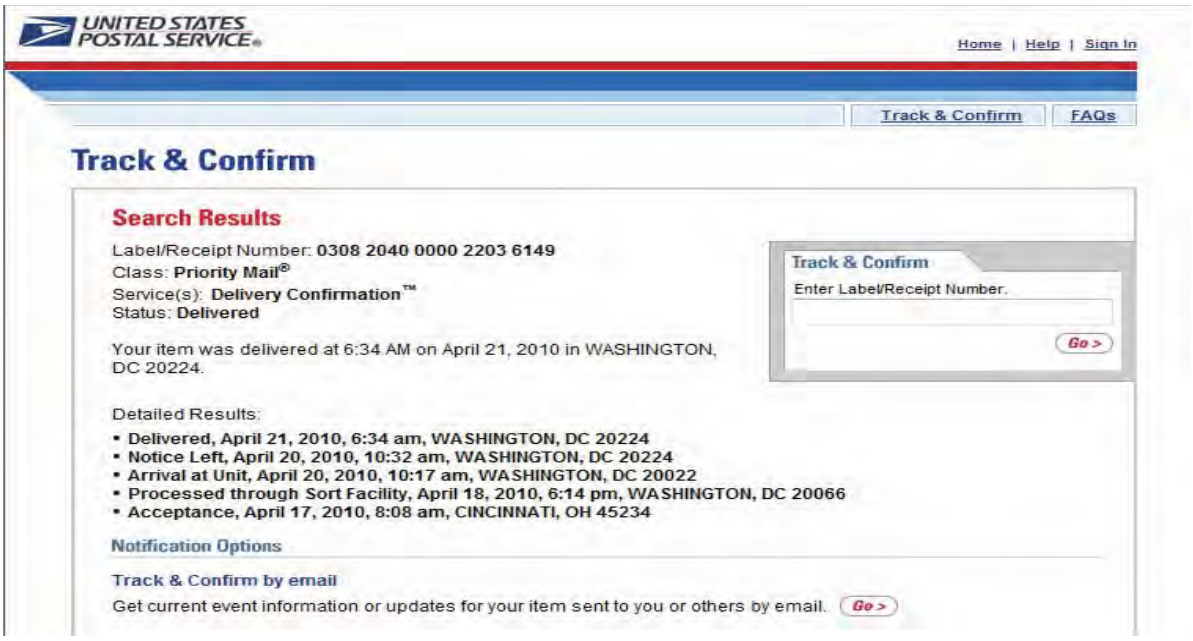
Dear President Obama
Attorney General Holder
Secretary Duncan:

RE: Vogel Denise Newsome
RESPONSE TO MAY 5, 2010 Letter
Debt No.: G199304033068601
G199904009984801

PLEASE TAKE NOTICE:

That Newsom e is in receipt of the Depart ment of Education's letter dated May 5, 2010, submitted by Naomi Randolph. A copy of this letter is attached for your review.

Newsome remains firm on her prior demands and further state: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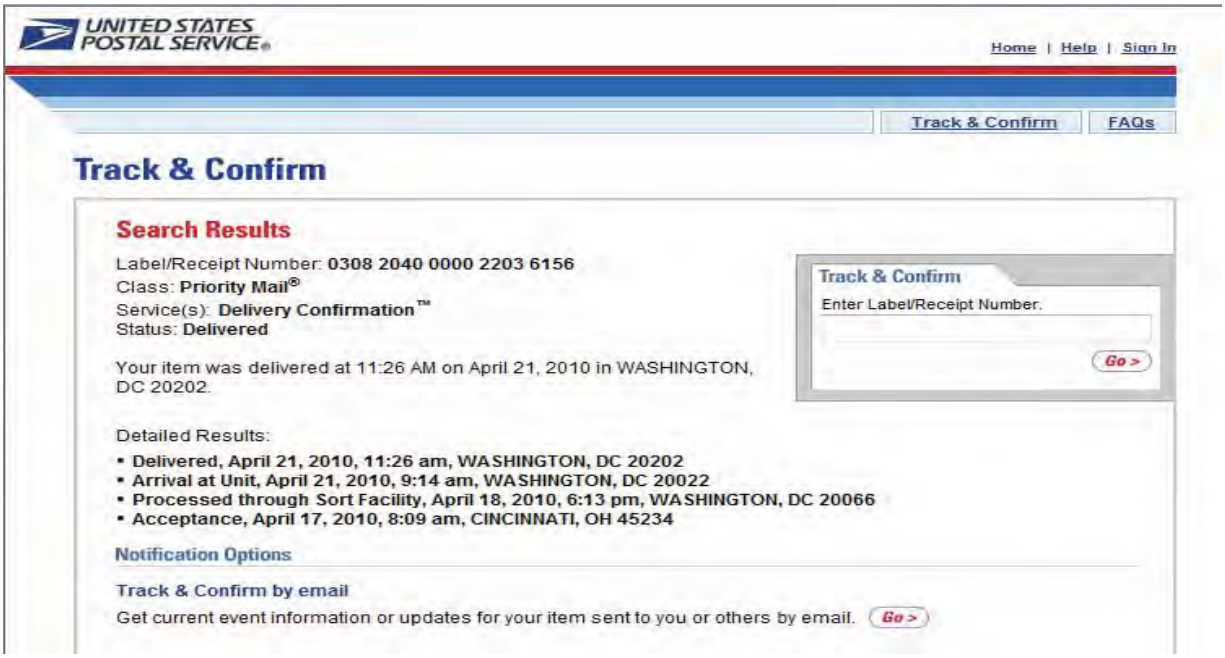
Search Results
Label/Receipt Number: 0308 2040 0000 2203 6149
Class: Priority Mail®
Service(s): Delivery Confirmation™
Status: Delivered
Your item was delivered at 6:34 AM on April 21, 2010 in WASHINGTON, DC 20224.
Track & Confirm
Enter Label/Receipt Number.
Go >
Detailed Results:
• Delivered, April 21, 2010, 6:34 am, WASHINGTON, DC 20224
• Notice Left, April 20, 2010, 10:32 am, WASHINGTON, DC 20224
• Arrival at Unit, April 20, 2010, 10:17 am, WASHINGTON, DC 20022
• Processed through Sort Facility, April 18, 2010, 6:14 pm, WASHINGTON, DC 20066
• Acceptance, April 17, 2010, 8:08 am, CINCINNATI, OH 45234
Notification Options
Track & Confirm by email
Get current event information or updates for your item sent to you or others by email.
Go >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Track & Confirm
FAQs
Track & Confirm
Search Results
Label/Receipt Number: 0308 2040 0000 2203 6156
Class: Priority Mail®
Service(s): Delivery Confirmation™
Status: Delivered
Your item was delivered at 11:26 AM on April 21, 2010 in WASHINGTON, DC 20202.
Track & Confirm
Enter Label/Receipt Number.
Go >
Detailed Results:
• Delivered, April 21, 2010, 11:26 am, WASHINGTON, DC 20202
• Arrival at Unit, April 21, 2010, 9:14 am, WASHINGTON, DC 20022
• Processed through Sort Facility, April 18, 2010, 6:13 pm, WASHINGTON, DC 20066
• Acceptance, April 17, 2010, 8:09 am, CINCINNATI, OH 45234
Notification Options
Track & Confirm by email
Get current event information or updates for your item sent to you or others by email.
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VOGEL DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922 or 601/885-9536

May 19, 2010

RESPONSE REQUESTED BY JUNE 3, 2010
FOR PUBLIC/WORLDWIDE RELEASE

VIA PRIORITY MAIL & EMAIL – 2306 1570 0001 0443 6305
ATTN: Barack H. Obama – U.S. President
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500-0005
Phone: (202) 456-1414
Fax: (202) 456-2461

VIA PRIORITY MAIL & EMAIL – 2306 1570 0001 0442 2438
ATTN: Eric H. Holder, Jr. – U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0009
Phone: (202) 514-2001
Fax: (202) 307-6777

VIA PRIORITY MAIL & EMAIL – 2306 1570 0001 0442 7419
ATTN: Hilda L. Solis – Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210-0001
Phone: (202) 693-6000
Fax: (202) 693-6111

Dear U.S. President Obama
U.S. Attorney General Holder
U.S. Secretary Solis:

RE: Vogel Denise Newsome
RESPONSE TO MAY 13, 2010 LETTER
EXECUTIVE DEPARTMENT'S ENGAGEMENT IN CRIMINAL ACTS
OBAMA ADMINISTRATION'S OBSTRUCTING JUSTICE

PLEASE TAKE NOTICE:

This is to advise that Vogel Denise Newso me ("Newsome") is i n receipt of correspondence dated May 13 2010, from Robert Moossy Jr. (A cting Section Chief Cri minal Section)/Shira Gordon (Paralegal Specialist Crim inal Sectio n) *which appears to have been* ***sent on***

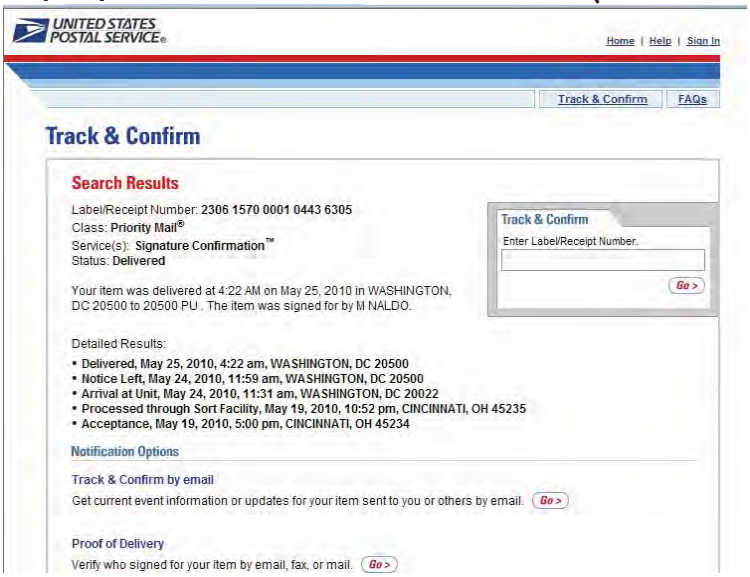
Should either of you have questions or comments, please do not hesitate to contact Newsome at 513/680-2922 or 601/ 885-9536.

Sincerely,

Vogel Denise Newsome

Enclosures
cc: Citizens/Public/Media (via e-mail)
United Nations Leaders/Media (via e-mail)

05/19/10 – USPS MAILING RECEIPTS (ObamaHolderSolis)



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Label/Receipt Number: **2306 1570 0001 0443 6305**
Class: **Priority Mail®**
Service(s): **Signature Confirmation™**
Status: **Delivered**

Your item was delivered at 4:22 AM on May 25, 2010 in WASHINGTON, DC 20500 to 20500 PU . The item was signed for by M NALDO.

Track & Confirm
Enter Label/Receipt Number.
Go >

Detailed Results:

- **Delivered, May 25, 2010, 4:22 am, WASHINGTON, DC 20500**
- **Notice Left, May 24, 2010, 11:59 am, WASHINGTON, DC 20500**
- **Arrival at Unit, May 24, 2010, 11:31 am, WASHINGTON, DC 20022**
- **Processed through Sort Facility, May 19, 2010, 10:52 pm, CINCINNATI, OH 45235**
- **Acceptance, May 19, 2010, 5:00 pm, CINCINNATI, OH 45234**

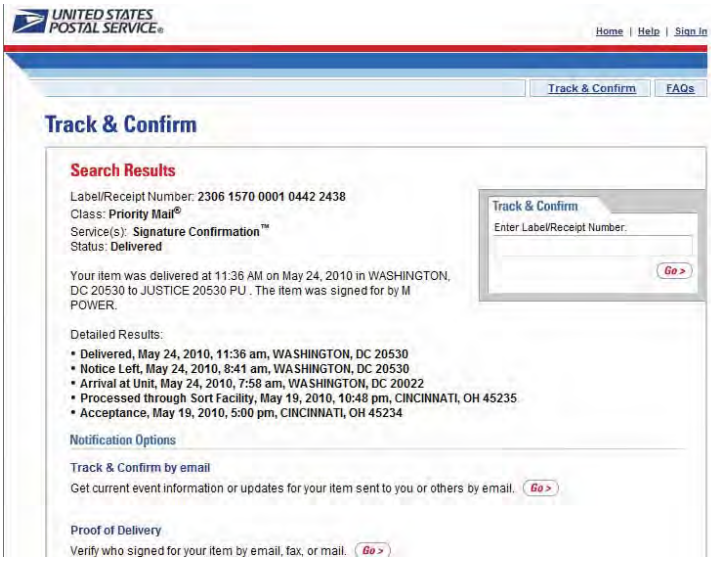
Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. Go >

Proof of Delivery

Verify who signed for your item by email, fax, or mail. Go >



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Label/Receipt Number: **2306 1570 0001 0442 2438**
Class: **Priority Mail®**
Service(s): **Signature Confirmation™**
Status: **Delivered**

Your item was delivered at 11:36 AM on May 24, 2010 in WASHINGTON, DC 20530 to JUSTICE 20530 PU . The item was signed for by M POWER.

Track & Confirm
Enter Label/Receipt Number.
Go >

Detailed Results:

- **Delivered, May 24, 2010, 11:36 am, WASHINGTON, DC 20530**
- **Notice Left, May 24, 2010, 8:41 am, WASHINGTON, DC 20530**
- **Arrival at Unit, May 24, 2010, 7:58 am, WASHINGTON, DC 20022**
- **Processed through Sort Facility, May 19, 2010, 10:48 pm, CINCINNATI, OH 45235**
- **Acceptance, May 19, 2010, 5:00 pm, CINCINNATI, OH 45234**

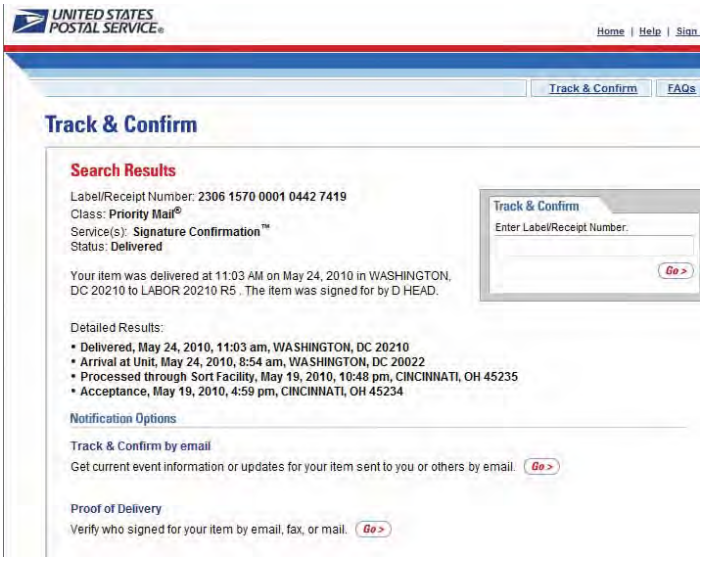
Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. Go >

Proof of Delivery

Verify who signed for your item by email, fax, or mail. Go >



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Track & Confirm

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Label/Receipt Number: **2306 1570 0001 0442 7419**
Class: **Priority Mail®**
Service(s): **Signature Confirmation™**
Status: **Delivered**

Your item was delivered at 11:03 AM on May 24, 2010 in WASHINGTON, DC 20210 to LABOR 20210 R5 . The item was signed for by D HEAD.

Track & Confirm
Enter Label/Receipt Number.
Go >

Detailed Results:

- **Delivered, May 24, 2010, 11:03 am, WASHINGTON, DC 20210**
- **Arrival at Unit, May 24, 2010, 8:54 am, WASHINGTON, DC 20022**
- **Processed through Sort Facility, May 19, 2010, 10:48 pm, CINCINNATI, OH 45235**
- **Acceptance, May 19, 2010, 4:59 pm, CINCINNATI, OH 45234**

Notification Options

Track & Confirm by email

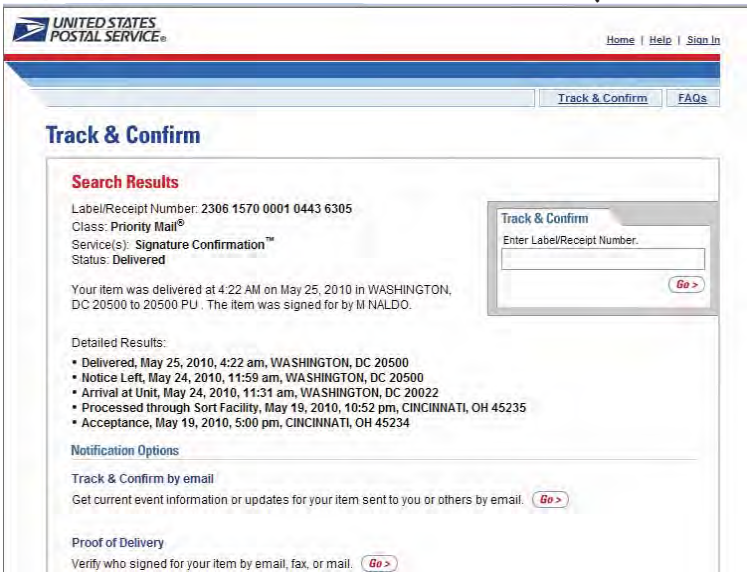
Get current event information or updates for your item sent to you or others by email. Go >

Proof of Delivery

Verify who signed for your item by email, fax, or mail. Go >

EXHIBIT "F"

05/19/10 – USPS MAILING RECEIPTS (ObamaHolderSolis)



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Label/Receipt Number: **2306 1570 0001 0443 6305**
Class: **Priority Mail®**
Service(s): **Signature Confirmation™**
Status: **Delivered**

Your item was delivered at 4:22 AM on May 25, 2010 in WASHINGTON, DC 20500 to 20500 PU . The item was signed for by M NALDO.

Track & Confirm
Enter Label/Receipt Number.
Go >

Detailed Results:

- **Delivered, May 25, 2010, 4:22 am, WASHINGTON, DC 20500**
- **Notice Left, May 24, 2010, 11:59 am, WASHINGTON, DC 20500**
- **Arrival at Unit, May 24, 2010, 11:31 am, WASHINGTON, DC 20022**
- **Processed through Sort Facility, May 19, 2010, 10:52 pm, CINCINNATI, OH 45235**
- **Acceptance, May 19, 2010, 5:00 pm, CINCINNATI, OH 45234**

Notification Options

Track & Confirm by email

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Proof of Delivery

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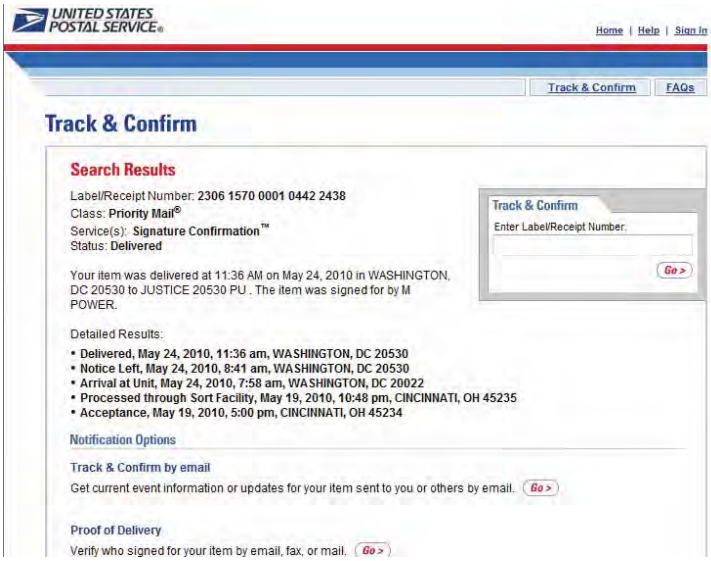

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Label/Receipt Number: **2306 1570 0001 0442 2438**
Class: **Priority Mail®**
Service(s): **Signature Confirmation™**
Status: **Delivered**

Your item was delivered at 11:36 AM on May 24, 2010 in WASHINGTON, DC 20530 to JUSTICE 20530 PU . The item was signed for by M POWER.

Track & Confirm
Enter Label/Receipt Number.
Go >

Detailed Results:

- **Delivered, May 24, 2010, 11:36 am, WASHINGTON, DC 20530**
- **Notice Left, May 24, 2010, 8:41 am, WASHINGTON, DC 20530**
- **Arrival at Unit, May 24, 2010, 7:58 am, WASHINGTON, DC 20022**
- **Processed through Sort Facility, May 19, 2010, 10:48 pm, CINCINNATI, OH 45235**
- **Acceptance, May 19, 2010, 5:00 pm, CINCINNATI, OH 45234**

Notification Options

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Proof of Delivery

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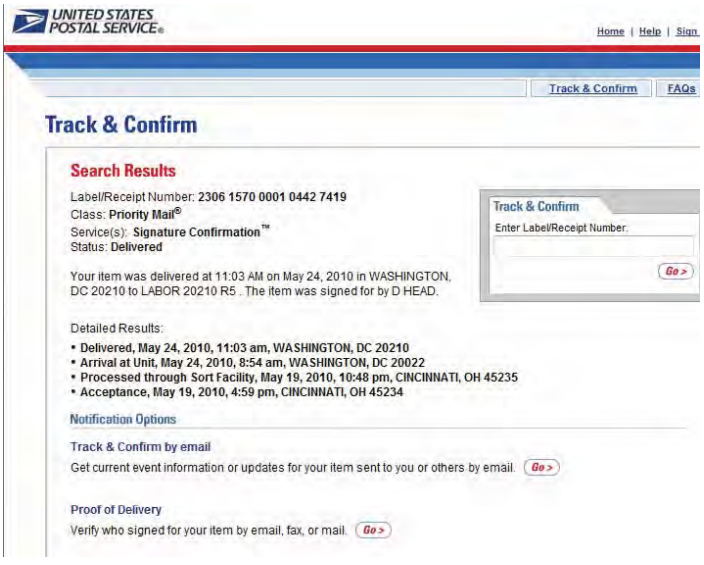

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Label/Receipt Number: **2306 1570 0001 0442 7419**
Class: **Priority Mail®**
Service(s): **Signature Confirmation™**
Status: **Delivered**

Your item was delivered at 11:03 AM on May 24, 2010 in WASHINGTON, DC 20210 to LABOR 20210 R5 . The item was signed for by D HEAD.

Track & Confirm
Enter Label/Receipt Number.
Go >

Detailed Results:

- **Delivered, May 24, 2010, 11:03 am, WASHINGTON, DC 20210**
- **Arrival at Unit, May 24, 2010, 8:54 am, WASHINGTON, DC 20022**
- **Processed through Sort Facility, May 19, 2010, 10:48 pm, CINCINNATI, OH 45235**
- **Acceptance, May 19, 2010, 4:59 pm, CINCINNATI, OH 45234**

Notification Options

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Proof of Delivery

Verify who signed for your item by email, fax, or mail. Go >

VOGEL DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922 or 601/885-9536

May 27, 2010

RESPONSE DUE BY JUNE 7, 2010

VIA PRIORITY MAIL & EMAIL – 23061570000105809108
ATTN: Barack H. Obama – U.S. President
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500-0005
Phone: (202) 456-1414
Fax: (202) 456-2461

VIA U.S. MAIL & FACSIMILE
ATTN: Timothy F. Geithner – Secretary
U.S. Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220-0001
Phone: (202) 622-1100
Fax: (202) 622-0073

VIA PRIORITY MAIL & EMAIL – 23061570000105809115
ATTN: Eric H. Holder, Jr. – U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0009
Phone: (202) 514-2001
Fax: (202) 307-6777

VIA U.S. MAIL & FACSIMILE
ATTN: Arne Duncan – Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20001
Phone: (202) 401-3000
Fax: (202) 401-0596

Dear President Obama
Attorney General Holder
Secretary Geithner
Secretary Duncan:

RE: Vogel Denise Newsome
RESPONSE TO MAY 21, 2010 FROM DEPARTMENT OF TREASURY "THIS IS NOT A BILL PLEASE RETAIN FOR YOUR RECORDS" Notice
U.S. Department of Treasury: TIN Num: XXX-XX-XX37
TOP Trace Num: A66322746
Acct Num: 05xxxxxxx37
U.S. Department of Education: U.S. Debt No.: G199304033068601
G199904009984801

PLEASE TAKE NOTICE:

That Vogel Denise Newsome ("Newsome) is in receipt of the Department of Treasury's correspondence entitled, "**THIS IS NOT A BILL PLEASE RETAIN FOR YOUR RECORD**" dated May 21, 2010. A copy of this letter is attached for your review.

> *This instant correspondence will serve as **SUFFICIENT** NOTICE that the proper Officials have been **timely**, **properly** and **adequately** contacted and notified of the crimes attempted or is about to be committed against Newsome. NOTICE IS HEREBY GIVEN that the United States Department of Treasury and United States Department of Education are*

PLEASE TAKE NOTICE that Newsome is requesting a RESPONSE by June 7, 2010, from EACH of you (*not from a random employee* that each of your Departments ***may attempt to use as a SCAPEGOAT***) **SIGNED/EXECUTED** as to your response to this letter. Said requests are made in ***good faith*** in that they are needed and are PERTINENT/CRUCIAL to resolve this issue as well as will SUPPORT and DETERMINE whether the Departments' actions mentioned herein have been made in Good Faith and not for purposes of *HARASSMENT, CRIMINAL/CIVIL VIOLATIONS, THREATS, DILIATORY PRACTICES, INTIMIDATION, COERCION* and *WILLFUL, MALICIOUS and WANTON* acts in **RETALIATION** to cause Newsome further DURESS, OPPRESSION, ANXIETY, etc. known to occur as a DIRECT and PROXIMATE result of the UNLAWFUL/ILLEGAL practices leveled against Newsome by these United States Government entities.

> ***PLEASE TAKE NOTICE*** that Newsome is expecting **FULL** receipt of the monies (approximately $1,794.20) OWED to her **by June 7, 2010**, that the Department of Treasury is attempting to *UNLAWFULLY/ILLEGALLY* steal by **THEFT, EMBEZZLEMENT**, etc. Moreover, the criminal acts the Department of Treasury is attempting to get the Internal Revenue Service to engage in.

Newsome hopes this information is helpful and will resolve this matter once and for all and the file on her **CLOSED!** Should either of you have questions or comments, please do not hesitate to contact Newsome at **513/680-2922** or **601/ 885-9536**.

Sincerely,

Vogel Newsome

Vogel Denise Newsome

Enclosures

TRANSMISSION VERIFICATION REPORT

TIME : 05/27/2010 15:38
NAME :
FAX :
TEL :
SER.# : 000H8J135766

DATE,TIME	05/27 15:36
FAX NO./NAME	12026220073
DURATION	00:02:04
PAGE(S)	06
RESULT	OK
MODE	STANDARD ECM

VOGEL DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922 or 601/885-9536

May 27, 2010

RESPONSE DUE BY JUNE 7, 2010

VIA PRIORITY MAIL & EMAIL – 23061570000105809108
ATTN: Barack H. Obama – U.S. President
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500-0005
Phone: (202) 456-1414
Fax: (202) 456-2461

VIA U.S. MAIL & FACSIMILE
ATTN: Timothy F. Geithner – Secretary
U.S. Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220-0001
Phone: (202) 622-1100
Fax: (202) 622-0073

VIA PRIORITY MAIL & EMAIL – 23061570000105809115
ATTN: Eric H. Holder, Jr. – U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0009
Phone: (202) 514-2001
Fax: (202) 307-6777

VIA U.S. MAIL & FACSIMILE
ATTN: Arne Duncan – Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20001
Phone: (202) 401-3000
Fax: (202) 401-0596

Dear President Obama
Attorney General Holder
Secretary Geithner
Secretary Duncan:

RE: Vogel Denise Newsome
RESPONSE TO MAY 21, 2010 FROM DEPARTMENT OF TREASURY "THIS IS NOT A BILL PLEASE RETAIN FOR YOUR RECORDS" Notice
U.S. Department of Treasury: **TIN Num: XXX-XX-XX37**
TOP Trace Num: A66333746

TRANSMISSION VERIFICATION REPORT

TIME : 05/27/2010 15:41
NAME :
FAX :
TEL :
SER.# : 000J7N195582

DATE,TIME	05/27 15:39
FAX NO./NAME	12024010596
DURATION	00:02:03
PAGE(S)	06
RESULT	OK
MODE	STANDARD ECM

VOGEL DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922 or 601/885-9536

May 27, 2010

RESPONSE DUE BY JUNE 7, 2010

VIA PRIORITY MAIL & EMAIL – 23061570000105809108
ATTN: Barack H. Obama – U.S. President
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500-0005
Phone: (202) 456-1414
Fax: (202) 456-2461

VIA U.S. MAIL & FACSIMILE
ATTN: Timothy F. Geithner – Secretary
U.S. Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220-0001
Phone: (202) 622-1100
Fax: (202) 622-0073

VIA PRIORITY MAIL & EMAIL – 23061570000105809115
ATTN: Eric H. Holder, Jr. – U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0009
Phone: (202) 514-2001
Fax: (202) 307-6777

VIA U.S. MAIL & FACSIMILE
ATTN: Arne Duncan – Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20001
Phone: (202) 401-3000
Fax: (202) 401-0596

Dear President Obama
Attorney General Holder
Secretary Geithner
Secretary Duncan:

RE: Vogel Denise Newsome
RESPONSE TO MAY 21, 2010 FROM DEPARTMENT OF TREASURY "THIS IS NOT A BILL PLEASE RETAIN FOR YOUR RECORDS" Notice
U.S. Department of Treasury: TIN Num: XXX-XX-XX37
TOP Trace Num: A66200746

052710 – USPS MAILING CONFIRMATION VIA EMAIL (OBAMAHOLDERGEITHNERDUNCAN)

This is a post-only message. Please do not respond.

D Ne has requested that you receive this restoration information for Track & Confirm as listed below.

Current Track & Confirm e-mail information provided by the U.S. Postal Service.

Label Number: 2306 1570 0001 0580 9108

Service Type: Signature Confirmation(TM)

Shipment Activity Location Date & Time

Delivered WASHINGTON DC 20500 06/03/10 4:08am

Notice Left WASHINGTON DC 20500 06/02/10 9:33am

Arrival at Unit WASHINGTON DC 20022 06/02/10 9:16am

Acceptance CINCINNATI OH 45234 05/27/10 4:23pm

USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at http://www.usps.com/shipping/trackandconfirmfaqs.htm

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This is a post-only message. Please do not respond.

D New has requested that you receive this restoration information for Track & Confirm as listed below.

Current Track & Confirm e-mail information provided by the U.S. Postal Service.

Label Number: 2306 1570 0001 0580 9115

Service Type: Signature Confirmation(TM)

Shipment Activity Location Date & Time

Delivered WASHINGTON DC 20530 06/02/10 11:41am

Notice Left WASHINGTON DC 20530 06/02/10 10:52am

Arrival at Unit WASHINGTON DC 20022 06/02/10 8:07am

Acceptance CINCINNATI OH 45234 05/27/10 4:24pm

USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at http://www.usps.com/shipping/trackandconfirmfaqs.htm

TRANSMISSION VERIFICATION REPORT

TIME : 01/14/2006 04:14
NAME :
FAX :
TEL :
SER.# : 000C0N380204

DATE,TIME	01/14 03:59
FAX NO./NAME	12024562461
DURATION	00:15:08
PAGE(S)	34
RESULT	OK
MODE	STANDARD ECM

VOGEL DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922 or 601/885-9536

June 8, 2010

RESPONSE REQUESTED FROM OBAMA, HOLDER AND SOLIS **BY JUNE 23, 2010**
FOR PUBLIC/WORLDWIDE RELEASE

VIA FACSIMILE & PRIORITY MAIL – 0309 1140 0001 9264 3643
ATTN: Barack H. Obama – U.S. President
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500-0005
Phone: (202) 456-1414
Fax: (202) 456-2461

VIA PRIORITY MAIL & EMAIL – 0309 1140 0001 9264 3650
ATTN: Eric H. Holder, Jr. – U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0009
Phone: (202) 514-2001
Fax: (202) 307-6777

VIA PRIORITY MAIL & EMAIL – 0309 1140 0001 9264 3667
ATTN: Hilda L. Solis – Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210-0001
Phone: (202) 693-6000
Fax: (202) 693-6111

RE: VOGEL DENISE NEWSOME
REQUESTS FOR RESPONSE & AFFIDAVITS BY JUNE 23, 2010

VOGEL DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922 or 601/885-9536

June 8, 2010

RESPONSE REQUESTED FROM OBAMA, HOLDER AND SOLIS BY JUNE 23, 2010
FOR PUBLIC/WORLDWIDE RELEASE

VIA FACSIMILE & PRIORITY MAIL – 0309 1140 0001 9264 3643
ATTN: Barack H. Obama – U.S. President
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500-0005
Phone: (202) 456-1414
Fax: (202) 456-2461

VIA PRIORITY MAIL & EMAIL – 0309 1140 0001 9264 3650
ATTN: Eric H. Holder, Jr. – U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0009
Phone: (202) 514-2001
Fax: (202) 307-6777

VIA PRIORITY MAIL & EMAIL – 0309 1140 0001 9264 3667
ATTN: Hilda L. Solis – Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210-0001
Phone: (202) 693-6000
Fax: (202) 693-6111

RE: VOGEL DENISE NEWSOME
REQUESTS FOR RESPONSE & AFFIDAVITS BY JUNE 23, 2010
EXECUTIVE DEPARTMENT'S ENGAGEMENT IN CRIMINAL ACTS
OBAMA ADMINISTRATION'S OBSTRUCTION OF JUSTICE

Dear United States President Obama
United States Attorney General Holder
United Secretary Solis:

As each of you are aware, Newsome has repeatedly contacted each of you regarding criminal/civil violations leveled against her. Newsom e's recent correspondence dated, May 19, 2010 en titled, "RESPONSE TO MAY 13, 2010 LETTER – EXECUT IVE DEP ARTMENT'S ENGA GEMENT IN CRIMINAL ACTS – OBAM A ADMINISTRATION'S OBSTRUCTING JUSTICE," requested a response **by June 3, 2010**, which apparently must have gone ignored because to date, Newsome has not received a response from either of you regarding her requests.

This involves a recipient of the 2009 NOBEL PEACE PRIZE – United States President Barack Obama – who appears to be engaged in criminal activities and the COVER-UP of CORRUPTION in his Administration

Again, it is **IMPORTANT TO NOTE** that in matters involv ing Newsom e, her opponen ts are those such as LIBERTY MUTUAL INSURANCE and its law firm s – i.e . Bake r Donelson Bea rman Caldwell & Berkowit z

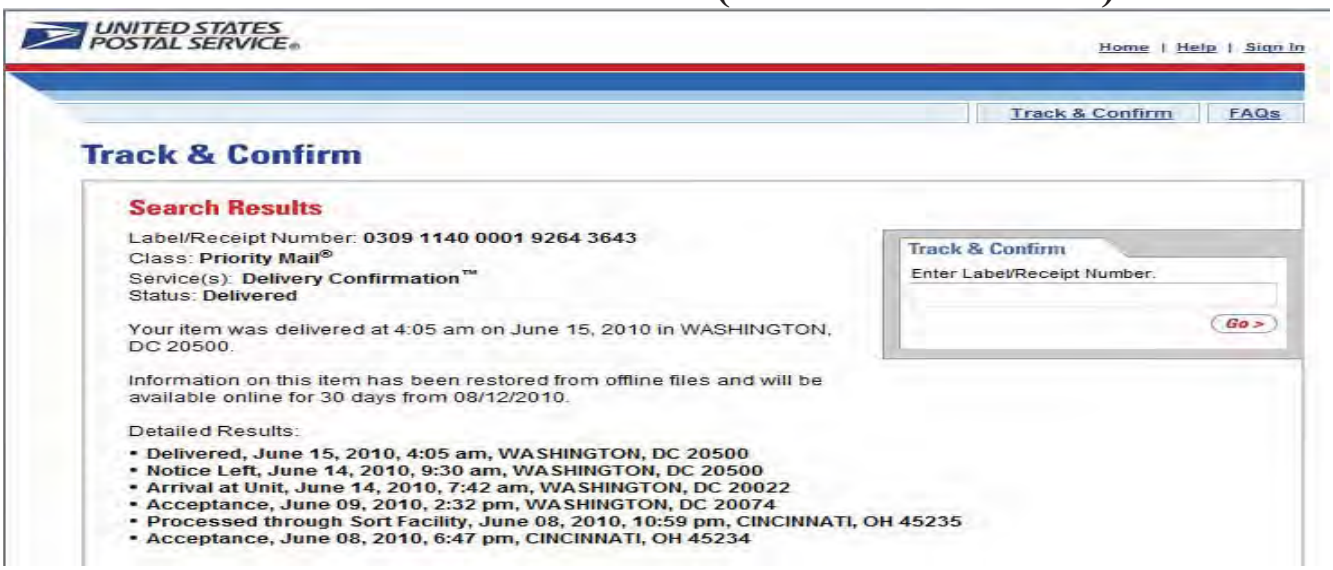
United States Attorney General Eric Holder and Secretary of Labor Hilda Solis has resorted for ill purposes – i.e. increasing costs and efforts to financially devastate Newsome.

Sincerely,

Vogel Denise Newsome
Post Office Box 14731
Cincinnati, Ohio 45251
(513) 680-2922 or **(601) 885-9536**

Enclosures
cc: Citizens/Public/Media (via e-mail)
United Nations Leaders/Media (via e-mail)

06/08/10-USPS MAILING RECEIPTS (Obama/Holder/Solis)



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Label/Receipt Number: **0309 1140 0001 9264 3643**
Class: **Priority Mail®**
Service(s): **Delivery Confirmation™**
Status: **Delivered**

Your item was delivered at 4:05 am on June 15, 2010 in WASHINGTON, DC 20500.

Information on this item has been restored from offline files and will be available online for 30 days from 08/12/2010.

Detailed Results:

- **Delivered, June 15, 2010, 4:05 am, WASHINGTON, DC 20500**
- **Notice Left, June 14, 2010, 9:30 am, WASHINGTON, DC 20500**
- **Arrival at Unit, June 14, 2010, 7:42 am, WASHINGTON, DC 20022**
- **Acceptance, June 09, 2010, 2:32 pm, WASHINGTON, DC 20074**
- **Processed through Sort Facility, June 08, 2010, 10:59 pm, CINCINNATI, OH 45235**
- **Acceptance, June 08, 2010, 6:47 pm, CINCINNATI, OH 45234**

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Label/Receipt Number: **0309 1140 0001 9264 3650**
Class: **Priority Mail®**
Service(s): **Delivery Confirmation™**
Status: **Delivered**

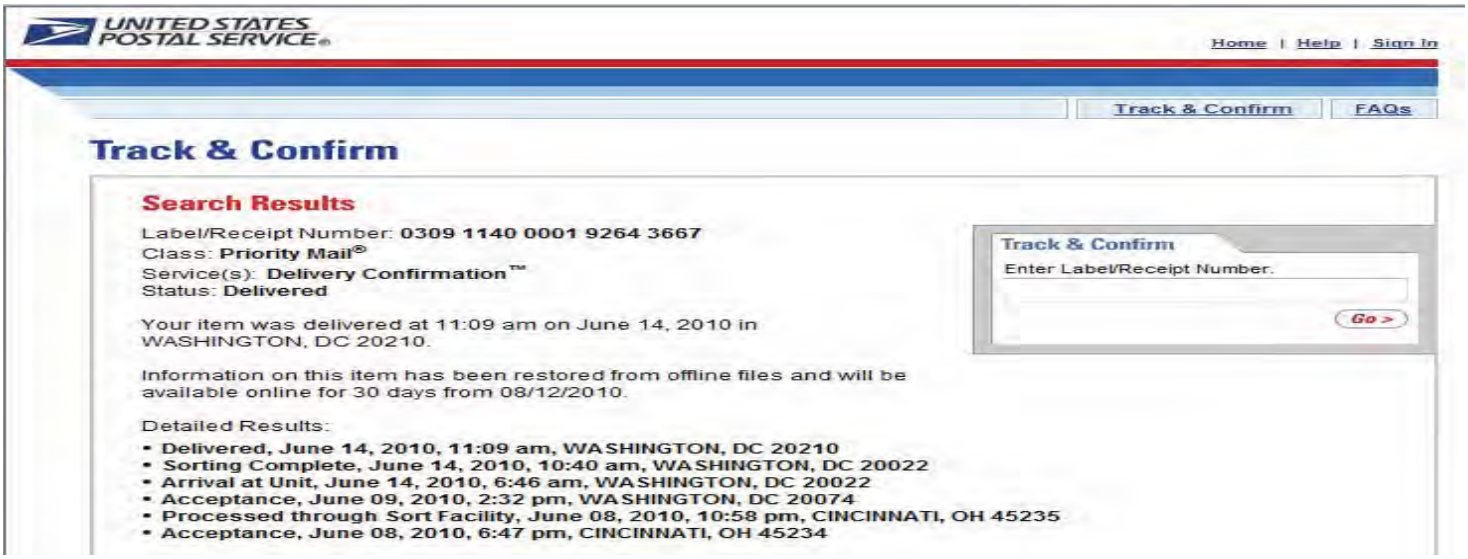
Your item was delivered at 11:31 am on June 14, 2010 in WASHINGTON, DC 20530.

Information on this item has been restored from offline files and will be available online for 30 days from 08/12/2010.

Detailed Results:

- **Delivered, June 14, 2010, 11:31 am, WASHINGTON, DC 20530**
- **Notice Left, June 14, 2010, 10:19 am, WASHINGTON, DC 20530**
- **Arrival at Unit, June 14, 2010, 8:12 am, WASHINGTON, DC 20022**
- **Acceptance, June 09, 2010, 2:32 pm, WASHINGTON, DC 20074**
- **Processed through Sort Facility, June 08, 2010, 10:58 pm, CINCINNATI, OH 45235**
- **Acceptance, June 08, 2010, 6:47 pm, CINCINNATI, OH 45234**

Track & Confirm
Enter Label/Receipt Number.
Go >



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Label/Receipt Number: **0309 1140 0001 9264 3667**
Class: **Priority Mail®**
Service(s): **Delivery Confirmation™**
Status: **Delivered**

Your item was delivered at 11:09 am on June 14, 2010 in WASHINGTON, DC 20210.

Information on this item has been restored from offline files and will be available online for 30 days from 08/12/2010.

Detailed Results:

- **Delivered, June 14, 2010, 11:09 am, WASHINGTON, DC 20210**
- **Sorting Complete, June 14, 2010, 10:40 am, WASHINGTON, DC 20022**
- **Arrival at Unit, June 14, 2010, 6:46 am, WASHINGTON, DC 20022**
- **Acceptance, June 09, 2010, 2:32 pm, WASHINGTON, DC 20074**
- **Processed through Sort Facility, June 08, 2010, 10:58 pm, CINCINNATI, OH 45235**
- **Acceptance, June 08, 2010, 6:47 pm, CINCINNATI, OH 45234**

Track & Confirm
Enter Label/Receipt Number.
Go >

VOGEL DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

June 24, 2009

REQUEST FOR HIGH PRIORITY & URGENT ATTENTION!!!!
UNLAWFUL EVICTION SCHEDULED FOR 07/07/2009 AT 9:00 A.M.

VIA PRIORITY MAIL: SIGNATURE CONFIRMATION TRACKING NO. 23061570000105855266
The United States White House
ATTN: U.S. President Barack Obama
1600 Pennsylvania Ave NW
Washington, DC 20500

VIA PRIORITY MAIL: SIGNATURE CONFIRMATION TRACKING NO. 23051590000163805253
U.S. Department of Justice
ATTN: Attorney General Eric H. Holder, Jr.
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

RE: REQUES T FOR FEDERAL INVESTIGATION INTO HENLEY YOUNG JUVENILE DETENTION CENTER (A/K/A HINDS COUNTY YOUTH DETENTION CENTER); UPDATE ON ADDITIONAL MATTERS; SECOND REQUEST FOR RETURN OF MONIES EMBEZZLED;[1] AND REQUEST FOR STATUS

Dear President Obama and Attorney General Holder:

This is to confirm that I am in receipt of F. Michael Kelleher's, Special Assistant to the President and Director of Presidential Correspondence, le tter dated June 19, 2009. A copy of which is attached hereto at **EXHIBIT " A"** and incorporated herein by reference. PLEAS E ACCEPT THIS AS A "NEW" wherein I incorporate and implement the Complaints submitted to President Obama's and U.S. Attorney Eric Ho lder's attention on Ma y 21, 2009. As well as the July 14, 2008 Complaint submitted to President Barack Obama's (then Senator Obama) attention – in which a copy of said July Complaint was provided as Exhibit with May 21, 2009 Complaint.

In response to Mr. .Kelleher's letter, "*No the ISSUE**S** brought to President Obama's attention as of May 21, 2009, and his attention when he was Senator as of August 2, 2008,* ***have not*** *been addressed.*" President Obam a was provided with an update and official Com plaint **as recent** as last month on or about **May 21, 2009**; along with the demands and/or relief sought by me.

[1] Boldface, italics and/or underline added for em phasis. INSERTING pertinent info rmation so that it is within this letter rather than as an Exhibit – making such information readily available.

steer clear of addressing such issues. That the March 8, 2008 speech may have been given for political purposes/hype/damage control ONLY and there was NEVER any intent to make good on trying to address such issues. *America is aware that Barack Obama is the President of the United States and is not for one particular race; however, they are not IGNORANT of the fact that African-Americans and/or people of color are repeatedly being deprived Human/Civil Rights, Constitutional Rights, Equal Protection of the Laws, Due Process of Laws, Employment Opportunities, etc.* IT IS OBVIOUS THAT THE MEDIA/PRESS ARE STEERING CLEAR OF THIS SUBJECT – **April's question at the June 23, 2009 Press Conference was ignored in the post coverage on the major network stations**. Why? *Because our media want to distract from such sensitive topics and cover up such issues as it has done for years*. AGAIN – Foreign countries are not ignorant of these things. We need to handle our business over here first before we begin meddling in another country's affairs.

President Barack Obama and U.S. Attorney General Eric Holder acknowledge the need to deal with such RACIAL issues.

Here we go. Now will Obama and Holder deal with the issues provided herein as well as in the Complaints submitted to their attention?

President Barack Obama ENCOURAGES the public to keep him abreast of what is going on and to feel free to contact him. The question now, is HOW IS HIS ADMINISTRATION GOING TO DEAL WITH THE SUCH CRIMINAL AND RACIST ISSUES TIMELY BROUGHT TO HIS ATTENTION?????

Respectfully submitted this **24th** day of **June, 2009.**

ELECTRONIC COPY

VOGEL DENISE NEWSOME
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (601) 885-9536 or (513) 680-2922

cc: (w/o supporting Exhibits)

The New York Times
ATTN: Steven Greenhouse
620 8th Avenue Floor 1,
New York, NY 10018
Published: March 24, 2009

National Counsel of La Raza (NCLR) Headquarters Office
ATTN: Janet Murguía, President
Raul Yzaguirre Building
1126 16th Street, NW
Washington, DC 20036
Tel. (202) 785-1670

cc: (w/o Exhibits) – If interested Exhibits can be provided at a cost of approximately $100 (to cover time expended, costs, mailing)

ABC
World News with Charles Gibson
47 West 66th Street
New York, NY 10023

ABC
This Week with George Stephanopoulos
77 West 66th Street
New York, NY 10023

ABC
What Would You Do with John Quinones
77 West 66th Street
New York, NY 10023

CBS
Evening News Anchor – Katie Couric
513 West 57th Street
New York, NY 10019

CBS
Legal Correspondent – Trent Copeland
513 West 57th Street
New York, NY 10019

CBS
Anchor – Debbye Turner
513 West 57th Street
New York, NY 10019

NBC
Evening News Anchor – Brian Williams
30 Rockefeller Plaza
New York, NY 10112

NBC
News Anchor – Ann Curry
30 Rockefeller Plaza
New York, NY 10112

062409 MAILINGS - RECEIPTS FOR LETTERS (Obama & Holder)



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Label/Receipt Number: **2306 1570 0001 0585 5266**
Status: **Delivered**

Your item was delivered at 4:20 am on June 30, 2009 in WASHINGTON, DC 20500. The item was signed for by M NALDO.

Additional information for this item is stored in files offline.

Restore Offline Details > (?) Return to USPS.com Home >

Track & Confirm
Enter Label/Receipt Number:
Go >

Notification Options

Proof of Delivery
Verify who signed for your item by email, fax, or mail. Go >



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Search Results

Label/Receipt Number: **2305 1590 0001 6380 5253**
Status: **Delivered**

Your item was delivered at 11:35 am on June 26, 2009 in WASHINGTON, DC 20530.

Additional information for this item is stored in files offline.

Restore Offline Details > (?) Return to USPS.com Home >

Track & Confirm
Enter Label/Receipt Number:
Go >

Notification Options

Proof of Delivery
Verify who signed for your item by email, fax, or mail. Go >

DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

July 9, 2009

REQUEST FOR HIGH PRIORITY & URGENT ATTENTION!!!!

VIA U.S. MAIL & FACSIMILE: (202) 693-6111 (Delivery Confirmation: 0308204000022814990)
United States Department of Labor
ATTN: Secretary Hilda L. Solis
Frances Perkins Building
200 Constitution Avenue, NW
Washington, D.C. 20210

VIA PRIORITY MAIL: SIGNATURE CONFIRMATION TRACKING NO. 2306157000010442824 9
The United States White House
ATTN: U.S. President Barack Obama
1600 Pennsylvania Ave NW
Washington, DC 20500

RE: STATUS REQUEST OF COMPLAINTS FILED BY JULY 23, 2009

Dear President Obama and Secretary Solis):

This is to advise you both that I am in receipt of the U.S. Department of Labor's (Wage & Hour Division) letter dated June 30, 2009, a copy of which is attached for your review and response.

As you can see from the June 30, 2009 correspondence, the Department of Labor states in part:

> "This letter is to acknowledge receipt of your Freedom of Information Act Request, dated May 21, 2009."

I gather the Department of Labor is referring to my June 3, 2009 letter, in which it was only the first page that contained an incorrect date – the remaining pages having the correct date of June 3, 2009. However, no such request (FOIA) was ever submitted by me. On May 21, 2009, I submitted a COMPLAINT (which both has received) entitled:

> **REPORTING OF RACIAL AND DISCRIMINATION PRACTICES COMPLAINT: REQUESTS FOR STATUS; REQUEST FOR CREATION OF COMMITTEES/COURT, INVESTIGATIONS AND FINDINGS – CONSTITUTIONAL, CIVIL RIGHTS VIOLATIONS AND DISCRIMINATION; AND DEMAND/RELIEF REQUESTED**

Tracking Nos. – (Solis: **2306157000010585530**3) and (Obama: **2306157000010585525**9)
To date I have not received anything regarding the May 21, 2009 Complaint mentioned above.

Then on or about **June 3, 2009** (which 1st page only was incorrectly dated), I submitted the following:

OFFICIAL REQUEST FOR FINDINGS OF FACTS AND CONCLUSION OF LAW BY JULY 1, 2009 - FILE NO. 1537034

Which to date, both of you have received – Tracking Nos. (Solis: **0307179000007318115**9) and (Obama: **2306157000010585527**3). Solis also received the June 3, 2009 Request for Findings of Facts and Conclusion of Law by July 1, 2009 via facsimile at (202) 693-6111.

PLEASE BE ADVISED:

1. To date, *I **have not** received documentation from either of you addressing the filing of my Complaint of May 21, 2009* and the CASE NUMBER (if any) that has been assigned. From the above referenced title it is clear what I am requesting of President Barack Obama's Administration. However, my concern is that this Administration may be taking the ***COWARD approach*** and clearly attempting to give me the ***RUN AROUND***. The June 30, 2009, letter from the Department of Labor is **UNACCEPTABLE** in that I **DID NOT** submit a "*Freedom of Information Act Request*" on May 21, 2009. Therefore, the Department of Labor's June 30, 2009 correspondence clearly leaves me with the impression that President Barack Obama's Administration may be attempting to ***EVADE*** **ADDRESSING THE RACIAL DISCRIMINATORY PRACTICES BROUGHT TO ITS ATTENTION THAT HIS ADMINISTRATION HAS REPEATEDLY ADVISED WOULD NOT BE TOLORATED!!!!**

   If so, so much for President Barack Obama's infamous March 18, 2008 "RACE SPEECH" and so much for U.S. Attorney General Eric Holder's Jet Magazine Article of March 9, 2009 – attached at **EXHIBIT 59** of the **May 21, 2009 Complaint**. *Instead this Administration is projecting itself to be one of "COWARDS" and is refusing to address the discriminatory and racial injustice practices within the Department of Labor that has been timely brought to both of your attention.*

   THEREFORE, please provide me with the status to the May 21, 2009 Complaint and Request for Findings of Fact (**NOT** Freedom of Information Request). To date, I have not received the information regarding the STATUS of my May 21, 2009 Complaint NOR Case Number (if any) that has been assigned.

2. On June 3, 2009, I requested **FINDINGS OF FACT and CONCLUSION OF LAW** regarding a Family & Medical Leave Act Complaint that I filed in the Cincinnati, Ohio Office. You both were provided with a copy of this Complaint at **EXHBIT 58** of my **May**

21, 2009 Complaint *which both of you received*. I requested Secretary Holis to provide me with the Department of Labor's FINDINGS of FACT and CONCLUSION OF LAW regarding my January 16, 2009 FMLA Complaint **by July, 1, 2009**. To date, I *have **not*** received the Department of Labor's Findings of Fact regarding my January 19, 2009 FMLA Complaint.

PLEASE BE ADVISED: While President Obama has promoted his area of specialty in the law to include: **CONSTITUTIONAL** Law and **CIVIL RIGHTS** Law – then this Administration would know that *under the 14th **Amendment** to the **United States Constitution**, I am entitled to the Findings of Fact and Conclusions of Law that I have requested.* Moreover, that the laws clearly state that said requests are secured and guaranteed under the **14th Amendment** of the **U.S. Constitution** to assist me in determining whether I want to contest and/or acquiesce such findings of fact and conclusion of laws. Without the information I requested, how is a citizen to determine whether or not the Department's own policies and procedures were followed. *Without this information I am being **deprived** EQUAL PROTECTION OF THE LAWS, **EQUAL** APPLICATION OF THE LAWS, **DUE PROCESS** OF LAWS, ETC.*

PLEASE TAKE NOTICE: That I will like a **STATUS UPDATE** regarding my May 21, 2009 Complaint and **EXPLANATION** as to why the Barack Obama Administration is **DEPRIVING** and/or **DENYING** me the Findings of Fact and Conclusion of Law regarding my May 21, 2009 Complaint and June 3, 2009 Correspondence regarding FMLA matter.

ONE REVIEWING THE FACTS, EVIDENCE AND LEGAL CONCLUSIONS PROVIDED IN DOCUMENTS PROVIDED THE OBAMA ADMINISTRATION WOULD KNOW THAT SUCH INFORMATION IS VERY DIFFICULT TO COME BY. NOT ONLY THAT, IT SUPPORTS WHAT AFRICAN-AMERICANS AND/OR PEOPLE OF COLOR HAVE KNOWN FOR YEARS REGARDING THE RACIAL INJUSICES – Now we have a President who claims he can identify with ALL races; however, clearly is refusing to have his Administration address such issues which he has ADDRESSED needs to dealt with. If not the Obama Administration, then whose Administration? Obama's Administration is now in the White House; however, TIP-TOEING AROUND SUCH ISSUES!!!

The reason why I use the TRACKING FEATURES in my mailings is because so many African-Americans and/or people of color have had to go through what I have. If I relied upon "First-Class" ONLY mailing, then the Obama Administration would use the practices of the OLD Administrations and assert that documents probably got lost in the mail – rather than just admit how they are merely part of our PREJUDICIAL GOVERNMENT SYSTEM targeted at keeping African-Americans and/or people of color oppressed. Moreover, SWEEPING such Racial Injustices under the rug! The practice of the Administration (PAST and now it appears the PRESENT) is to exhaust citizens in hopes that they would give up – not pursue their rights, liberties and pursuit of happiness.

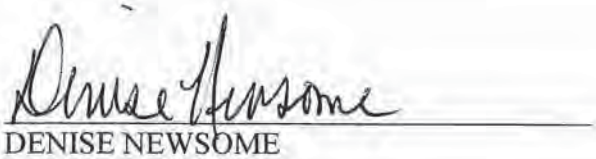
BOTH OF YOUR PROMPT AND IMMEDIATE/URGENT ATTENTION TO THIS MATTER IS GREATLY APPRECIATED!! If this Administration has lied to the citizens of the United States about addressing such RACIAL/DISCRIMINATORY matters – ADVISING IT WILL NOT TOLORATE DISCRIMINATORY PRACTICES (but indeed DOES), please let the Obama Administration be willing to OWN up you to its LIES and FAILURES presented to the citizens to deceive them for purposes of obtaining their votes.

PLEASE TAKE NOTICE: That due to concerns that the Barack Obama Administration is engaging in **DILIATORY** practices and *using POLICIES of the **OLD** ADMINISTRATIONS* and subjecting me to *MORE OF THE SAME* old practices of the Administrations before him – while President Barack Obama promised CHANGE, **please provide me with the above requested information by JULY 23, 2009**.

Sincerely,

Denise Newsome

Sincerely,



DENISE NEWSOME
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (601) 885-9536 or (513) 680-2922

cc: (w/ attachments) – Selected Media Sources (via e-mail)

070909 – USPS MAILING CONFIRMATION via EMAIL (ObamaSolis)

This is a post-only message. Please do not respond.

D News has requested that you receive a Track & Confirm update, as shown below.

Track & Confirm e-mail update information provided by the U.S. Postal Service.

Label Number: 0308 2040 0000 2281 4990

Service Type: Priority Mail Delivery Confirmation

Shipment Activity Location Date & Time

Delivered WASHINGTON DC 20210 07/14/09 11:43am

Arrival at Unit WASHINGTON DC 20022 07/14/09 9:20am

Processed through Sort CINCINNATI OH 45235 07/09/09 10:40pm
Facility

Acceptance CINCINNATI OH 45275 07/09/09 8:58pm

Reminder: Track & Confirm by email

Date of email request: 07/13/09

Future activity will continue to be emailed for up to 2 weeks from the Date of Request shown above. If you need to initiate the Track & Confirm by email process again at the end of the 2 weeks, please do so at the USPS Track & Confirm web site at http://www.usps.com/shipping/trackandconfirm.htm

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USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at
http://www.usps.com/shipping/trackandconfirmfaqs.htm

This is a post-only message. Please do not respond.

D News has requested that you receive a Track & Confirm update, as shown below.

Track & Confirm e-mail update information provided by the U.S. Postal Service.

Label Number: 2306 1570 0001 0442 8249

Service Type: Priority Mail Signature Confirmation

Shipment Activity Location Date & Time

Delivered WASHINGTON DC 20500 07/17/09 4:15am

Notice Left WASHINGTON DC 20500 07/16/09 9:38am

Arrival at Unit WASHINGTON DC 20022 07/16/09 9:13am

Acceptance CINCINNATI OH 45275 07/09/09 8:59pm

Reminder: Track & Confirm by email

Date of email request: 07/13/09

Future activity will continue to be emailed for up to 2 weeks from the Date of Request shown above. If you need to initiate the Track & Confirm by email process again at the end of the 2 weeks, please do so at the USPS Track & Confirm web site at http://www.usps.com/shipping/trackandconfirm.htm

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USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at http://www.usps.com/shipping/trackandconfirmfaqs.htm

VOGEL DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

July 24, 2009

REQUEST FOR HIGH PRIORITY & URGENT ATTENTION!!!!
RESPONSE REQUESTED BY FRIDAY, AUGUST 7, 2009
ALSO REQUESTING INVESTIGATION
REQUESTING TERMINATION/FIRINGS

VIA PRIORITY MAIL: SIGNATURE CONFIRMATION TRACKING NO. 23051590000163805192
The United States White House
ATTN: U.S. President Barack Obama
1600 Pennsylvania Ave NW
Washington, DC 20500

VIA PRIORITY MAIL: SIGNATURE CONFIRMATION TRACKING NO. 23051590000163805215
U.S. Department of Justice
ATTN: Attorney General Eric H. Holder, Jr.
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

VIA PRIORITY MAIL: SIGNATURE CONFIRMATION TRACKING NO. 23051590000163805239
U.S. Department of Labor
ATTN: Secretary Hilda L. Solis
Frances Perkins Building
200 Constitution Ave., NW
Washington, DC 20210

RE: PATTERN OF DISCRIMINATION: COVER-UP OF DISCRIMINATION/ CONSTITUTION/CIVIL RIGHTS VIOLATIONS - REQUESTS FOR INVESTIGATION; REQUEST FOR TERMINATION/FIRINGS (OF SECRETARY HILDA L. SOLIS; DISTRICT DIRECTOR KAREN R. CHAIKIN AND INVESTIGATOR JOAN M. PETRIC) IF VIOLATIONS ARE FOUND IN THE HANDLING WAGE AND HOUR DIVISION CHARGE NO. 1537034; REQUEST FOR DOCUMENTATION REGARDING ADMINISTRATIVE APPEAL PROCESS; AND DEMAND/RELIEF REQUESTED[1]

Dear President Obama, Attorney General Holder and Secretary Solis:

Attached is Karen R. Chaikin's letter and documentation (numbered pages 1 thru 150) – **EXHIBIT "A"** attached hereto and incorporated by reference as if set forth in full herein. On July 9, 2009, I

[1] Boldface, italics and/or underline added for emphasis.

wrongs with willful and deliberate intent be prosecuted to the full extent of the laws governing said matters.

PLEASE ADVISE how the Barack Obama Administration is intending to handle these Charges by **FRIDAY, August 7, 2009, or will this Administration continue to sit on its hands regarding this matter and ignore the criminal/civil wrongs timely, properly and adequately submitted to its attention?**

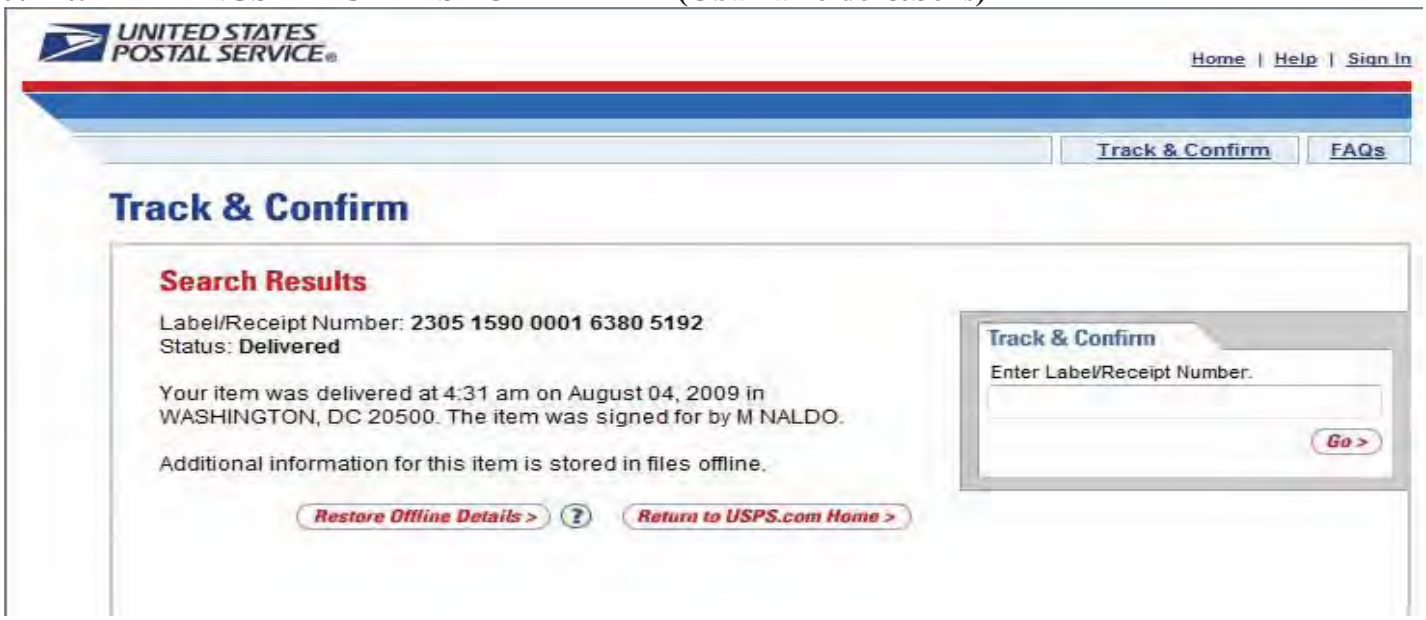
PLEASE TAKE NOTICE AS TO DEADLINES REQUESTED HEREIN AND/OR APPLICABLE DEADLINES UNDER THE GOVERNING STATUTES AND LAWS.

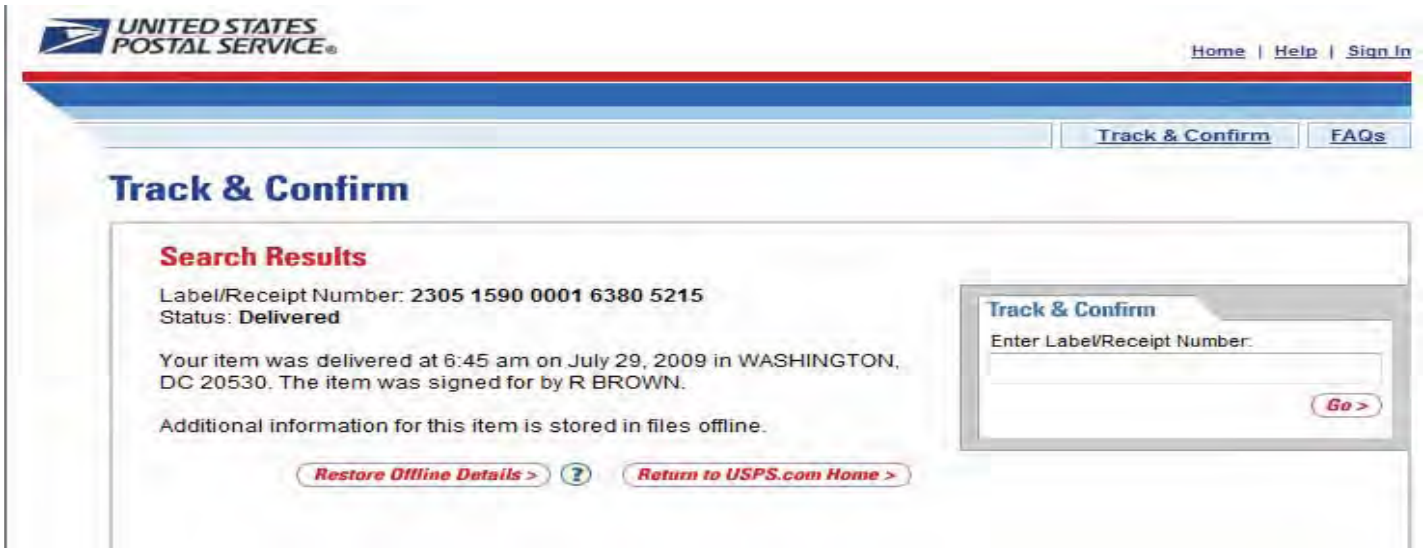
Respectfully submitted this **24th** day of **July, 2009.**

DENISE NEWSOME
Post Office Box 14731
Cincinnati, Ohio 45250
Phone: (601) 885-9536 or (513) 680-2922

Enclosures: Supporting Exhibits

072409 MAILINGS - RECEIPTS FOR LETTER (ObamaHolder&Solis)







VOGEL DENISE NEWSOME

Mailing: Post Office Box 14731
Cincinnati, Ohio 45250
Phone: 513/680-2922

August 9, 2010

VIA E-MAIL & U.S. MAIL - Tracking No. 0309 1830 0000 0662 1184
Ohio Department of Taxation
Attn: Richard A. Levin (Commissioner)
Post Office Box 530
Columbus, Ohio 43216

VIA E-MAIL & PRIORITY MAIL – 0309 1830 0000 0662 1207
ATTN: Barack H. Obama – U.S. President
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20500-0005
Phone: (202) 456-1414
Fax: (202) 456-2461

VIA E-MAIL & PRIORITY MAIL – 0309 1830 0000 0662 1191
ATTN: Eric H. Holder, Jr. – U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0009
Phone: (202) 514-2001
Fax: (202) 307-6777

RE: FINAL DETERMINATION and REQUEST THAT HARASSMENT/ATTACKS ON NEWSOME CEASE

Dear Mr. Levin, Mr. Holder and President Obama:

This will confirm that Vogel Denise Newsome ("Newsome") is in receipt of the Ohio Department of Taxation's June 9, 2010 "FINAL DETERMINATION" – a copy of which is attached and to the e-mail entitled, ***"FINAL DETERMINATION-OH DeptOfTaxation 060910."***

PLEASE BE ADVISED and **TAKE NOTICE:** That Newsome will not belabor this issue and relies upon argument that she **WAS NOT** a resident of the State of Ohio in 2005; *therefore, the Assessment issued by this office is NULL/VOID and does not apply to her.*

Furthermore, Newsome will like to take the time to make it known that she believes the submittal of such SHAM/FRIVOLOUS document ***is merely in keeping*** of the UNLAWFUL/ILLEGAL practices of the Commonwealth of Kentucky Department of Revenue's most recent CRIMINAL/CIVIL violations rendered against Newsome on or about July 17, 2010, *in the **execution of SHAM PROCESS** (i.e. Notice of Levy) and its failure to comply with the statutes/laws governing such matter*; moreover, **infringing upon the Constitutional rights and/or legal rights of Newsome that are guaranteed under the law.**

PLEASE TAKE NOTICE: That Newsome takes the Ohio Department of Revenue's handling of this most recent "FINAL DETERMINATION" as actions in furtherance of the crimes leveled against her by the Commonwealth of Kentucky. It is important to note from this document:

1) While the "FINAL DETERMINATION" is dated June 9, 2010, the Ohio Department of Taxation **DID NOT** provide Newsome with this document at the time of its alleged creation and/or execution. Nevertheless, it places documentation in package stating that a response is **due in 60 days**. *Such behavior and/or practices by the Ohio Department of Taxation in its OBSTRUCTION and/or COMPROMISING of mailing* (i.e. withholding mail, falsifying date on mail, etc.) is *clearly **UNACCEPTABLE** and prohibited by law*. A copy of information VERIFYING mailing (based upon postmark) being July 21, 2010 - approximately 41 days after June 9, 2010 date placed on the "Final Determination" - is attached as well provided with e-mail entitled, ***"072610-OH DeptTaxation MAILING RECEIPT."***

2) The Ohio Department of Taxation **DELIBERATELY/PURPOSELY** placed the wrong **"Post Office Box"** information on the "Final Determination" for purposes of precluding Newsome from receiving. However, to its disappointment, Newsome has received and provides this instant response. See copy of envelope which is attached and to the e-mail entitled, ***"FINAL DETERMINATION-OH DeptOfTaxation 060910."*** While the Ohio Department of Taxation may want it appear it was merely a typo/error in transposing numbers, Newsome would find this hard to believe because her mailing information should be stored and/or saved and Post Office Box 14731 is the address that has appeared on ALL other correspondence received prior to this recently mailing by the Ohio Department of Taxation.

3) Newsome further attaches to this instant letter and e-mail, a copy of her June 8, 2009 Response which was FAXED to the attention of Commissioner Richard A. Levin of the Ohio Department of Taxation at (614) 466-6401; as well as to the Compliance Division of the Ohio Department of Taxation at (614) 387-1847. See document entitled, ***"060809 Response OH DeptOfTaxation"*** to this e-mail.

Looking that the time of mailing and that most recentl CRIMINAL/CIVIL wrongs in the execution of the Commonwealth of Kentucky Department of Revenue's SHAM/BOGUS LEGAL PROCESS – July 17, 2010 "Notice of Levy"- that the Ohio Department of Taxation issued the FINAL DETERMINATION as a ROLE IN CONSPIRACY that has been leveled against Newsome in RETALIATION of her exercising protected rights as well as for purposes of HARASSMENT, INTIMIDATION, THREATS, COERCION, etc.

PLEASE TAKE NOTICE: That Newsome further believes that the most recent attacks on by the Ohio Department of Taxation and Commonwealth of Kentucky Department of Revenue may also be in RETALIATION of Newsome's **July 13, 2010**, E-mail to United States President Barack Obama, United States Attorney General Eric Holder and others entitled, ***"U.S. PRESIDENT BARACK OBAMA: THE DOWNFALL/DOOM OF THE OBAMA ADMINISTRATION – Corruption/Conspiracy/Cover-Up/Criminal Acts Made Public."*** Newsome

believes a reasonable mind may conclude that the Ohio and Kentucky recent actions are RELATED to Newsome's exercising of rights secured under the Constitution and other statutes/laws governing such matters. The Obama Administration who itself wanted members (i.e. Thomas Daschle and ***Timothy Geithner*** – *who is presently Secretary for the Department of Treasury*. The Department who *has* ***recently*** *UNLAWFULLY/ILLEGALLY* taken Newsome's 2009 Income Tax Return) – see information attached as well as to e-mail entitled, ***"BAKER DONELSON -(Daschle & GeithnerInfo)."***

PLEASE TAKE NOTICE: Newsome hereby demands that any and all actions and FURTHER actions by this Ohio Department of Taxation in regards to matters involving the June 9, 2010 "FINAL DETERMINATION" ***cease*** in that it has been TIMELY, PROPERLY and ADEQUATELY NOTIFIED that Newsome **WAS NOT** a resident of the State of Ohio in 2005. Furthermore, the Ohio Department of Taxation has failed to produce any documentation as to how it reached such a conclusion. Newsome further demand that CONSPIRACY that has been leveled against her by the Obama Administration, Kentucky Department of Revenue and others CEASE immediately and any/all monies be returned and/or released IMMEDIATELY.

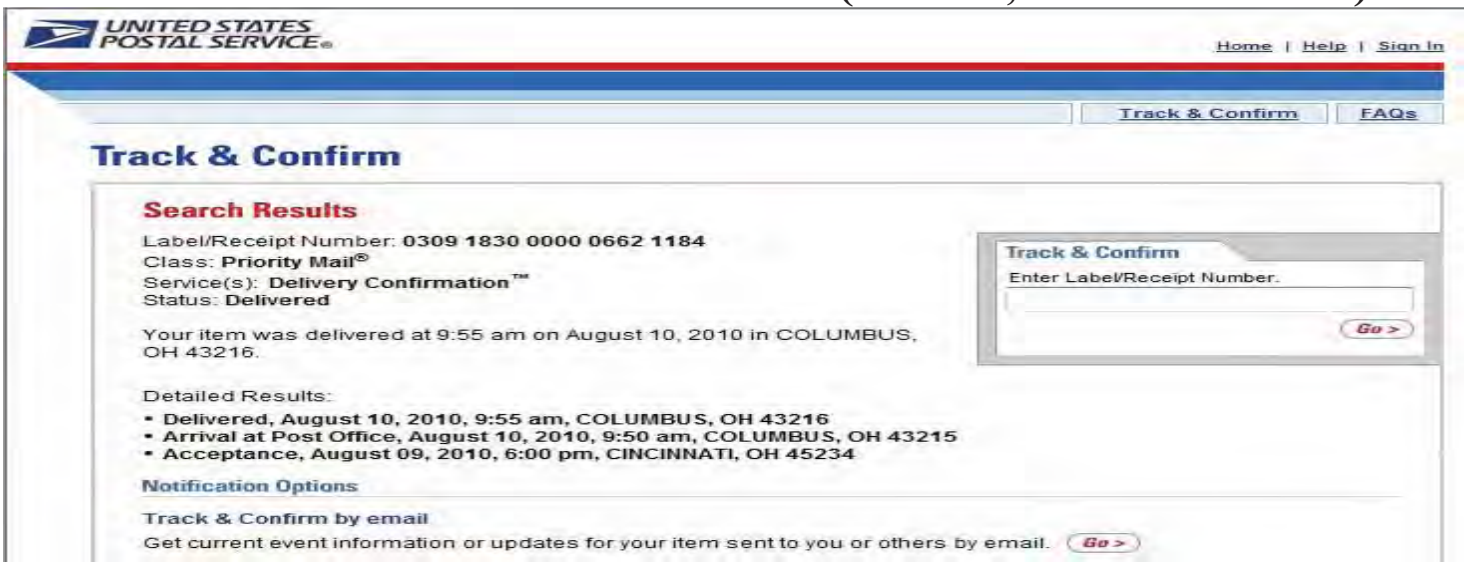
Should you have questions or comments, please do not hesitate to contact me at **513/680-2922** or **(601) 885-9536**.

Sincerely,

Vogel Denise Newsome

Enclosures
cc: PUBLIC/MEDIA/WORLD

08/09/10 – USPS MAILING RECEIPTS (Obama, Holder & Levin)



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Label/Receipt Number: **0309 1830 0000 0662 1184**
Class: **Priority Mail®**
Service(s): **Delivery Confirmation™**
Status: **Delivered**

Your item was delivered at 9:55 am on August 10, 2010 in COLUMBUS, OH 43216.

Track & Confirm
Enter Label/Receipt Number.
Go >

Detailed Results:

- **Delivered, August 10, 2010, 9:55 am, COLUMBUS, OH 43216**
- **Arrival at Post Office, August 10, 2010, 9:50 am, COLUMBUS, OH 43215**
- **Acceptance, August 09, 2010, 6:00 pm, CINCINNATI, OH 45234**

Notification Options

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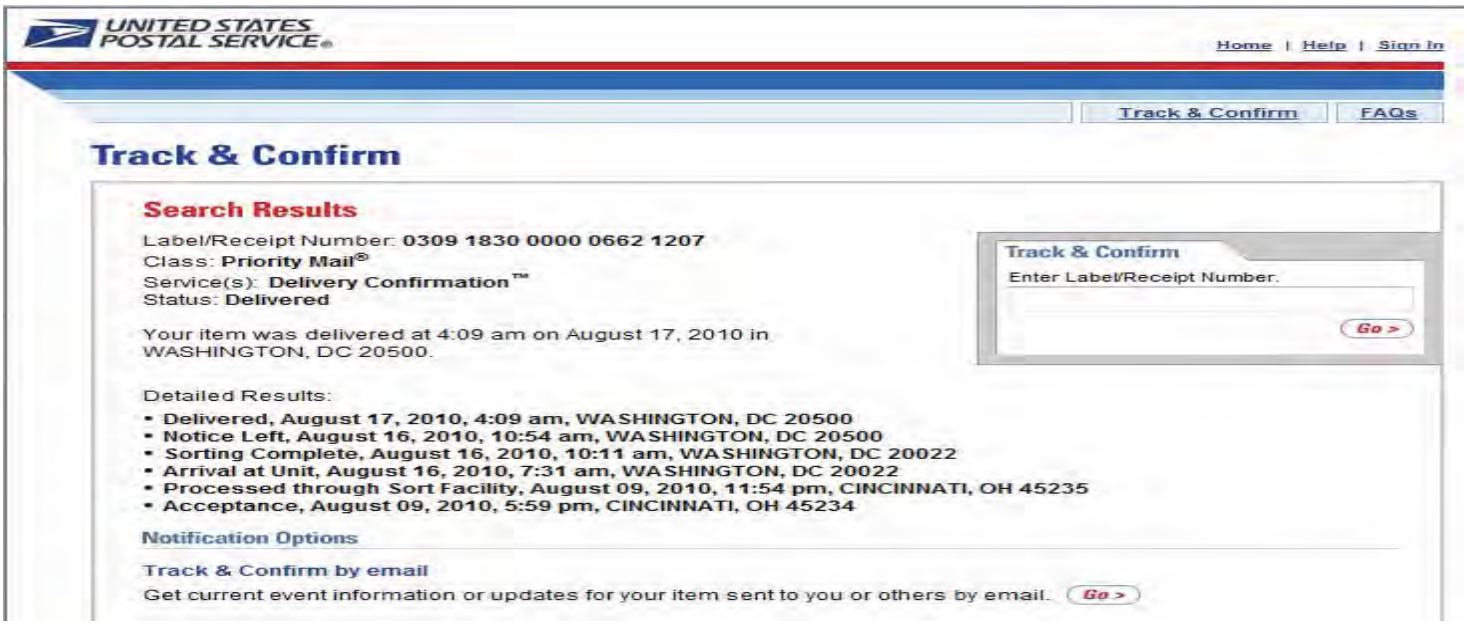

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Label/Receipt Number: **0309 1830 0000 0662 1207**
Class: **Priority Mail®**
Service(s): **Delivery Confirmation™**
Status: **Delivered**

Your item was delivered at 4:09 am on August 17, 2010 in WASHINGTON, DC 20500.

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Enter Label/Receipt Number.
Go >

Detailed Results:

- **Delivered, August 17, 2010, 4:09 am, WASHINGTON, DC 20500**
- **Notice Left, August 16, 2010, 10:54 am, WASHINGTON, DC 20500**
- **Sorting Complete, August 16, 2010, 10:11 am, WASHINGTON, DC 20022**
- **Arrival at Unit, August 16, 2010, 7:31 am, WASHINGTON, DC 20022**
- **Processed through Sort Facility, August 09, 2010, 11:54 pm, CINCINNATI, OH 45235**
- **Acceptance, August 09, 2010, 5:59 pm, CINCINNATI, OH 45234**

Notification Options

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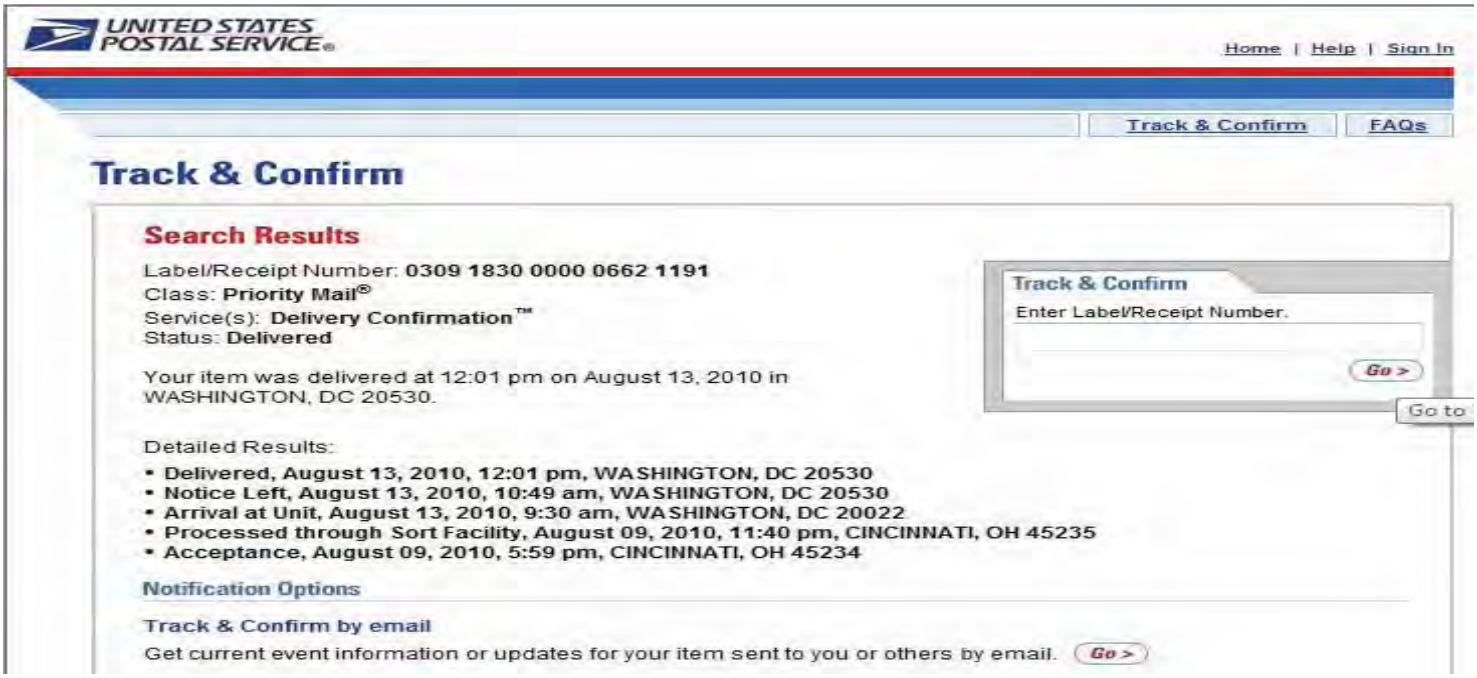

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Search Results

Label/Receipt Number: **0309 1830 0000 0662 1191**
Class: **Priority Mail®**
Service(s): **Delivery Confirmation™**
Status: **Delivered**

Your item was delivered at 12:01 pm on August 13, 2010 in WASHINGTON, DC 20530.

Track & Confirm
Enter Label/Receipt Number.
Go >

Detailed Results:

- **Delivered, August 13, 2010, 12:01 pm, WASHINGTON, DC 20530**
- **Notice Left, August 13, 2010, 10:49 am, WASHINGTON, DC 20530**
- **Arrival at Unit, August 13, 2010, 9:30 am, WASHINGTON, DC 20022**
- **Processed through Sort Facility, August 09, 2010, 11:40 pm, CINCINNATI, OH 45235**
- **Acceptance, August 09, 2010, 5:59 pm, CINCINNATI, OH 45234**

Notification Options

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Document Taken From:
http://www.co.hinds.ms.us/pgm/special/minutes/03_06_06.pdf

MINUTES

BE IT remembered that on the 6th day of March, 2006, at 9:00 A.M., the Board of Supervisors of Hinds County met in the Chancery Court Building, Board of Supervisors' Room, Jackson, Mississippi; pursuant to the provisions of Mississippi Code 1972, Annotated, Section 19-3-13 and resolution heretofore adopted by the Board. This being a regular meeting of said Board, when the following were present:

DOUGLAS ANDERSON– PRESIDENT

RONNIE CHAPPELL – VICE PRESIDENT

CHARLES BARBOUR – MEMBER

PEGGY HOBSON CALHOUN - MEMBER

GEORGE SMITH – MEMBER

Also present and attending upon said Supervisors' Court were Chancery Clerk and the Clerk of the Board of Supervisors, Eddie Jean Carr; Deputy Chancery Clerk, Greta Lovell; Deputy Recording Clerk, Erika Knight Epps; Capt., Charles Banes; Board Attorney, Azande Williams and County Administrator, Anthony Brister, when the following business was had and done, to-wit:

AGENDA

ATTACHED TO and incorporated herein is the Agenda for today's meeting. Since the meeting was held pursuant to statute, no special notice was given.

INVOCATION

PRESIDENT ANDERSON called the meeting to order at 9:07 A.M. Reverend Carl Twyner, Pastor, Cedar Grove Baptist Church, Pocahontas, Mississippi, offered the invocation.

APPROVAL OF MINUTES

UPON A motion of Ronnie Chappell and a second by Douglas Anderson, Charles Barbour voting aye, Peggy Hobson Calhoun voting aye, George Smith absent not voting, it was

RESOLVED to approve the minutes of February 6, 2006.

CLAIMS

Interfund Advance

UPON A motion of Ronnie Chappell and a second by Douglas Anderson, Peggy Hobson Calhoun voting aye, George Smith voting aye, Charles Barbour voting aye, it was

EXHIBIT 142

THOSE ENTERING the Executive Session were Supervisor, Charles Barbour; President, Douglas Anderson; Supervisor, Peggy Hobson Calhoun; Vice President, Ronnie Chappell and Supervisor, George Smith. Also, present were Chancery Clerk, Eddie Jean Carr; Capt., Charles Banes; Constable, Jon Lewis; Personnel Director, Peggy Chapman; County Administrator, Anthony Brister and Board Attorney, Azande Williams.

Constable Lewis addressed the Board regarding the classification of Constables and the reporting of their fee income on 1099 forms for IRS and PERS purposes. He requested that all fee income for constables be reported on W2's vs. 1099 forms. Constables Lewis discussed a potential class action lawsuit Extensive discussion was had on this matter. No action was taken.

UPON A motion of Ronnie Chappell and a second by Peggy Hobson Calhoun, Charles Barbour voting aye, George Smith voting aye, Douglas Anderson voting aye, it was

RESOLVED to return to Open Session.

THE BOARD returned to Open Session from Executive Session at approximately 11:24 A.M. No other action, vote or discussion of any kind took place in the Executive Session. ***Document affixed hereto and incorporated herein.***

HUMAN CAPITAL DEVELOPMENT

Grants / JAG

UPON A motion of George Smith and a second by Peggy Hobson Calhoun, Douglas Anderson voting aye, Charles Barbour voting aye, Ronnie Chappell voting aye, it was

RESOLVED to approve the recommended spending plan for the "JAG" grant. Funds will be equally distributed between the Sheriff, District Attorney and Public Defender's offices. Document affixed hereto and incorporated herein.

PURCHASING DEPARTMENT

Request to Advertise

UPON A motion of Ronnie Chappell and a second by Charles Barbour, Peggy Hobson Calhoun voting aye, George Smith voting aye, Douglas Anderson voting aye, it was

RESOLVED to advertise for bids for a Kohler model 125REOZJB or similar (Diesel Engine Generator with Trailer) for the Emergency Management department.

State Contract Purchase

UPON A motion of Ronnie Chappell and a second by Douglas Anderson, Peggy Hobson Calhoun voting aye, George Smith voting aye, Charles Barbour voting aye, it was

RESOLVED to purchase three (3) Trucks and one (1) sedan for the Emergency Management department.

Document Taken From:
http://www.co.hinds.ms.us/pgs/special/minutes/05_01_06.pdf

MINUTES

BE IT remembered that on the 1st day of May, 2006, at 9:00 A.M., the Board of Supervisors of Hinds County met in the Chancery Court Building, Board of Supervisors' Room, Jackson, Mississippi; pursuant to the provisions of Mississippi Code 1972, Annotated, Section 19-3-13 and resolution heretofore adopted by the Board. This being a regular meeting of said Board, when the following were present:

DOUGLAS ANDERSON – PRESIDENT

RONNIE CHAPPELL – VICE PRESIDENT

CHARLES BARBOUR – MEMBER

PEGGY HOBSON CALHOUN - MEMBER

GEORGE SMITH – MEMBER

Also present and attending upon said Supervisors' Court were Chancery Clerk and the Clerk of the Board of Supervisors, Eddie Jean Carr; Deputy Chancery Clerk, Greta Lovell; Deputy Chancery Clerk, Erika Knight Epps; Captain, Jimmy Savell; County Administrator, Anthony Brister and Board Attorney, Azande Williams when the following business was had and done, to-wit:

AGENDA

ATTACHED TO and incorporated herein is the Agenda for today's meeting. Since the meeting was held pursuant to statute, no special notice was given.

INVOCATION

PRESIDENT ANDERSON called the meeting to order at 9:04 A.M. Larry Fisher, Director Emergency Management offered the invocation.

APPROVAL OF MINUTES

UPON A motion of Peggy Hobson Calhoun and a second by Charles Barbour, Ronnie Chappell voting aye, Douglas Anderson voting aye, George Smith absent voting, it was

RESOLVED to approve the Minutes of March 20 & 27, 2006.

**** Supervisor Smith entered open session at approximately 9:00 A. M. ****

CLAIMS

Interfund Advance Repaid

UPON A motion of Peggy Hobson Calhoun and a second by George Smith, Douglas Anderson voting aye, Ronnie Chappell absent not voting, Charles Barbour voting aye, it was

UPON A motion of George Smith and a second by Ronnie Chappell, Douglas Anderson voting aye, Peggy Hobson Calhoun voting aye, Charles Barbour voting aye, it was

RESOLVED to approve a bid from Rite-Kem for Fire Ant Bait in the amount of $7.00 per lbs. Document affixed hereto and incorporated herein.

MINUTE INSERTIONS

Erika Epps, Deputy Chancery Clerk, presented the following as Minute Insertions:

A. *Hinds County Department of Human Services reimbursement of expenditures for operational purposes.*

Warrant # 009665467 *$ 37,432.15*

B. *A Board Resolution Recognizing The Outstanding Contributions And Commemorative Legacy Of Dr. Ivory Paul Phillips, PH.D.*

C. *Contract – Hinds County, MS and Southeast Engineering Group, Inc., (SEG), for the Hinds County Economic Development Public Improvement Grant Infrastructure Improvement to Support Location of Belk, Inc.. SEG Project No. 05-H002.*

D. *Office of State Aid Road Construction - Certified copy of LSBP Project - 025(4).*

E. *Proof of Publications:*

1. *Bids Wanted – Chiller Replacement at the Courthouse Annex Raymond.*
2. *Bids Wanted – 18 Month Term Bids for Materials and Supplies.*
3. *Bids Wanted – Fire Ant Bait.*

OTHER BUSINESS

Executive Session

UPON A motion of Peggy Hobson Calhoun and a second by Ronnie Chappell, Charles Barbour absent not voting, George Smith voting aye, Douglas Anderson voting aye, it was

RESOLVED to consider entering executive session.

UPON A motion of Ronnie Chappell and a second by George Smith, Charles Barbour voting aye, Peggy Hobson Calhoun voting aye, Douglas Anderson voting aye, it was

RESOLVED to go into Executive Session for the purpose of conducting business and discussions regarding litigation / potential litigation matters.

AZANDE WILLIAMS, Board Attorney, announced to the public that the Board entered Executive Session at approximately 12:08 P.M. for the purpose of conducting business and discussions regarding:

1. *Update and discussion regarding MCTA v. Hinds County, and*
2. *Update and discussion regarding Hinds County v. Shappley Harris, and*
3. *Update and discussion regarding Constable Jon Lewis.*

These actions are necessary for strategy sessions with respect to litigation and prospective litigation where an open meeting would have a detrimental effect on the litigating or negotiating position of the Board.

THOSE ENTERING the Executive Session were Supervisor, Charles Barbour; Vice President, Douglas Anderson; Supervisor, Peggy Hobson Calhoun, Supervisor Ronnie Chappell and Supervisor, George Smith. Also, present were Chancery Clerk, Eddie Jean Carr; Capt., Jimmy Savell; County Administrator, Anthony Brister and Board Attorney, Azande Williams.

DISCUSSION was had with the Board Attorney updating the Board on the status of the final judgment order that was entered by Judge Kidd on this matter. A letter from special counsel, Barry Powell was also discussed and the recommendation from Mr. Powell that the County retain a third party collections professional to attempt to collect the monies due to the County pursuant to the Judgment entered.

UPON A motion of Charles Barbour and a second by Peggy Hobson Calhoun, Ronnie Chappell voting aye, George Smith voting aye, Douglas Anderson voting aye, it was

RESOLVED to authorize the Board Attorney and County Administrator to negotiate with a collections professional to recover the monies due the County pursuant to the Judgment entered in this matter.

The Board Attorney next updated the Board on the status of the internal investigation that the Board Attorney was instructed to conduct regarding allegations that Constable Jon Lewis had violated state law. The Board Attorney advised the Board that all information regarding this matter had been turned over the Attorney General's office, the State Auditor's Office the District Attorney's office and the U. S. Attorney's Office (FBI) as previously instructed by the Board at a prior Board meeting. No action was taken on this matter.

The Board Attorney next updated the Board on the status of the settlement negotiations that were being had with MCTA (Bellsouth Communications) now d/b/a Cingular Wireless regarding the tax appeal attorney's fees case. There was discussion on this matter.

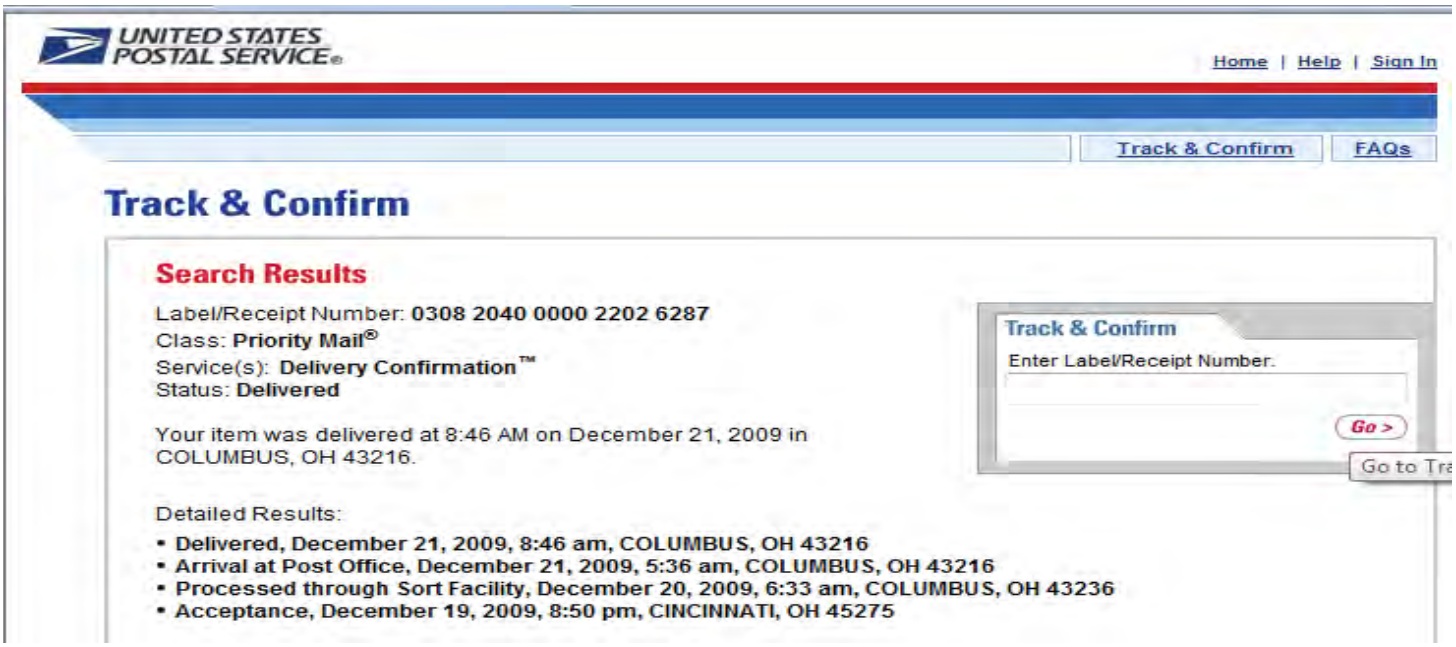
UPON A motion of George Smith and a second by Charles Barbour, Douglas Anderson voting aye, Ronnie Chappell voting aye, Peggy Hobson Calhoun voting aye, it was

RESOLVED to authorize the Board Attorney and outside Attorney to send a counter offer and to take other action the details of which will not be disclosed for confidentiality reason.

UPON A motion of Ronnie Chappell and a second by Douglas Anderson, Peggy Hobson Calhoun voting aye, George Smith voting aye, Charles Barbour voting aye, it was

RESOLVED to return to Open Session.

12/19/09 USPS MAILING RECEIPTS - OhioSupremeCourt, Obama & Holder



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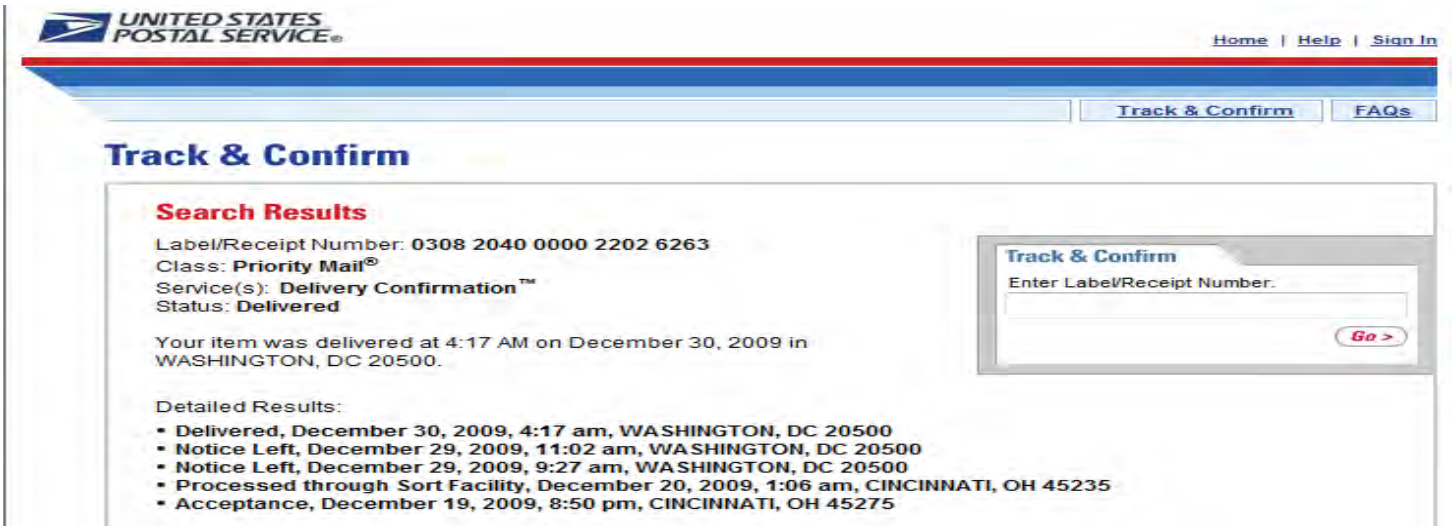
- **Processed through Sort Facility, December 20, 2009, 6:33 am, COLUMBUS, OH 43236**
- **Acceptance, December 19, 2009, 8:50 pm, CINCINNATI, OH 45275**



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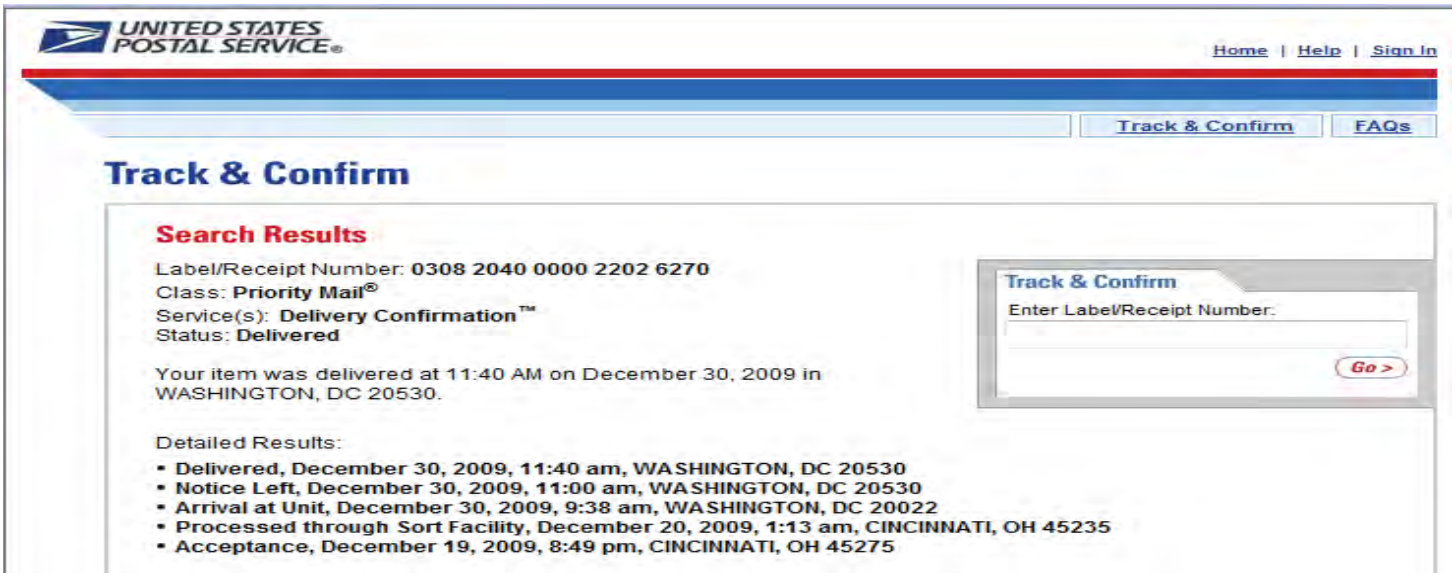
- **Delivered, December 30, 2009, 4:17 am, WASHINGTON, DC 20500**
- **Notice Left, December 29, 2009, 11:02 am, WASHINGTON, DC 20500**
- **Notice Left, December 29, 2009, 9:27 am, WASHINGTON, DC 20500**
- **Processed through Sort Facility, December 20, 2009, 1:06 am, CINCINNATI, OH 45235**
- **Acceptance, December 19, 2009, 8:50 pm, CINCINNATI, OH 45275**



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- **Notice Left, December 30, 2009, 11:00 am, WASHINGTON, DC 20530**
- **Arrival at Unit, December 30, 2009, 9:38 am, WASHINGTON, DC 20022**
- **Processed through Sort Facility, December 20, 2009, 1:13 am, CINCINNATI, OH 45235**
- **Acceptance, December 19, 2009, 8:49 pm, CINCINNATI, OH 45275**

EXHIBIT 143

print

Interest swap deal bad news for Jackson

04.23.09 - 12:01 am

INSIGHTS



By JAMES HENDRIX

Will Jackson meet Jefferson County's current fate: a local government slowly dragged into bankruptcy after it bet its municipal bonds on complex derivatives?

The Jackson City Council approved a motion to enter into an interest rate swap for its 2002 and 2004 bonds with Deustche Bank and Rice Financial Products. Unfortunately for the rest of us, the gang of four who voted for this deal along with swap-promoter and Finance Director Rick Hill probably had no real idea of what they were doing, as many officials in other cities have discovered to their dismay.

The media and citizens of Jackson should hold city councilors Melton, Hill, Crisler, Bluntson, McLemore, and Tillman accountable for trying to push this on us. There was no competitive bidding. Jackson is exposed to an adjustable rate agreement similar to those that have devastated other local governments. The fees were not even mentioned or made available to the public yet we are expected to fork over millions of dollars of our money to bankers and "advisers."

Councilman Jeff Weill of Ward 1 voted against the bill and sent this statement to Jackson Jambalaya explaining his vote:

"I had no comfort level with the swap initially proposed last November. Since that time the mayor of Birmingham's been indicted and attorneys general across the U.S. have convened grand juries looking into these schemes. They are purely fee driven. Even the 'independent' financial advisers who advised the council had an interest in the transaction, not to mention the players and the bond lawyers.

"Most of those proposing this deal worked hard to obscure the costs of issuance. As a lawyer and former prosecutor that was a giant red flag to me."

While every other municipality is running away from these instruments of financial self-destruction as fast as they can, our leaders instead choose to chain us to a ticking time bomb with these variable rates. If these variable rates go south, Jackson will pay dearly for that ten million pieces of silver. We should hold the council's feet to the fire and demand a thorough hearing on this matter as well as opening this entire process to competitive bids. Thanks to these guys, Jackson is going to be just like Birmingham in more ways than one.

Bloomberg reported how Birmingham's Jefferson County thought it could use these swaps to its advantage as it fell for some sweet talk from Wall Street:

"The county relied on advice from a bank, JP Morgan Chase and Co., to arrange

EXHIBIT 144

its funding, rather than use competitive bidding.

'Like homeowners who took out mortgages they couldn't afford and didn't understand, Jefferson County officials rejected fixed-rate debt and borrowed instead at rates that varied with the market.

'The county paid banks $120 million in fees -- six times the prevailing rate -- for $5.8 billion in interest-rate swaps. That was supposed to protect the county from rising rates for their bonds. Lending rates went the wrong way, putting the county $277 million deeper into debt..."

"Officials there (in Birmingham) relied on the advice of JP Morgan in 2002 and 2003 while refinancing almost all the $3.2 billion of fixed-rate debt that built sewers into variable-rate bonds coupled with interest-rate swaps.

Costs Spiral: When the insurers guaranteeing the bonds lost their top credit ratings and the auction-rate market seized up in February, the yield on the bonds jumped as high as 10 percent, from about three percent in January. At the same time, the swaps tied to the debt, instead of protecting against higher rates, backfired. That pushed the sewer system's annual debt costs to $460 million, more than twice the $190 million it collects in revenue..."

When Birmingham tried to escape the death spiral it faced, the bankers from New York turned into Bruno and Vito from Jersey when it failed to post $184 million collateral and was in technical default. JP Morgan and other counterparties wanted Jefferson County to raise taxes to cover the debt. Jefferson County in turn wanted Wall Street to renegotiate the swaps. One County Commissioner told the Birmingham News, "We are dealing with a virtual immovable force on Wall Street." Consequently, several commissioners are pushing the county to declare bankruptcy while the mayor of Birmingham faces criminal prosecution for receiving bribes and favors for these no-bid contracts. Such a bankruptcy will be the largest municipal bankruptcy in American history.

Birmingham is not the only city suffering from the interest rate swap time bomb. The New York Times reported the rate adjustments on these swaps harmed many small towns in Tennessee. Lewisburg, a town of only 11,000, saw its "annual interest payments on the bond had quadrupled to $1 million this year." Some municipalities tried to withdraw from these bond market traps:

In Claiborne County, north of Knoxville, officials said they were recently told by Morgan Keegan bankers that extracting themselves from a municipal bond derivative would cost $3 million, a sum the poor county cannot afford...."

In Mount Juliet, a suburb east of Nashville, city leaders were surprised to discover that the payments on its bonds had increased by 500 percent to $478,000..." New York Times story.

Officials are now negotiating the terms of the agreement with Deutsche Bank and Rice Financial Products, the two banks that will actually conduct the rate swap. The city has brought on Sterne Agee and Leach Inc., a national investment firm

with an office in Jackson, to serve as its financial advisor, as well as two local law firms - Baker Donelson Bearman Caldwell and Berkowitz, and Anthony Simon - to serve as legal counsel for the transaction.

One must ask what kind of dope Mr. Hill thinks we are smoking if he expects us to buy this malarkey. Investors will be more than happy to buy variable rate debt as long as they think they can squeeze us for every cent of it. The reporter failed to ask Mr. Hill what would happen if the rates adjusted. No serious person expects the interest rates to remain near zero as they are now. As interest rates increase (not to mention the effect Obama's deficit spending will have on the bond markets) over the next few years, any deal using these variable rates will cost Jackson much more money. Something ignored by Mr. Hill while he pimped this deal for the loan sharks.

It is also troubling that the city did not advertise for bids on the refinancing. Since the fees for these refinances will cost us up to more than $4 million, Mr. Hill should have sought competitive bids. What was his criteria for choosing these banks? What are the fees going to be and why are we awarding contracts worth millions in fees without any bidding whatsoever? In fact, the story says the terms are being negotiated. The city council approved these swaps without even knowing the final terms of the agreement. As Mac would say, you CAN'T be serious.

James Hendrix is a Northsider.

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The U.S. Equal Employment Opportunity Commission

EEOC DIRECTIVES TRANSMITTAL
Number 915.003
Date 5/20/98

SUBJECT: EEOC COMPLIANCE MANUAL

PURPOSE: This transmittal covers the issuance of Section 8 of the new Compliance Manual on "Retaliation". The section provides guidance and instructions for investigating and analyzing claims of retaliation under the statutes enforced by the EEOC.

EFFECTIVE DATE: Upon receipt

DISTRIBUTION: EEOC Compliance Manual holders

OBSOLETE DATA: Section 614 of Compliance Manual, Volume 2

FILING INSTRUCTIONS: This is the first section issued as part of the new Compliance Manual. Section 614 of the existing Compliance Manual should be discarded.

/s/

Paul M. Igasaki
Chairman

SECTION 8: RETALIATION
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(Note: Page numbering applies only to printed version as distributed by EEOC, or to PDF version as available on the EEOC web site, http://www.eeoc.gov/.)

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CHARGE-PROCESSING OUTLINE

In processing a charge involving an allegation of retaliation, consider the following issues (for a detailed discussion of each issue, see accompanying chapter at referenced pages):

There are three essential elements of a retaliation claim:

1) protected activity -- opposition to discrimination or participation in the statutory complaint process

2) adverse action

3) causal connection between the protected activity and the adverse action

I. Protected Activity

A. Did CP oppose discrimination? 3

1. Did the charging party (CP) explicitly or implicitly communicate to the respondent (R) or another covered entity a belief that its activity constituted unlawful discrimination under Title VII, the ADA, the ADEA, or the EPA?

- If the protest was broad or ambiguous, would CP's protest reasonably have been interpreted as opposition to such unlawful discrimination?

Did someone closely associated with CP oppose discrimination?

2. Was the manner of opposition reasonable? Was the manner of opposition so disruptive that it significantly interfered with R's legitimate business concerns?

- If the manner of opposition was not reasonable, CP is not protected under the anti-retaliation clauses.

3. Did CP have a reasonable and good faith belief that the opposed practice violated the anti-discrimination laws?

- If so, CP is protected against retaliation, even if s/he was mistaken about the unlawfulness of the challenged practices.
- If not, CP is not protected under the anti-retaliation clauses.

B. Did CP participate in the statutory complaint process?... 9

Did CP or someone closely associated with CP file a charge, or testify, assist, or participate in any manner in an investigation, proceeding, hearing, or lawsuit under the statutes enforced by the EEOC?

- If so, CP is protected against retaliation

regardless of the validity or reasonableness of the original allegation of discrimination.

- CP is protected against retaliation by a respondent for participating in statutory complaint proceedings even if that complaint involved a different covered entity.

II. Adverse Action

Did R subject CP to any kind of adverse treatment? 11

- Adverse actions undertaken after CP's employment relationship with R ended, such as negative job references, can be challenged.

- Although trivial annoyances are not actionable, more significant retaliatory treatment that is reasonably likely to deter protected activity is unlawful. There is no requirement that the adverse action materially affect the terms, conditions, or privileges of employment.

III. Causal Connection

A. Is there direct evidence that retaliation was a motive for the adverse action? 15

1. Did R official admit that it undertook the adverse action because of the protected activity?

2. Did R official express bias against CP based on the protected activity? If so, is there evidence linking that statement of bias to the adverse action?

- Such a link would be established if, for example, the statement was made by the decision-maker at the time of the challenged action.

If there is direct evidence that retaliation was a motive for the adverse action, "cause" should be found. Evidence as to any additional legitimate motive would be relevant only to relief, under a mixed-motives analysis.

B. Is there circumstantial evidence that retaliation was the true reason for the adverse action? 16

1. Is there evidence raising an inference that retaliation was the cause of the adverse action?

- Such an inference is raised if the adverse action took place shortly after the protected activity and if the decision-maker was aware

of the protected activity before undertaking the adverse action.

- If there was a long period of time between the protected activity and the adverse action, determine whether there is other evidence raising an inference that the cause of the adverse action was retaliation.

2. Has R produced evidence of a legitimate, nondiscriminatory reason for the adverse action?

3. Is R's explanation a pretext designed to hide retaliation?

- Did R treat similarly situated employees who did not engage in protected activity differently from CP?

- Did R subject CP to heightened scrutiny after s/he engaged in protected activity?

If, on the basis of all of the evidence, the investigator is persuaded that retaliation was the true reason for the adverse action, then "cause" should be found.

IV. Special Remedies Issues

A. Is it appropriate to seek temporary or preliminary relief pending final disposition of the charge?.....19

1. Is there a substantial likelihood that the challenged action will be found to constitute unlawful retaliation?

2. Will the retaliation cause irreparable harm to CP and/or the EEOC?

- Will CP likely incur irreparable harm beyond financial hardship because of the retaliation?

- If the retaliation appears to be based on CP's filing of a prior EEOC charge, will that retaliation likely cause irreparable harm to EEOC's ability to investigate CP's original charge of discrimination?

If there is a substantial likelihood that the challenged action will constitute retaliation and if that retaliation will cause irreparable harm to CP and/or the EEOC, contact the Regional Attorney about pursuing temporary or preliminary relief.

B. Are compensatory and punitive damages available and appropriate?..... 20

Compensatory and punitive damages are available for retaliation claims under all of the statutes enforced by the EEOC, including the ADEA and the EPA. Compensatory and punitive damages for retaliation claims under the ADEA and the EPA are not subject to statutory caps.

Punitive damages often are appropriate in retaliation claims under any of the statutes enforced by the EEOC.

8-I INTRODUCTION

A. OVERVIEW

Title VII of the Civil Rights Act of 1964\1, the Age Discrimination in Employment Act\2, the Americans with Disabilities Act\3, and the Equal Pay Act\4 prohibit retaliation by an employer, employment agency, or labor organization because an individual has engaged in protected activity. Protected activity consists of the following:

PROTECTED ACTIVITY

(1) opposing a practice made unlawful by one of the employment discrimination statutes (the "opposition" clause); or

(2) filing a charge, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under the applicable statute (the "participation" clause).

This chapter reaffirms the Commission's policy of ensuring that individuals who oppose unlawful employment discrimination, participate in employment discrimination proceedings, or otherwise assert their rights under the laws enforced by the Commission are protected against retaliation. Voluntary compliance with and effective enforcement of the anti-discrimination statutes depend in large part on the initiative of individuals to oppose employment practices that they reasonably believe to be unlawful, and to file charges of discrimination. If retaliation for such activities were permitted to go unremedied, it would have a chilling effect upon the willingness of individuals to speak out against employment discrimination or to participate in the EEOC's administrative process or other employment discrimination proceedings.

The Commission can sue for temporary or preliminary relief before completing its processing of a retaliation charge if the charging party or the Commission will likely suffer irreparable harm because of the retaliation. The investigator should contact the Regional Attorney early in the investigation if it appears that it may be appropriate to seek such relief. See Section 8-III A. for guidance on the standards for seeking temporary or preliminary relief.

B. BASIS FOR FILING A CHARGE

A charging party who alleges retaliation under Title VII, the ADA, the ADEA, or the EPA need not also allege that he was treated differently because of race, religion, sex, national origin, age, or disability\6. A charging party who alleges retaliation in violation of the ADA need not be a qualified individual with a disability\7. Similarly, a charging party who alleges retaliation for protesting discrimination against persons in the protected age group need not be in the protected age group in order to bring an ADEA claim.\8

A charging party can challenge retaliation by a respondent even if the retaliation occurred after their employment relationship ended\9. S/he can also challenge retaliation by a respondent based on his/her protected activity involving a different employer, or based on protected activity by someone closely related to or associated with the charging party.\10

A charging party can bring an ADA retaliation claim against an individual supervisor, as well as an employer. This is because Section 503(a) of the ADA makes it unlawful for a "person" to retaliate against an individual for engaging in protected activity.\11

8-II. ELEMENTS OF A RETALIATION CLAIM

A. OVERVIEW

There are three essential elements of a retaliation claim:

ELEMENTS OF RETALIATION

1) opposition to discrimination or participation in covered proceedings

2) adverse action

3) causal connection between the protected activity and the adverse action

---

B. PROTECTED ACTIVITY: OPPOSITION

1. Definition

The anti-retaliation provisions make it unlawful to discriminate against an individual because s/he has opposed any practice made unlawful under the employment discrimination statutes\12. This protection applies if an individual explicitly or implicitly communicates to his or her employer or other covered entity a belief that its activity constitutes a form of employment discrimination that is covered by any of the statutes enforced by the EEOC.

While Title VII and the ADEA prohibit retaliation based on opposition to a practice made unlawful by those statutes, the ADA prohibits retaliation based on opposition to "any act or practice made unlawful by this chapter." The referenced chapter prohibits not only disability-based employment discrimination, but also disability discrimination in state and local government services, public accommodations, commercial facilities, and telecommunications. Thus, the ADA prohibits retaliation for opposing not just allegedly discriminatory employment practices but also practices made unlawful by the other titles of the statute.

2. Examples of Opposition

* Threatening to file a charge or other formal complaint alleging discrimination

Threatening to file a complaint with the Commission, a state fair employment practices agency, union, court, or any other entity that receives complaints relating to discrimination is a form of opposition.

Example - CP tells her manager that if he fails to raise her salary to that of a male coworker who performs the same job, she will file a lawsuit under either the federal Equal Pay Act or under her state's parallel law. This statement constitutes "opposition."

---

* Complaining to anyone about alleged discrimination against oneself or others

A complaint or protest about alleged employment discrimination to a manager, union official, co-worker, company EEO official, attorney, newspaper reporter, Congressperson, or anyone else constitutes opposition. Opposition may be nonverbal, such as picketing or engaging in a production slow-down. Furthermore, a complaint on behalf of another, or by an employee's representative, rather than by the employee herself, constitutes protected opposition by both the person who makes the complaint and the person on behalf of whom the complaint is made.

A complaint about an employment practice constitutes protected opposition only if the individual explicitly or implicitly communicates a belief that the practice constitutes unlawful employment discrimination\13. Because individuals often may not know the specific requirements of the anti-discrimination laws enforced by the EEOC, they may make broad or ambiguous complaints of unfair treatment. Such a protest is protected opposition if the complaint would reasonably have been interpreted as opposition to employment discrimination.

Example 1 - CP calls the President of R's parent company to protest religious discrimination by R. CP's protest constitutes "opposition."

Example 2 - CP complains to co-workers about harassment of a disabled employee by a supervisor. This complaint constitutes "opposition."

Example 3 - CP complains to her foreman about graffiti in her workplace that is derogatory toward women. Although CP does not specify that she believes the graffiti creates a hostile work environment based on sex, her complaint reasonably would have been interpreted by the foreman as opposition to sex discrimination, due to the sex-based content of the graffiti. Her complaint therefore constitutes "opposition."

Example 4 - CP (African-American) requests a wage increase from R, arguing that he deserves to get paid a higher salary. He does not state or suggest a belief that he is being subjected to wage discrimination based on race. There also is no basis to conclude that R would reasonably have interpreted his complaint as opposition to race discrimination because the challenged unfairness could have been based on any of several reasons. CP's protest therefore does not constitute protected "opposition."

---

* Refusing to obey an order because of a reasonable belief that it is discriminatory

Refusal to obey an order constitutes protected opposition if the individual reasonably believes that the order requires him or her to carry out unlawful employment discrimination.

Example - CP works for an employment agency. His manager instructs him not to refer any African-Americans to a particular client, based on the client's request. CP refuses to obey the order and refers an African-American applicant to that client. CP's action constitutes "opposition."

Refusal to obey an order also constitutes protected opposition if the individual reasonably believes that the order makes discrimination a term or condition of employment. For example, in one case a court recognized that a correction officer's refusal to cooperate with the defendant's practice of allowing white but not black inmates to shower after work shifts constituted protected opposition. Even if the inmates

were not "employees," the plaintiff could show that his enforcement of the policy made race discrimination a term or condition of his employment. Thus, his refusal to obey the order constituted opposition to an unlawful employment practice.\14

* Requesting reasonable accommodation or religious accommodation

A request for reasonable accommodation of a disability constitutes protected activity under Section 503 of the ADA. Although a person making such a request might not literally "oppose" discrimination or "participate" in the administrative or judicial complaint process, s/he is protected against retaliation for making the request. As one court stated,

> It would seem anomalous . . . to think Congress intended no retaliation protection for employees who request a reasonable accommodation unless they also file a formal charge. This would leave employees unprotected if an employer granted the accommodation and shortly thereafter terminated the employee in retaliation\15.

By the same rationale, persons requesting religious accommodation under Title VII are protected against retaliation for making such requests.

3. Standards Governing Application of the Opposition Clause

Although the opposition clause in each of the EEO statutes is broad, it does not protect every protest against job discrimination. The following principles apply:

a. Manner of Opposition Must Be Reasonable

The manner in which an individual protests perceived employment discrimination must be reasonable in order for the anti- retaliation provisions to apply. In applying a "reasonableness" standard, courts and the Commission balance the right of individuals to oppose employment discrimination and the public's interest in enforcement of the EEO laws against an employer's need for a stable and productive work environment.

Public criticism of alleged discrimination may be a reasonable form of opposition. Courts have protected an employee's right to inform an employer's customers about the employer's alleged discrimination, as well as the right to engage in peaceful picketing to oppose allegedly discriminatory employment practices.\16

On the other hand, courts have found that the following activities were not reasonable and thus not protected: searching and photocopying confidential documents relating to alleged ADEA discrimination and showing them to co-workers\17; making an overwhelming number of complaints based on unsupported allegations and bypassing the chain of command in bringing the complaints\18; and badgering a subordinate employee to give a witness

statement in support of an EEOC charge and attempting to coerce her to change her statement.\19 Similarly, unlawful activities, such as acts or threats of violence to life or property, are not protected.

If an employee's protests against allegedly discriminatory employment practices interfere with job performance to the extent that they render him or her ineffective in the job, the retaliation provisions do not immunize the worker from appropriate discipline or discharge\20. Opposition to perceived discrimination does not serve as license for the employee to neglect job duties.

b. Opposition Need Only Be Based on Reasonable and Good Faith Belief

A person is protected against retaliation for opposing perceived discrimination if s/he had a reasonable and good faith belief that the opposed practices were unlawful. Thus, it is well settled that a violation of the retaliation provision can be found whether or not the challenged practice ultimately is found to be unlawful\21. As one court has stated, requiring a finding of actual illegality would "undermine[] Title VII's central purpose, the elimination of employment discrimination by informal means; destroy[] one of the chief means of achieving that purpose, the frank and non-disruptive exchange of ideas between employers and employees; and serve[] no redeeming statutory or policy purposes of its own."\22

Example 1 - CP complains to her office manager that her supervisor failed to promote her because of her gender. (She believes that sex discrimination occurred because she was qualified for the promotion and the supervisor promoted a male instead.) CP has engaged in protected opposition regardless of whether the promotion decision was in fact discriminatory because she had a reasonable and good faith belief that discrimination occurred.

Example 2 - Same as above, except the job sought by CP was in accounting and required a CPA license, which CP lacked and the selectee had. CP knew that it was necessary to have a CPA license to perform this job. CP has not engaged in protected opposition because she did not have a reasonable and good faith belief that she was rejected because of sex discrimination.

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c. Person Claiming Retaliation Need Not Be the Person Who Engaged in Opposition

Title VII, the ADEA, the EPA, and the ADA prohibit retaliation against someone so closely related to or associated with the person exercising his or her statutory rights that it would discourage that

person from pursuing those rights\23. For example, it is unlawful to retaliate against an employee because his son, who is also an employee, opposed allegedly unlawful employment practices. Retaliation against a close relative of an individual who opposed discrimination can be challenged by both the individual who engaged in protected activity and the relative, where both are employees. See Section 8-II C.3. for discussion of similar principle under "participation" clause.

d. Practices Opposed Need Not Have Been Engaged in by the Named Respondent

There is no requirement that the entity charged with retaliation be the same as the entity whose allegedly discriminatory practices were opposed by the charging party. For example, a violation would be found if a respondent refused to hire the charging party because it was aware that she opposed her previous employer's allegedly discriminatory practices.

C. PROTECTED ACTIVITY: PARTICIPATION

1. Definition

The anti-retaliation provisions make it unlawful to discriminate against any individual because s/he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, hearing, or litigation under Title VII, the ADEA, the EPA, or the ADA. This protection applies to individuals challenging employment discrimination under the statutes enforced by EEOC in EEOC proceedings, in state administrative or court proceedings, as well as in federal court proceedings, and to individuals who testify or otherwise participate in such proceedings\24. Protection under the participation clause extends to those who file untimely charges. In the federal sector, once a federal employee initiates contact with an EEO counselor, (s)he is engaging in "participation."\25

2. Participation Is Protected Regardless of Whether the Allegations in the Original Charge Were Valid or Reasonable

The anti-discrimination statutes do not limit or condition in any way the protection against retaliation for participating in the charge process. While the opposition clause applies only to those who protest practices that they reasonably and in good faith believe are unlawful, the participation clause applies to all individuals who participate in the statutory complaint process. Thus, courts have consistently held that a respondent is liable for retaliating against an individual for filing an EEOC charge regardless of the validity or reasonableness of the charge\26. To permit an employer to retaliate against a charging party based on its unilateral determination that the charge was unreasonable or otherwise unjustified would chill the rights of all individuals protected by the anti-discrimination statutes.

3. Person Claiming Retaliation Need Not Be the Person Who Engaged in Participation

The retaliation provisions of Title VII, the ADEA, the EPA, and the

ADA prohibit retaliation against someone so closely related to or associated with the person exercising his or her statutory rights that it would discourage or prevent the person from pursuing those rights. For example, it would be unlawful for a respondent to retaliate against an employee because his or her spouse, who is also an employee, filed an EEOC charge\27. Both spouses, in such circumstances, could bring retaliation claims.

4. The Practices Challenged in Prior or Pending Statutory Proceedings Need Not Have Been Engaged in by the Named Respondent

An individual is protected against retaliation for participation in employment discrimination proceedings even if those proceedings involved a different entity\28. For example, a violation would be found if a respondent refused to hire the charging party because it was aware that she filed an EEOC charge against her former employer.

D. ADVERSE ACTION

1. General Types of Adverse Actions

The most obvious types of retaliation are denial of promotion, refusal to hire, denial of job benefits, demotion, suspension, and discharge. Other types of adverse actions include threats, reprimands, negative evaluations, harassment, or other adverse treatment.

Suspending or limiting access to an internal grievance procedure also constitutes an "adverse action." For example, in EEOC v. Board of Governors of State Colleges & Universities\29, a university's collective bargaining agreement provided for a specific internal grievance procedure leading to arbitration. The agreement further provided that this procedure could be terminated if the employee sought resolution in any other forum, such as the EEOC. The Seventh Circuit ruled that termination of the grievance process constituted an adverse employment action in violation of the anti-retaliation clause of the ADEA\30.

2. Adverse Actions Can Occur After the Employment Relationship Between the Charging Party and Respondent Has Ended

In Robinson v. Shell Oil Company,\31 the Supreme Court unanimously held that Title VII prohibits respondents from retaliating against former employees as well as current employees for participating in any proceeding under Title VII or opposing any practice made unlawful by that Act. The plaintiff in Robinson alleged that his former employer gave him a negative job reference in retaliation for his having filed an EEOC charge against it. Some courts previously had held that former employees could not challenge retaliation that occurred after their employment had ended because Title VII, the ADEA, and the EPA prohibit retaliation against "any employee."\32 However, the Supreme Court stated that coverage of post-employment retaliation is more consistent with the broader context of the statute and with the statutory purpose of maintaining unfettered access to the statute's remedial mechanisms. The Court's holding applies

to each of the statutes enforced by the EEOC because of the similar language and common purpose of the anti-retaliation provisions.

Examples of post-employment retaliation include actions that are designed to interfere with the individual's prospects for employment, such as giving an unjustified negative job reference, refusing to provide a job reference, and informing an individual's prospective employer about the individual's protected activity.\33 However, a negative job reference about an individual who engaged in protected activity does not constitute unlawful retaliation unless the reference was based on a retaliatory motive. The truthfulness of the information in the reference may serve as a defense unless there is proof of pretext, such as evidence that the former employer routinely declines to offer information about its former employees' job performance and violated that policy with regard to an individual who engaged in protected activity. See Section 8-II E. below.

Retaliatory acts designed to interfere with an individual's prospects for employment are unlawful regardless of whether they cause a prospective employer to refrain from hiring the individual\34. As the Third Circuit stated, "an employer who retaliates cannot escape liability merely because the retaliation falls short of its intended result."\35 However, the fact that the reference did not affect the individual's job prospects may affect the relief that is due.

3. Adverse Actions Need Not Qualify as "Ultimate Employment Actions" or Materially Affect the Terms or Conditions of Employment to Constitute Retaliation

Some courts have held that the retaliation provisions apply only to retaliation that takes the form of ultimate employment actions\36. Others have construed the provisions more broadly, but have required that the action materially affect the terms, conditions, or privileges of employment.\37

The Commission disagrees with those decisions and concludes that such constructions are unduly restrictive. The statutory retaliation clauses prohibit any adverse treatment that is based on a retaliatory motive and is reasonably likely to deter the charging party or others from engaging in protected activity. Of course, petty slights and trivial annoyances are not actionable, as they are not likely to deter protected activity. More significant retaliatory treatment, however, can be challenged regardless of the level of harm. As the Ninth Circuit has stated, the degree of harm suffered by the individual "goes to the issue of damages, not liability."\38

Example 1 - CP filed a charge alleging that he was racially harassed by his supervisor and co-workers. After learning about the charge, CP's manager asked two employees to keep CP under surveillance and report back about his activities. The surveillance constitutes an "adverse action" that is likely to deter protected activity, and is unlawful if it was conducted because of CP's protected activity.

Example 2 - CP filed a charge alleging that she was denied a promotion because of her gender. One week later, her supervisor invited a few employees out to lunch. CP believed that the reason he excluded her was because of her EEOC charge. Even if the supervisor chose not to invite CP because of her charge, this would not constitute unlawful retaliation because it is not reasonably likely to deter protected activity.

Example 3 - Same as Example 2, except that CP's supervisor invites all employees in CP's unit to regular weekly lunches. The supervisor excluded CP from these lunches after she filed the sex discrimination charge. If CP was excluded because of her charge, this would constitute unlawful retaliation since it could reasonably deter CP or others from engaging in protected activity.

The Commission's position is based on statutory language and policy considerations. The anti-retaliation provisions are exceptionally broad. They make it unlawful "to discriminate" against an individual because of his or her protected activity. This is in contrast to the general anti-discrimination provisions which make it unlawful to discriminate with respect to an individual's "terms, conditions, or privileges of employment." The retaliation provisions set no qualifiers on the term "to discriminate," and therefore prohibit any discrimination that is reasonably likely to deter protected activity\39. They do not restrict the actions that can be challenged to those that affect the terms and conditions of employment\40. Thus, a violation will be found if an employer retaliates against a worker for engaging in protected activity through threats\41, harassment in or out of the workplace, or any other adverse treatment that is reasonably likely to deter protected activity by that individual or other employees.\42

This broad view of coverage accords with the primary purpose of the anti-retaliation provisions, which is to "[m]aintain[] unfettered access to statutory remedial mechanisms."\43 Regardless of the degree or quality of harm to the particular complainant, retaliation harms the public interest by deterring others from filing a charge\44. An interpretation of Title VII that permits some forms of retaliation to go unpunished would undermine the effectiveness of the EEO statutes and conflict with the language and purpose of the anti-retaliation provisions.

E. PROOF OF CAUSAL CONNECTION

In order to establish unlawful retaliation, there must be proof that the respondent took an adverse action because the charging party engaged in protected activity. Proof of this retaliatory motive can be through direct or circumstantial evidence. The evidentiary framework that applies to other types of discrimination claims also applies to retaliation claims.

1. Direct Evidence

If there is credible direct evidence that retaliation was a motive for the challenged action, "cause" should be found. Evidence as to any legitimate motive for the challenged action would be relevant only to relief, not to liability.\45

Direct evidence of a retaliatory motive is any written or verbal statement by a respondent official that s/he undertook the challenged action because the charging party engaged in protected activity. Such evidence also includes a written or oral statement by a respondent official that on its face demonstrates a bias toward the charging party based on his or her protected activity, along with evidence linking that bias to the adverse action. Such a link could be shown if the statement was made by the decision-maker at the time of the adverse action\46. Direct evidence of retaliation is rare.

Example - CP filed a charge against Respondent A, alleging that her supervisor sexually harassed and constructively discharged her. CP subsequently sued A and reached a settlement. When CP applied for a new job with Respondent B, she received a conditional offer subject to a reference check. When B called CP's former supervisor at A Co. for a reference, the supervisor said that CP was a "troublemaker," started a sex harassment lawsuit, and was not anyone B "would want to get mixed up with." B did not hire CP. She suspected that her former supervisor gave her a negative reference and filed retaliation charges against A and B. The EEOC investigator discovered notes memorializing the phone conversation between A and B. These notes are direct evidence of retaliation by A because they prove on their face that A told B about CP's protected activity and that A gave CP a negative reference because of that protected activity. These notes are not direct evidence of retaliation by B because they do not directly prove that B rejected CP because of her protected activity. However, the fact that B gave CP a conditional job offer and then decided not to hire her after learning about her protected activity is strong circumstantial evidence of B's retaliation. (See Section 8-II E.2. below.)

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2. Circumstantial Evidence

The most common method of proving that retaliation was the reason for an adverse action is through circumstantial evidence. A violation is established if there is circumstantial evidence raising an inference of retaliation and if the respondent fails to produce evidence of a legitimate, non-retaliatory reason for the challenged action, or if the reason advanced by the respondent is a pretext to hide the retaliatory motive.

CIRCUMSTANTIAL EVIDENCE OF RETALIATION

1. Evidence raises inference that retaliation was the cause of the challenged action;

2. Respondent produces evidence of a legitimate, non-retaliatory reason for the challenged action; and

3. Complainant proves that the reason advanced by the respondent is a pretext to hide the retaliatory motive.

An initial inference of retaliation arises where there is proof that the protected activity and the adverse action were related.\47 Typically, the link is demonstrated by evidence that: (1) the adverse action occurred shortly after the protected activity, and (2) the person who undertook the adverse action was aware of the complainant's protected activity before taking the action.

An inference of retaliation may arise even if the time period between the protected activity and the adverse action was long, if there is other evidence that raises an inference of retaliation. For example, in Shirley v. Chrysler First, Inc.\48, a 14-month interval between the plaintiff's filing of an EEOC charge and her termination did not conclusively disprove retaliation where the plaintiff's manager mentioned the EEOC charge at least twice a week during the interim and termination occurred just two months after the EEOC dismissed her charge.\49

Common non-retaliatory reasons offered by respondents for challenged actions include: poor job performance; inadequate qualifications for the position sought; violation of work rules or insubordination; and, with regard to negative job references, truthfulness of the information in the reference. For example, in one case, the plaintiff claimed that she was discharged for retaliatory reasons but the employer produced unrebutted evidence that she was discharged because of her excessive absenteeism\50. In another case, the plaintiff alleged that his former employer's negative job reference was retaliatory, but the defendant established that the evaluation was based on the former supervisor's personal observation of the plaintiff during his employment and contemporary business records documenting those observations.\51

Even if the respondent produces evidence of a legitimate, nondiscriminatory reason for the challenged action, a violation will still be found if this explanation is a pretext designed to hide the true retaliatory motive. Typically, pretext is proved through evidence that the respondent treated the complainant differently from similarly situated employees or that the respondent's explanation for the adverse action is not believable. Pretext can also be shown if the respondent subjected the charging party's work performance to heightened scrutiny after she engaged in protected activity\52.

Example 1- CP alleges that R denied her a promotion because she opposed the under-representation of women in management jobs and was therefore viewed as a "troublemaker." The promotion went to another female employee. R asserts that the selectee was better qualified for the job because she had a Masters in Business Administration, while CP only had a college degree. The EEOC investigator finds that this explanation is pretextual because CP has significantly greater experience working at R Company and experience has always been the most important criterion for selection for management jobs.

Example 2 - CP alleges that R gave him a negative job reference because he had filed an EEOC charge. R produces evidence that its negative statements to CP's prospective employer were honest assessments of CP's job performance. There is no proof of pretext, and therefore the investigator finds no retaliation.

Example 3 - Same as Example 2, except there is evidence that R routinely declines to offer information about former employees' job performance. R fails to offer a credible explanation for why it violated this policy with regard to CP. Therefore, pretext is found.

8-III SPECIAL REMEDIES ISSUES

A. TEMPORARY OR PRELIMINARY RELIEF

Section 706(f)(2) of Title VII authorizes the Commission to seek temporary injunctive relief before final disposition of a charge when a preliminary investigation indicates that prompt judicial action is necessary to carry out the purposes of Title VII. Section 107 of the ADA incorporates this provision. The ADEA and the EPA do not authorize a court to give interim relief pending resolution of an EEOC charge. However, the EEOC can seek such relief as part of a lawsuit for permanent relief, pursuant to Rule 65 of the Federal Rules of Civil Procedure.

Temporary or preliminary relief allows a court to stop retaliation before it occurs or continues. Such relief is appropriate if there is a substantial likelihood that the challenged action will be found to constitute unlawful retaliation, and if the charging party and/or the EEOC will likely suffer irreparable harm because of the retaliation. Although courts have ruled that financial hardships are not irreparable, other harms that accompany loss of a job may be irreparable. For example, in one case forced retirees showed irreparable harm and qualified for a preliminary injunction where they lost work and future prospects for work, consequently suffering emotional distress, depression, a contracted social life, and other related harms\53. A temporary injunction also is appropriate if the respondent's retaliation will likely cause irreparable harm to the Commission's ability to investigate the charging party's original charge of discrimination. For example, the retaliation may discourage others from providing testimony or from filing additional

charges based on the same or other alleged unlawful acts\54.

The intake officer or investigator should notify the Regional Attorney when a charge of retaliation is filed and where temporary or preliminary relief may be appropriate.\55

B. COMPENSATORY AND PUNITIVE DAMAGES

1. Availability of Damages for Retaliation Under ADEA and EPA

A 1977 amendment to the Fair Labor Standards Act authorizes both legal and equitable relief for retaliation claims under that Act\56. Compensatory and punitive damages therefore are available for retaliation claims brought under the EPA and the ADEA, as well as under Title VII and the ADA\57. The compensatory and punitive damages obtained under the EPA and the ADEA are not subject to statutory caps.

2. Appropriateness of Punitive Damages

Proven retaliation frequently constitutes a practice undertaken "with malice or with reckless indifference to the federally protected rights of an aggrieved individual." Therefore, punitive damages often will be appropriate in retaliation claims brought under any of the statutes enforced by the EEOC\58.

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1 Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a).

2 Section 4(d) of the ADEA, 29 U.S.C. § 623(d).

3 Section 503(a) of the ADA, 42 U.S.C. § 12203(a). Section 503 (b) of the ADA, 42 U.S.C.12203(b), further provides that it is unlawful "to coerce, intimidate, threaten, or interfere with anyindividual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed,or on account of his or her having aided or encouraged any other individual in the exercise orenjoyment of, any right granted or protected by this chapter."

4 Section 15(a)(3) of the Fair Labor Standards Act (FLSA), 29 U.S.C. § 215(a)(3).

5 Federal employees are also protected against retaliation under each of the employment discrimination statutes. See, e.g., Hale v. Marsh, 808 F.2d 616, 619 (7th Cir. 1986) (recognizing retaliation cause of action for federal employees under Title VII); Bornholdt v. Brady, 869 F.2d 57, 62 (2d Cir. 1989) (recognizing retaliation cause of action for federal employees under ADEA).

6 Where it appears that a charging party's allegation of unlawful retaliation may also be subject to the jurisdiction of another federal agency or a state or local government, s/he should be referred promptly to

the appropriate office. For example, if the charging party is covered by a collective bargaining agreement and is a member of the union, s/he should be referred to the NLRB to be counseled on unlawful retaliation under the National Labor Relations Act. Non-payment of overtime pay should be directed to the Department of Labor, Wage and Hour Division. The EEOC office should proceed with its investigation of allegations under its jurisdiction, and refer to any applicable memorandum of understanding or coordination rule with the agency that also has jurisdiction over the matter.

7 Krouse v. American Sterilizer, 126 F.3d 494 (3d Cir. 1997).

8 Anderson v. Phillips Petroleum, 722 F. Supp. 668, 671-72 (D. Kan. 1989).

9 See Section 8-II D.

10 See Sections 8-II B.3.c. and d. and 8-II C.3. and 4.

11 Ostrach v. Regents of University of California, 957 F. Supp. 196 (E.D. Ca. 1997) (individual can be sued for retaliation under section 503 of ADA).

12 The anti-retaliation provision of the Fair Labor Standards Act, which applies to the Equal Pay Act, does not contain a specific "opposition" clause. However, courts have recognized that the statute prohibits retaliation based on opposition to allegedly unlawful practices. See, e.g., EEOC v. Romeo Community Sch., 976 F.2d 985, 989-90 (6th Cir. 1992); EEOC v. White & Son Enterprises, 881 F.2d 1006, 1011 (11th Cir. 1989). Contra Lambert v. Genessee Hospital, 10 F.3d 46, 55 (2d Cir. 1993), cert. denied, 511 U.S. 1052 (1994).

13 See, e.g., Barber v. CSX Distrib. Services, 68 F.3d 694 (3d Cir. 1995) (plaintiff's letter to defendant's human resources department complaining about unfair treatment and expressing dissatisfaction that job he sought went to a less qualified individual did not constitute ADEA opposition because letter did not explicitly or implicitly allege that age was reason for alleged unfairness).

14 Moyo v. Gomez, 40 F.3d 982 (9th Cir. 1994), cert. denied, 513 U.S. 1081 (1995).

15 Soileau v. Guilford of Maine, 105 F.3d 12, 16 (1st Cir. 1997). See also Garza v. Abbott Laboratories, 940 F. Supp. 1227, 1294 (N.D. Ill. 1996) (plaintiff engaged in statutorily protected expression by requesting accommodation for her disability). The courts in Soileau and Garza only considered whether accommodation requests fall within the opposition or participation clause in Section 503(a) of the ADA. Note, however, that Section 503(b) more broadly makes it unlawful to interfere with "the exercise or enjoyment of . . . any right granted or protected" by the statute.

16 See, e.g., Sumner v. United States Postal Service, 899 F.2d 203 (2d Cir. 1990) (practices protected by opposition clause include writing letters to customers criticizing employer's alleged discrimination).

17 O'Day v. McDonnell Douglas Helicopter Co., 79 F.3d 756 (9th Cir. 1996).

18 Rollins v. Florida Dep't of Law Enforcement, 868 F.2d 397 (11th Cir. 1989).

19 Jackson v. St. Joseph State Hospital, 840 F.2d 1387 (8th Cir.), cert. denied, 488 U.S. 892 (1988).

20 See, e.g., Coutu v. Martin County Bd. of Comm'rs, 47 F.3d 1068, 1074 (11th Cir. 1995) (no retaliation found where plaintiff was criticized by her supervisor not because she was opposing discrimination but because she was spending an inordinate amount of time in "employee advocacy" activities and was not completing other aspects of her personnel job).

21 This standard has been adopted by every circuit that has considered the issue. See, e.g., Little v. United Technologies, 103 F.3d 956, 960 (11th Cir. 1997), and Trent v. Valley Electric Association, Inc., 41 F.3d 524, 526 (9th Cir. 1994).

22 Berg v. La Crosse Cooler Co., 612 F.2d 1041, 1045 (7th Cir. 1980).

23 See, e.g., Murphy v. Cadillac Rubber & Plastics, Inc., 946 F. Supp. 1108, 1118 (W.D. N.Y. 1996) (plaintiff stated claim of retaliation where he was subjected to adverse action based on his wife's protected activities).

24 The participation clause protects those who testify in an employment discrimination case about their own discriminatory conduct, even if such testimony is involuntary. For example, in Merritt v. Dillard Paper Co., 120 F.3d 1181 (11th Cir.1997), the defendant fired the plaintiff after he reluctantly testified in his co-worker's Title VII case about workplace sexual activities in which he participated. The president of the defendant company told the plaintiff at the time of his termination that his testimony was "the most damning" to the defendant's case. The court found that this comment constituted direct evidence of retaliation.

25 Hashimoto v. Dalton, 118 F.3d 671, 680 (9th Cir. 1997).

26 See, e.g., Wyatt v. Boston, 35 F.3d 13, 15 (1st Cir. 1994).

27 See, e.g., EEOC v. Ohio Edison Co., 7 F.3d 541, 544 (6th Cir. 1993) (agreeing that plaintiff's allegation of reprisal for relative's protected activities states claim under Title VII); Thurman v. Robertshaw Control Co., 869 F. Supp. 934, 941 (N.D. Ga. 1994) (plaintiff could make out first element of prima facie case of retaliation by showing that plaintiff's close relative participated in the complaint process).

The Commission disagrees with the Fifth Circuit's holding in Holt v. JTM Indus., 89 F.3d 1224 (5th Cir. 1996), cert. denied, 117 S.Ct. 1821 (1997), that there was no unlawful retaliation where the plaintiff was put on paid administrative leave because his wife had filed an age discrimination charge.

28 See, e.g., Christopher v. Stouder Memorial Hosp., 936 F.2d 870, 873-74 (6th Cir.) (defendant's frequent reference to plaintiff's sex

discrimination action against prior employer warranted inference that defendant's refusal to hire was retaliatory), cert. denied, 502 U.S. 1013 (1991).

29 957 F.2d 424 (7th Cir.), cert. denied, 506 U.S. 906 (1992).

30 See also Johnson v. Palma, 931 F.2d 203 (2d Cir. 1991) (union's refusal to proceed with plaintiff's grievance after he filed race discrimination complaint with state agency constituted unlawful retaliation).

31 ___ U.S. ___, 117 S. Ct. 843 (1997).

32 The ADA, unlike the other anti-discrimination statutes, prohibits retaliation against "any individual" who has opposed discrimination based on disability or participated in the charge process. 42 U.S.C. § 12203.

33 See, e.g., EEOC v. L. B. Foster, 123 F.3d 746 (3d Cir. 1997), cert. denied, 66 U.S. L.W. 3388 (U.S. March 2, 1998); Ruedlinger v. Jarrett, 106 F.3d 212 (7th Cir. 1997).

34 Hashimoto v. Dalton, 118 F.3d 671, 676 (9th Cir. 1997).

35 EEOC v. L. B. Foster, 123 F.3d at 754.

36 See Ledergerber v. Stangler, 122 F.3d 1142 (8th Cir. 1997) (reassignment of plaintiff's staff, with attendant loss of status, did not rise to level of ultimate employment decision to constitute actionable retaliation); Mattern v. Eastman Kodak Co.,104 F.3d 702 (5th Cir.) (anti-retaliation provisions only bar "ultimate employment actions" that are retaliatory; harassment, reprimands, and poor evaluation could not be challenged), cert. denied, 118 S. Ct. 336 (1997).

37 See, e.g., Munday v. Waste Management of North America, 126 F.3d 239 (4th Cir. 1997) (employer's instruction to workers to shun plaintiff who had engaged in protected activity, to spy on her, and to report back to management whatever she said to them did not adversely affect plaintiff's terms, condition, or benefits of employment and therefore could not be challenged), cert. denied, 118 S. Ct. 1053 (1998).

38 Hashimoto, 118 F.3d at 676. See also EEOC v. L. B. Foster, 123 F.3d at 754 n.4 (plaintiff need not prove that retaliatory denial of job reference caused prospective employer to reject her; such a showing is relevant only to damages, not liability); Smith v. Secretary of Navy, 659 F.2d 1113, 1120 (D.C. Cir. 1981) ("the questions of statutory violation and appropriate statutory remedy are conceptually distinct. An illegal act of discrimination -- whether based on race or some other factor such as a motive of reprisal -- is a wrong in itself under Title VII, regardless of whether that wrong would warrant an award of [damages]").

39 See, e.g., Knox v. State of Indiana, 93 F.3d 1327, 1334 (7th Cir. 1996) ("[t]here is nothing in the law of retaliation that restricts the type of retaliatory act that might be visited upon an employee who seeks to invoke her rights by filing a complaint"); Passer v. American Chemical Society, 935 F.2d 322, 331 (D.C. Cir. 1991) (Section 704(a) broadly prohibits an employer from discriminating against its employees in any way for engaging

in protected activity and does not "limit its reach only to acts of retaliation that take the form of cognizable employment actions such as discharge, transfer or demotion").

40 Even if there were a requirement that the challenged action affect the terms or conditions of employment, retaliatory acts that create a hostile work environment would meet that standard since, as the Supreme Court has made clear, the terms and condition of employment include the intangible work environment. Meritor Savings Bank v. Vinson, 477 U.S. 57, 64-67 (1986). For examples of cases recognizing that retaliatory harassment is unlawful, see DeAngelis v. El Paso Municipal Police Officers Ass'n., 51 F.3d 591 (5th Cir.), cert. denied, 116 S. Ct. 473 (1995); Davis v. Tri-State Mack Distributor, 981 F.2d 340 (8th Cir. 1992).

41 See McKnight v. General Motors Corp., 908 F.2d 104, 111 (7th Cir. 1990) ("[r]etaliation or a threat of retaliation is a common method of deterrence"), cert. denied, 499 U.S. 919 (1991); Garcia v. Lawn, 805 F.2d 1400, 1401-02 (9th Cir. 1986) (threatened transfer to undesirable location); Atkinson v. Oliver T. Carr Co., 40 FEP Cases (BNA) 1041, 1043-44 (D.D.C. 1986) (threat to press criminal complaint).

42 For examples of cases finding unlawful retaliation based on adverse actions that did not affect the terms or conditions of employment, see Hashimoto, 118 F.3d at 675-76 (retaliatory job reference violated Title VII even though it did not cause failure to hire); Berry v. Stevinson Chevrolet, 74 F.3d 980, 986 (10th Cir. 1996) (instigating criminal theft and forgery charges against former employee who filed EEOC charge found retaliatory); Passer, 935 F.2d at 331 (canceling symposium in honor of retired employee who filed ADEA charge found retaliatory).

43 Robinson v. Shell Oil Co., 117 S. Ct. 843, 848 (1997).

44 Garcia, 805 F.2d at 1405.

45 The basis for finding "cause" whenever there is credible direct evidence of a retaliatory motive is Section 107 of the 1991 Civil Rights Act, 42 U.S.C. §§ 2000e-2(m) and 2000e-5(g)(2)(B). Section 107 provides that an unlawful employment practice is established whenever race, color, religion, sex, or national origin was a motivating factor, even though other factors also motivated the practice. It further provides that a complainant who makes such a showing can obtain declaratory relief, injunctive relief, and attorneys fees but no damages or reinstatement if the respondent proves that it would have taken the same action even absent the discrimination. Section 107 partially overrules Price Waterhouse v. Hopkins, 490 U.S. 228 (1989), which held that a respondent can avoid liability for intentional discrimination in mixed-motives cases if it can prove that it would have made the same decision in the absence of the discrimination.

Some courts have ruled that Section 107 does not apply to retaliation claims. See, e.g., Woodson v. Scott Paper, 109 F.3d 913 (3d Cir.), cert. denied, 118 S. Ct. 299 (1997). Those courts apply Price Waterhouse v. Hopkins, and therefore absolve the employer of liability for proven retaliation if the establishes that it would have made the same decision

in the absence of retaliation. Other courts have applied Section 107 to retaliation claims. See, e.g., Merritt v. Dillard Paper Co., 120 F.3d 1181, 1191 (11th Cir. 1997).

The Commission concludes that Section 107 applies to retaliation. Courts have long held that the evidentiary framework for proving employment discrimination based on race, sex, or other protected class status also applies to claims of discrimination based on retaliation. Furthermore, an interpretation of Section 107 that permits proven retaliation to go unpunished undermines the purpose of the anti-retaliation provisions of maintaining unfettered access to the statutory remedial mechanism.

46 For example, in Merritt v. Dillard Paper Company, 120 F.3d 1181 (11th Cir. 1997), the plaintiff testified in a co-worker's Title VII action about sexual harassment in the workplace. Shortly after the case was settled, the president of the company fired the plaintiff. The court found direct evidence of retaliation based on the president's statement to the plaintiff, "[y]our deposition was the most damning to Dillard's case, and you no longer have a place here at Dillard Paper Company."

47 Simmons v. Camden County Bd. of Educ., 757 F.2d 1187, 1189 (11th Cir.), cert. denied, 474 U.S. 981 (1985).

48 970 F.2d 39 (5th Cir. 1992).

49 See Kachmar v. Sunguard Data Systems, 109 F.3d 173 (3d Cir. 1997) (district court erroneously dismissed plaintiff's retaliation claim because termination occurred nearly one year after her protected activity; when there may be reasons why adverse action was not taken immediately, absence of immediacy does not disprove causation).

50 Miller v. Vesta, Inc., 946 F. Supp. 697 (E.D. Wis. 1996).

51 Fields v. Phillips School of Business & Tech., 870 F. Supp. 149 (W.D. Tex.), aff'd mem., 59 F.3d 1242 (5th Cir. 1994).

52 See, e.g., Hossaini v. Western Missouri Medical Center, 97 F.3d 1085 (8th Cir. 1996) (reasonable person could infer that defendant's explanation for plaintiff's discharge was pretextual where defendant launched investigation into allegedly improper conduct by plaintiff shortly after she engaged in protected activity).

53 EEOC v. Chrysler Corp., 733 F.2d 1183, 1186 (6th Cir.), reh'g denied, 738 F.2d 167 (1984). See also EEOC v. City of Bowling Green, Kentucky, 607 F. Supp. 524 (D. Ky. 1985) (granting preliminary injunction preventing defendant from mandatorily retiring policy department employee because of his age; although plaintiff could have collected back pay and been reinstated at later time, he would have suffered from inability to keep up with current matters in police department and would have suffered anxiety or emotional problems due to compulsory retirement).

54 See, e.g., Garcia v. Lawn, 805 F.2d 1400, 1405-06 (9th Cir. 1986) (chilling effect of retaliation on other employee's willingness to exercise their rights or testify for plaintiff constitutes irreparable

harm).

55 29 C.F.R. § 1601.23 sets forth procedures for seeking preliminary or temporary relief. Section 13.1 of Volume I of the EEOC Compliance Manual sets forth procedures for selecting, developing, and obtaining approval of such cases.

56 29 U.S.C. § 216(b).

57 See Moskowitz v. Trustees of Purdue University, 5 F.3d 279 (7th Cir. 1993) (FLSA amendment allows common law damages in addition to back wages and liquidated damages where plaintiff is retaliated against for exercising his rights under the ADEA); Soto v. Adams Elevator Equip. Co., 941 F.2d 543 (7th Cir. 1991) (FLSA amendment authorizes compensatory and punitive damages for retaliation claims under the EPA, in addition to lost wages and liquidated damages).

58 See Kim v. Nash Finch Co., 123 F.3d 1046 (8th Cir. 1997) (evidence of retaliation supported jury finding of reckless indifference to plaintiff's rights; although $7 million award for punitive damages was excessive, district court's lowered award of $300,000 was not).

This page was last modified on July 6, 2000.

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U.S. Equal Employment Opportunity Commission

Office of the Chairman

MEMORANDUM

FROM: Stuart Ishimaru, Acting Chairman

TO: All EEOC Employees

SUBJECT: EEO Policy Statement

DATE: July 7, 2009

The Commission is firmly committed to promoting and maintaining a work environment that ensures equality of opportunity for all of our employees. As a federal civil rights agency, we must all support the full realization of equal opportunity in all aspects of our work and at every level within the Commission.

As the federal agency charged with the enforcement of this nation's employment discrimination laws, the EEOC has a unique and profoundly important role in the government's antidiscrimination efforts. Accordingly, it is the Commission's policy to ensure equal opportunity in all of its employment policies and practices and to prohibit discrimination in all aspects of the agency's operations. As part of our mission, the EEOC must set the example for all other agencies to provide equal employment opportunity for all employees and applicants regardless of their race, religion, color, sex, national origin, age or disability. Also, consistent with Presidential Executive Orders and other laws designed to protect federal employees, we must affirm our commitment to the prohibitions against discrimination based on political affiliation, sexual orientation, status as a parent, marital status or veteran status. This commitment must be exemplified in all of our management practices and decisions, including recruitment and hiring practices, appraisal systems, training and career development programs, as well as in our day-to-day management decisions.

We must also ensure that our own employees who believe that they have been discriminated against are fully able to exercise their right to file an EEO complaint, a grievance or otherwise raise their concerns without fear of reprisal. Acts of reprisal against any employee who engages in protected activity will not be tolerated.

EEOC managers and supervisors are reminded of their responsibility to prevent, document and promptly correct harassing conduct in the workplace. Employees are urged to report acts of harassment to the appropriate agency officials as outlined in the Agency's Harassment Order.

All EEOC employees share the responsibility for ensuring that EEOC is a model workplace and is free of all forms of discrimination. I challenge each and every employee to take responsibility for executing the Commission's EEO policy and to cooperate fully in its enforcement.

EXHIBIT 146

U.S. Equal Employment Opportunity Commission

Facts About Retaliation

An employer may not fire, demote, harass or otherwise "retaliate" against an individual for filing a charge of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination. The same laws that prohibit discrimination based on race, color, sex, religion, national origin, age, and disability, as well as wage differences between men and women performing substantially equal work, also prohibit retaliation against individuals who oppose unlawful discrimination or participate in an employment discrimination proceeding.

In addition to the protections against retaliation that are included in all of the laws enforced by EEOC, the Americans with Disabilities Act (ADA) also protects individuals from coercion, intimidation, threat, harassment, or interference in their exercise of their own rights or their encouragement of someone else's exercise of rights granted by the ADA.

There are three main terms that are used to describe retaliation. Retaliation occurs when an employer, employment agency, or labor organization takes an **adverse action** against a **covered individual** because he or she engaged in a **protected activity**. These three terms are described below.

Adverse Action

An adverse action is an action taken to try to keep someone from opposing a discriminatory practice, or from participating in an employment discrimination proceeding. Examples of adverse actions include:

- employment actions such as termination, refusal to hire, and denial of promotion,
- other actions affecting employment such as threats, unjustified negative evaluations, unjustified negative references, or increased surveillance, and
- any other action such as an assault or unfounded civil or criminal charges that are likely to deter reasonable people from pursuing their rights.

Adverse actions do not include petty slights and annoyances, such as stray negative comments in an otherwise positive or neutral evaluation, "snubbing" a colleague, or negative comments that are justified by an employee's poor work performance or history.

Even if the prior protected activity alleged wrongdoing by a different employer, retaliatory adverse actions are unlawful. For example, it is unlawful for a worker's current employer to retaliate against him for pursuing an EEO charge against a former employer.

Of course, employees are not excused from continuing to perform their jobs or follow their company's legitimate workplace rules just because they have filed a complaint with the EEOC or opposed discrimination.

For more information about adverse actions, see EEOC's Compliance Manual Section 8, Chapter II, Part D.

Covered Individuals

Covered individuals are people who have opposed unlawful practices, participated in proceedings, or requested accommodations related to employment discrimination based on race, color, sex, religion, national origin, age, or disability. Individuals who have a close association with someone who has engaged in such protected activity also are covered individuals. For example, it is illegal to terminate an employee because his spouse participated in employment discrimination litigation.

Individuals who have brought attention to violations of law other than employment discrimination are NOT covered individuals for purposes of anti-discrimination retaliation laws. For example,"whistleblowers" who raise ethical, financial, or other concerns unrelated to employment discrimination are not protected by the EEOC enforced laws.

Protected Activity

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Protected activity includes:

Opposition to a practice believed to be unlawful discrimination

Opposition is informing an employer that you believe that he/she is engaging in prohibited discrimination. Opposition is protected from retaliation as long as it is based on a reasonable, good-faith belief that the complained of practice violates anti-discrimination law; and the manner of the opposition is reasonable.

Examples of protected opposition include:

- Complaining to anyone about alleged discrimination against oneself or others;
- Threatening to file a charge of discrimination;
- Picketing in opposition to discrimination; or
- Refusing to obey an order reasonably believed to be discriminatory.

Examples of activities that are NOT protected opposition include:

- Actions that interfere with job performance so as to render the employee ineffective; or
- Unlawful activities such as acts or threats of violence.

Participation in an employment discrimination proceeding.

Participation means taking part in an employment discrimination proceeding. Participation is protected activity even if the proceeding involved claims that ultimately were found to be invalid. Examples of participation include:

- Filing a charge of employment discrimination;
- Cooperating with an internal investigation of alleged discriminatory practices; or
- Serving as a witness in an EEO investigation or litigation.

A protected activity can also include requesting a reasonable accommodation based on religion or disability.

For more information about Protected Activities, see EEOC's Compliance Manual, Section 8, Chapter II, Part B - Opposition and Part C - Participation.

U.S. Equal Employment Opportunity Commission

PRESS RELEASE
5-26-98

EEOC ISSUES GUIDANCE CLARIFYING RIGHT TO PROTECTION AGAINST RETALIATION

WASHINGTON -- The U.S. Equal Employment Opportunity Commission (EEOC) announced today the release of comprehensive guidance on the prohibition against retaliation aimed at individuals who file charges of employment discrimination or who participate in the investigation of an EEO charge.

The Supreme Court addressed the issue of retaliation last year, in Robinson v. Shell Oil Company. The Court made it clear that employers are prohibited from retaliating against former employees as well as current employees for engaging in activity protected under the employment discrimination laws. The guidance explains that decision and also provides direction on what constitutes protected activity, what constitutes an adverse action that can be challenged as retaliatory, and what evidence is necessary to prove that an adverse action was caused by protected activity.

"It is important for the Commission to provide clear and comprehensive guidance on employers' obligations under the anti-retaliation provisions and on the legal standards that apply," said EEOC Chairman Paul M. Igasaki. "Few things are more fundamental to stopping discrimination than protecting a person's access to their rights without fear of retribution."

The number of charges alleging retaliation has more than doubled over the past several years. In fiscal year 1991, the Commission received over 7,900 charges by individuals claiming retaliation because they had filed charges or participated in the charge process. In fiscal year 1997, that number had risen to over 18,100 charges.

The policy guidance is set forth in a chapter that is the first installment of the Commission's new Compliance Manual. The new Manual eventually will replace Volume II of the Commission's existing Compliance Manual, and is more streamlined and functional.

The text of the guidance will be available on EEOC's web site at www.eeoc.gov shortly after the release of the document. You can also obtain a copy by writing to EEOC's Office of Communications and Legislative Affairs, 1801 L Street, N.W., Washington, D.C. 20507.

EEOC enforces Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, and national origin; the Age Discrimination in Employment Act, which prohibits discrimination against individuals 40 years of age or older; sections of the Civil Rights Act of 1991; the Equal Pay Act; Title I of the Americans with Disabilities Act, which prohibits discrimination against people with disabilities in the private sector and state and local governments; and the Rehabilitation Act's prohibitions against disability discrimination in the federal government.

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U.S. Equal Employment Opportunity Commission

Prohibited Employment Policies/Practices

Under the laws enforced by EEOC, it is illegal to discriminate against someone (applicant or employee) because of that person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. It is also illegal to retaliate against a person because he or she complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

The law forbids discrimination in every aspect of employment.

The laws enforced by EEOC prohibit an employer or other covered entity from using neutral employment policies and practices that have a disproportionately negative effect on applicants or employees of a particular race, color, religion, sex (including pregnancy), or national origin, or on an individual with a disability or class of individuals with disabilities, if the polices or practices at issue are not job-related and necessary to the operation of the business. The laws enforced by EEOC also prohibit an employer from using neutral employment policies and practices that have a disproportionately negative impact on applicants or employees age 40 or older, if the policies or practices at issue are not based on a reasonable factor other than age.

Job Advertisements

It is illegal for an employer to publish a job advertisement that shows a preference for or discourages someone from applying for a job because of his or her race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.

For example, a help-wanted ad that seeks "females" or "recent college graduates" may discourage men and people over 40 from applying and may violate the law.

Recruitment

It is also illegal for an employer to recruit new employees in a way that discriminates against them because of their race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.

For example, an employer's reliance on word-of-mouth recruitment by its mostly Hispanic work force may violate the law if the result is that almost all new hires are Hispanic.

Application & Hiring

It is illegal for an employer to discriminate against a job applicant because of his or her race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. For example, an employer may not refuse to give employment applications to people of a certain race.

An employer may not base hiring decisions on stereotypes and assumptions about a person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.

If an employer requires job applicants to take a test, the test must be necessary and related to the job and the employer may not exclude people of a particular race, color, religion, sex (including pregnancy), national origin, or individuals with disabilities. In addition, the employer may not use a test that excludes applicants age 40 or older if the test is not based on a reasonable factor other than age.

If a job applicant with a disability needs an accommodation (such as a sign language interpreter) to apply for a job, the employer is required to provide the accommodation, so long as the accommodation does not cause the employer significant difficulty or expense.

Job Referrals

It is illegal for an employer, employment agency or union to take into account a person's race, color, religion, sex

EXHIBIT 149

Reasonable Accommodation & Religion

The law requires an employer to reasonably accommodate an employee's religious beliefs or practices, unless doing so would cause difficulty or expense for the employer. This means an employer may have to make reasonable adjustments at work that will allow the employee to practice his or her religion, such as allowing an employee to voluntarily swap shifts with a co- worker so that he or she can attend religious services.

Training & Apprenticeship Programs

It is illegal for a training or apprenticeship program to discriminate on the bases of race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. For example, an employer may not deny training opportunities to African-American employees because of their race.

In some situations, an employer may be allowed to set age limits for participation in an apprenticeship program.

Harassment

It is illegal to harass an employee because of race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.

It is also illegal to harass someone because they have complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Harassment can take the form of slurs, graffiti, offensive or derogatory comments, or other verbal or physical conduct. Sexual harassment (including unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature) is also unlawful. Although the law does not prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal if it is so frequent or severe that it creates a hostile or offensive work environment or if it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Harassment outside of the workplace may also be illegal if there is a link with the workplace. For example, if a supervisor harasses an employee while driving the employee to a meeting.

Read more about harassment.

Terms & Conditions Of Employment

The law makes it illegal for an employer to make any employment decision because of a person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. That means an employer may not discriminate when it comes to such things as hiring, firing, promotions, and pay. It also means an employer may not discriminate, for example, when granting breaks, approving leave, assigning work stations, or setting any other term or condition of employment - however small.

Pre-Employment Inquiries (General)

As a general rule, the information obtained and requested through the pre-employment process should be limited to those essential for determining if a person is qualified for the job; whereas, information regarding race, sex, national origin, age, and religion are irrelevant in such determinations.

Employers are explicitly prohibited from making pre-employment inquiries about disability.

Although state and federal equal opportunity laws do not clearly forbid employers from making pre-employment inquiries that relate to, or disproportionately screen out members based on race, color, sex, national origin, religion, or age, such inquiries may be used as evidence of an employer's intent to discriminate unless the questions asked can be justified by some business purpose.

Therefore, inquiries about organizations, clubs, societies, and lodges of which an applicant may be a member or any other questions, which may indicate the applicant's race, sex, national origin, disability status, age, religion, color or ancestry if answered, should generally be avoided.

Similarly, employers should not ask for a photograph of an applicant. If needed for identification purposes, a photograph may be obtained after an offer of employment is made and accepted.

Pre-Employment Inquiries and:

- Race
- Height & Weight
- Credit Rating Or Economic Status
- Religious Affiliation Or Beliefs
- Citizenship
- Marital Status, Number Of Children
- Gender
- Arrest & Conviction
- Security/Background Checks For Certain Religious Or Ethnic Groups
- Disability
- Medical Questions & Examinations

Dress Code

In general, an employer may establish a dress code which applies to all employees or employees within certain job categories. There are a few possible exceptions.

A dress code must not treat some employees less favorably because of their national origin. For example, a dress code that prohibits certain kinds of ethnic dress, such as traditional African or East Indian attire, but otherwise permits casual dress would treat some employees less favorably because of their national origin.

An employer may require all workers to follow a uniform dress code even if the dress code conflicts with some workers' ethnic beliefs or practices.

If the dress code conflicts with an employee's religious practices and the employee requests an accommodation, the employer must modify the dress code or permit an exception to the dress code unless doing so would result in undue hardship. Similarly, if an employee requests an accommodation to the dress code because of his disability, the employer must modify the dress code or permit an exception to the dress code, unless doing so would result in undue hardship.

If an employee needs to modify a dress requirement because of a disability, the employer may need to grant that employee a reasonable accommodation.

Constructive Discharge/Forced To Resign

Discriminatory practices under the laws EEOC enforces also include constructive discharge or forcing an employee to resign by making the work environment so intolerable a reasonable person would not be able to stay.

U.S. Equal Employment Opportunity Commission

Retaliation

All of the laws we enforce make it illegal to fire, demote, harass, or otherwise "retaliate" against people (applicants or employees) because they filed a charge of discrimination, because they complained to their employer or other covered entity about discrimination on the job, or because they participated in an employment discrimination proceeding (such as an investigation or lawsuit).

For example, it is illegal for an employer to refuse to promote an employee because she filed a charge of discrimination with the EEOC, even if EEOC later determined no discrimination occurred.

Retaliation & Work Situations

The law forbids retaliation when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

Employer Coverage

15 or more employees under Title VII and ADA

20 or more employees under ADEA

Virtually all employers under EPA

Time Limits

180 days to file a charge *(may be extended by state laws)*

Federal employees have 45 days to contact an EEO Counselor

For more information, see:

- Facts About Retaliation
- Equal Pay Act
- Title VII of the Civil Rights Act of 1964
- Age Discrimination in Employment Act
- Americans with Disabilities Act
- Regulations: 29 C.F.R. Part 1606
- Policy & Guidanc Guidance

EXHIBIT 150

E-FILED
Wednesday, 18 August, 2010 04:01:27 PM
Clerk, U.S. District Court, ILCD

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	)	
	)	**Civil Action No.**
Plaintiff,	)	
v.	)	
COGNIS CORP.	)	**JURY TRIAL DEMAND**
Defendant.	)	

COMPLAINT

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII"), and Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a, to correct unlawful employment practices on the basis of retaliation and to provide appropriate relief to employees who were adversely affected by such practices. As alleged with greater particularity below, a class of employees, including Steven Whitlow ("Charging Party"), were subjected to retaliation, whereby those employees were required – as a condition of their continued employment – to waive their right to file charges with the EEOC and prospectively waive their right to pursue relief regarding future discrimination.

JURISDICTION AND VENUE

1. This action is brought by the United States Equal Employment Opportunity Commission to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.

2. This action is authorized and instituted pursuant to § 706(f)(1), § 706(f)(3), 42 U.S.C. § 2000e-5(f)(1), §2000e-5(f)(3).

3. This court has jurisdiction of this action pursuant to 28 U.S.C. §§ 451, 1331, 1337,

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1343, 1345, 42 U.S.C. §§ 2000e-5(f)(3), and § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

4. The unlawful acts alleged below were and are now being committed within the jurisdiction of the United States District Court for the Central District of Illinois, Urbana Division.

PARTIES AND OTHER PERSONS

5. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by § 706(f)(1), Title VII, 42 U.S.C. §2000e-5(f)(1).

6. At all relevant times, Defendant Cognis Corporation ("Cognis" or "Defendant") has been a corporation doing business continuously in Illinois.

7. At all relevant times, Defendant has continuously had at least fifteen employees.

8. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

9. On or about December 19, 2007, more than thirty (30) days prior to the institution of this action, Charging Party filed a charge of discrimination with the Commission alleging violations of Title VII by Defendant.

10. On or about March 8, 2010, the Commission sent a Letter of Determination to Defendant, notifying Defendant of the determinations made by the Commission in connection with the EEOC charge filed by Charging Party, and inviting Defendant to participate in an effort to resolve this matter by conciliation.

12. All conditions precedent to the institution of this lawsuit have been fulfilled.

13. From at least 2005 to the present, Cognis has required a number of its employees – as a condition of employment – to enter into agreements that purport to waive the employees' right to file charges with the EEOC.

14. From at least 2005 to the present, Cognis has required a number of its employees – as a condition of employment – to enter into agreements that purport to waive the employees' right to recover for discrimination occurring in the future.

15. In or around May 2007, for example, Cognis conditioned Charging Party's continued employment on his agreeing to enter into a "Last Chance Agreement" ("LCA") that included an extensive series of releases and waivers that would have insulated Defendant from any effort by Charging Party to file charges with the EEOC or to seek recovery for future discrimination under Title VII. Charging Party asked Defendant to modify the agreement by removing the waivers, explaining that he did not wish to give up his civil rights, but Defendant told him the LCA could not be modified. Because Defendant refused to modify the LCA to remove the rights-waiving provisions, Charging Party revoked the agreement on or around May 21, 2007. Defendant then discharged Charging Party that same day.

16. The effect of the practices complained of above has been to deprive a class of employees, including the Charging Party, of equal employment opportunities and otherwise adversely affect their status as employees in retaliation for opposition to discrimination prohibited by Title VII and/or anticipated participation in activity protected under Title VII.

17. The unlawful employment practices complained of above were and are intentional.

18. The unlawful employment practices complained of above were and are done with malice or with reckless indifference to the federally protected rights of each member of the class of employees described above, including Charging Party.

PRAYER FOR RELIEF

WHEREFORE, the Commission requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, agents, servants, employees, attorneys, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice prohibited by Title VII;

B. Order Defendant to institute and carry out policies, practices, and programs which eradicate the effects of its past and present unlawful employment practices;

C. Order Defendant to make each member of the class of employees described above, including Charging Party, whole by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief, including but not limited to reinstatement, that is necessary to eradicate the effects of its unlawful employment practices;

D. Order Defendant to make each member of the class of employees described above, including Charging Party, whole by providing compensation for past and future pecuniary loss;

E. Order Defendant to make each member of the class of employees described above, including Charging Party, whole by providing compensation for past and future nonpecuniary losses, including emotional pain, suffering, loss of enjoyment of life, inconvenience, and humiliation;

F. Order Defendant to pay each member of the class of employees described above, including Charging Party, punitive damages for its intentional, malicious and reckless conduct, in an amount to be determined at trial;

G. Grant such further relief as this Court deems necessary and proper in the public interest; and

H. Award the Commission its costs in this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by the Complaint.

Respectfully submitted,

P. David Lopez
General Counsel

Gwendolyn Young Reams
Associate General Counsel

John C. Hendrickson
Regional Attorney

Gregory Gochanour
Supervisory Trial Attorney

Brad Fiorito
Trial Attorney

Equal Employment Opportunity
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	**Civil Action No.** 07 CV 6434 CJS
Plaintiff,	
-against-	**COMPLAINT AND JURY TRIAL DEMAND**
ELMER W. DAVIS INC.,	
Defendant.	

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of race by Elmer W. Davis Inc. ("Defendant"), and to provide appropriate relief to Samuel Crenshaw ("Charging Party") and a class of similarly situated Black employees affected by Defendant's discriminatory practices (collectively, "claimants"). As alleged in greater detail below, Defendant unlawfully discriminated against Charging Party and claimants by subjecting them to a hostile work environment on the basis of race (Black) and by subjecting Charging Party and claimants to disparate treatment in the terms, conditions and privileges of employment on the basis of race (Black) by giving them less favorable job assignments.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-5(f)(1) and (3) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the Western District Court of New York.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with administration, interpretation, and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3).

4. At all relevant times, Defendant has continuously been a New York corporation doing business in the State of New York and the City of Rochester, New York, and has continuously had at least fifteen employees.

5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C §§2000e(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Samuel Crenshaw, on behalf of himself and of similarly situated African American employees, filed a charge with the Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least 1993, Defendant engaged in unlawful employment practices in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000(e)-(a) and (b). These practices included, but are not limited to, the following:

a. Employees and supervisors at Defendant's Rochester, New York location subjected Black employees, including Charging Party and claimants to a racially hostile work environment and harassment based on their race by: frequently making racially offensive comments including but not limited to referring to Black employees, including Charging Party and claimants, as "niggers," "lazy niggers" and "Sambo" and making racially offensive comments in the presence of Charging Party and claimants, including but not limited to comments such as "[a]ll niggers should get on a boat and go back to Africa" or "[a]ll coloreds need to go back to Africa," "[w]hat do you expect, you got a bunch of lazy niggers" and "[e]very White should have 5 Black slaves"; several of the company's portable restrooms contained offensive graffiti with offensive statements about Black people including racial epithets such as the word "nigger" and swastikas; and a noose was hung at a worksite;

b. Defendant had actual or constructive knowledge of the racial harassment and racially hostile work environment for Black employees, including Charging Party and claimants, inasmuch as the harassment described above was committed by and/or in the presence of Defendant's supervisors, and/or Charging Party and/or claimants complained to Defendant about the harassment;

c. Defendants failed to take any appropriate measures to prevent the racial harassment and racially hostile work environment, and failed to take any effective

remedial action;

d. Defendant repeatedly subjected Black employees, including Charging Party and claimants, to disparate treatment in terms, conditions and privileges of employment in relation to job assignments by giving Black employees, including Charging Party and claimants, less favorable job assignments than White employees;

8. Defendant's practices complained of above deprived Charging Party and other claimants of equal employment opportunities and otherwise adversely affect their status as employees because of their race (Black).

9. Defendant's unlawful employment practices complained of above were intentional.

10. Defendant's unlawful employment practices complained of above were done with malice or with reckless indifference to the federally protected rights of the Charging Party and claimants.

PRAYER FOR RELIEF

Therefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns and all persons in active concert or participation with Defendant, from engaging in any employment practices which discriminate on the basis of race and enjoining Defendant, its officers, successors, assigns and all persons in active concert or participation with it, from retaliating against anyone who engaged in protected activity in connection with this matter;

B. Order Defendant to institute and carry out policies, practices and programs which eradicate the effects of its past and present unlawful employment practices;

C. Order Defendant to make whole those individuals affected by the unlawful employment practices described above, including Charging Parties and claimants, by providing appropriate backpay with prejudgment interest and frontpay, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of Defendant's unlawful employment practices;

D. Order Defendant to make whole all those individuals adversely affected by the unlawful employment practices described above, including Charging Parties and claimants, by providing compensation for non-pecuniary losses, including humiliation, loss of enjoyment of life and life's activities, pain, suffering, and emotional distress, in amounts to be determined at trial;

E. Order Defendant to pay those individuals adversely affected by the unlawful employment practices described above, including Charging Parties and claimants, by providing compensation for past and future pecuniary losses in amounts to be determined at trial;

F. Order Defendant to pay all those individuals adversely affected by the unlawful employment practices described above, including Charging Parties and claimants, punitive damages for its malicious and/or reckless conduct in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper;

H. Award the Commissions its costs in this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

Dated: September 4, 2007

Respectfully submitted,

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General Counsel

James L. Lee
Deputy General Counsel

Gwendolyn Young Reams
Associate General Counsel

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SD

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

(1)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

1:CV 02-1194

Plaintiff,

v.

FED EX EXPRESS CORPORATION, a subsidiary of Fed Ex Corporation,

Defendant.

CIVIL ACTION NO. 02-CV-984

COMPLAINT
JURY TRIAL DEMANDED

FILED
FEB 26 2002
MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex, female, and to provide appropriate relief to the Charging Party, Marion Shaub, who was adversely affected by such practices. The Commission alleges that Ms. Shaub, who was employed as a tractor-trailer driver, was subjected to a hostile work environment and to different terms and conditions of employment due to her gender. The unlawful behavior took the form of anti-female remarks, threats and vehicle tampering by male co-workers, who also failed to assist her in loading her truck and threatened to take over her driving routes. Ms. Shaub notified management of the hostile behavior and working conditions and the vehicle tampering, but management failed to take prompt effective corrective action. The Commission also alleges that one of Ms. Shaub's driving routes was reclassified and awarded to one of the male harassers, who boasted openly about taking Ms. Shaub's route. Because she had become traumatized by the threats, sabotage to her vehicle, and hostile work environment, Ms. Shaub transferred to an office position. After the transfer, male

(1)
2.26

co-workers disparaged Ms. Shaub and treated her in a condescending manner and she was not given the necessary equipment to perform her office duties. These factors, coupled with the cumulative effect of the hostile work environment and vehicle sabotage, caused Ms. Shaub to be constructively discharged.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to § 706(f) (1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. "§ 2000e-5(f)(1) and (3)" ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981A.

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Middle District of Pennsylvania.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000(e)-5(f) (1) and (3).

4. At all relevant times, Defendant, FedEx Express Corporation ("Fed Ex") has continuously been and is now a Delaware corporation doing business in the State of Pennsylvania, and the City of Middletown, and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Charging Party Marion Shaub filed a charge of discrimination with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least December, 1997, Defendant Employer has engaged unlawful employment practices at its Middletown, Pennsylvania facility in violation of Sections 703(a) (1) of Title VII, 42 U.S.C. § 2000e-2(a) (1) and 2000 (e)-3 (a) (1), by subjecting Ms. Shaub to a sexually hostile work environment and to discrimination in the terms and conditions of her employment, due to her gender. The unlawful employment practices included, but were not limited to, the following:

(A) As early as the winter of 1997, male co-worker Gordon Bowen complained about Ms. Shaub's hours, stating that she had better watch out or her "boat might sink." Ramp Agent Frank DeScehire told Ms. Shaub that women should be "barefoot and pregnant", and other male co-workers complained about Ms. Shaub's route and made anti-female remarks about Ms. Shaub as a tractor-trailer driver. The anti-female remarks continued throughout 1997 and 1998.

(B) Ms. Shaub complained to management about the co-workers' remarks in May, 1999.

(C) In the winter of 1999, male co-worker Steve Crumling made a series of sexually hostile remarks to Ms. Shaub. He told her that when she removed her glasses she "looked like a porn star", and, when she commented that the ground was slippery, he stated "that's what my wife said last night." He also told Ms. Shaub that if" [she] were his daughter he would abort her", and referred to her as a "damn broad" to other workers.

(D) Ms. Shaub informed management about Crumling's remarks in or about January, 2000.

(E) After Crumling learned that Ms. Shaub had complained about his conduct, he responded by thanking Ms. Shaub for "getting him in trouble" and proceeded to refuse to help Ms. Shaub load her trucks. Further, he instructed his subordinate employees to refuse to give her assistance, even though the loading was a duty of Crumling and his team to help the drivers load their trucks.

(F) In or about February 2000, Ms. Shaub reported to management that Crumling and his team were refusing to help her load her trucks.

(G) On January 25, 2000, the brake line in Ms. Shaub's truck failed, causing a safety hazard. One of her male co-workers then warned her to "be careful" and "watch out for sabotage."

(H) On February 3, 2000, Ms. Shaub became wedged between two one-ton cans that were being loaded on a truck. Her male co-workers stated that the can was pushed or "let go" in her direction, intending to harm her. Ms. Shaub reported the incident to management.

(I) On February 18, 2000, Ms. Shaub found dirt in her truck's brake line, and the line was cut. She filed a Vehicle Incident Report, a police report, and also reported the incident to management. Defendant's mechanic admitted that the type of damage to Ms. Shaub's vehicle "would not happen by coincidence", and that someone "could have introduced something" into the line.

(J) On March 24, 2000, Ms. Shaub experienced another brake failure and submitted a Vehicle Incident Report. Also, March, 2000, Ms. Shaub found the mail in her slot ripped up and had to ask management for another copy of a company vacation schedule.

(K) Ms. Shaub filed a formal written complaint on March 28, 2000, alleging that she had been threatened, her vehicle had been sabotaged, and she had been physically injured, and did not feel safe driving, despite the fact that she had already reported the hostile environment and work

problems to management several times.

(I) Shaub's brakes failed again on April 27, 2000 and a Vehicle Incident Report was made.

(J) On April 13, 2000, the truck normally driven by Ms. Shaub was taken out by a co-worker who found that a brake part had been pulled away. A Vehicle Incident Report was made. The co-worker stated that management tried to blame the broken line on him, but he stated that "the line broke on me."

(K) Ms. Shaub's male co-worker, Mike Pankake, had threatened to take Ms. Shaub's driving route. In or about April, 2000, her part-time route was reclassified as full-time, and was awarded to Pankake. After Pankake was awarded the route, he boasted to co-workers that he was responsible for having the route re-classified and Ms. Shaub removed, and that since he had the route, the harassment of Ms. Shaub would stop.

(L) After making repeated complaints to Defendant about the sexist comments, sabotage to her truck, and threats made by male co-workers, Ms. Shaub transferred to an office position. Thereafter, the male drivers spoke to her in a condescending and disparaging manner. Moreover, she was not given the necessary equipment to do the job. As a result of the hostile work environment created by her male workers, and Defendant's failure to take any remedial action, Ms. Shaub became emotionally and psychologically devastated by FedEx's course of conduct. Accordingly, Ms. Shaub was constructively discharged from her employment in September, 2000.

8. The effect of the practices complained of in paragraph 7 (A-L) above, has been to deprive Ms. Shaub of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex.

9. The unlawful employment practices complained of in paragraph 7 were intentional.

10. The unlawful employment practices complained of in paragraph 7 were done with

malice or with reckless indifference to the federally protected rights of Marion Shaub.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in sex discrimination, sexual harassment and any other employment practice which discriminates on the basis of sex.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for employees regardless of sex, which prohibit sexual harassment in the workplace, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Marion Shaub by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to rightful-place reinstatement or front pay.

D. Order Defendant Employer to make whole Marion Shaub by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7, including but not limited to out-of-pocket losses in amounts to be determined at trial.

E. Order Defendant Employer to make whole Marion Shaub by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7, including pain and suffering, humiliation, anxiety, depression, trauma, and loss of life's pleasures, in amounts to be determined at trial.

F. Order Defendant Employer to pay Marion Shaub punitive damages for its malicious and reckless conduct described in paragraph 7, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

Gwendolyn Young Reams
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	:	**NO: 02-CV-984**
And	:	
MARION SHAUB, plaintiff intervenor	:	
	:	
v.	:	
	:	
FEDERAL EXPRESS CORPORATION	:	**JURY TRIAL DEMAND**
A subsidiary of Fed Ex Corporation; defendant		

FILED
Dep. Clerk
1:CV 02-1194

COMPLAINT OF INTERVENOR MARION SHAUB

I. PRELIMINARY STATEMENT

1. In this action, Plaintiff, **MARION SHAUB**, hereinafter referred to as "Plaintiff" and/or "Ms. Shaub", seeks declaratory, injunctive, and equitable relief; liquidated compensatory, and punitive damages; and costs and attorney's fees for the sex discrimination, harassment, retaliation for complaining about sex discrimination, physical injury, and intentional infliction of emotional distress by Defendant, **FEDERAL EXPRESS CORPORATION**, hereinafter referred to as "Defendant" and/or "FedEx".

II. JURISDICTION

2. This action arises under Title VII, as amended by the Civil Rights Act of 1991, 42 U.S.C., §2000e, et seq.; the; the Pennsylvania Human Relations Act (PHRA), 43 P.S.§951, et seq.; the Constitution of the Commonwealth of Pennsylvania and the common law of the

Commonwealth of Pennsylvania.

3. Jurisdiction over the federal claims is invoked pursuant to 28 U.S.C. §1343 (4) and 29 U.S.C. §216 (b) and over the state law claims pursuant to the doctrine of pendent jurisdiction.

4. Jurisdiction over the additional claims of sex discrimination is appropriate because on or about November 1, 2000 Plaintiff's Complaint to the Equal Employment Opportunity Commission (EEOC) was filed and time-stamped and was timely cross-filed with the Pennsylvania Human Relations Commission (PHRC) regarding her treatment by FedEx. On or about February 28, 2002, the EEOC filed a complaint and demand for a jury trial in the Eastern District of Pennsylvania. The plaintiff, **Marion Shaub**, seeks to intervene in that action to assert her state and common law claims.

5. Declaratory and injunctive relief is sought pursuant to 28 U.S.C. §2001 and 2002 and Title VII, as amended by the Civil Rights Act of 1991 by the EEOC; and Marion Shaub seeks such relief under the Pennsylvania Human Relations Act (PHRA), 43 P.S. §962; and Article 1 section 28 of the Pennsylvania Constitution.

6. Compensatory and punitive damages are available under the Civil Rights Act of 1991; the Pennsylvania Human Relations Act (PHRA), 43 P.S. et seq.; and under the pendent state claims; and other damages are sought, including, but not limited to, back pay and front pay and other lost benefits under Title VII, as amended by the Civil Rights Act of 1991, the Pennsylvania

Human Relations Act (PHRA), 43 P.S. §951, et seq, and the common law of the Commonwealth of Pennsylvania.

7. Costs and attorney's fees may be awarded pursuant to Title VII, as amended by the Civil Rights Act of 1991, 42 U.S.C.§ 2000e-5 (k); Rule 54 of the Federal Rules of Civil Procedure; and the Pennsylvania Human Relations Act (PHRA), 43 P.S. §962 (c.2).

III. VENUE

8. This action properly lies in the United States District Court for the Eastern District of Pennsylvania, pursuant to 28 U.S.C.§1391 (b) because the claim arose in Pennsylvania and was filed by the EEOC in this district.

IV. PARTIES

9. Plaintiff, **MARION SHAUB,** is a female adult individual who resides at 35 Amanda Lane, Wrightsville, PA 17368.

10. Defendant, **FEDERAL EXPRESS CORPORATION,** (Fed Ex) has continuously been and is now doing business in the State of Pennsylvania, engages in an industry affecting interstate commerce, and employs more than fifteen (15) regular employees.

V. FACTS

11. The plaintiff, MARION SHAUB, incorporates by reference all facts pled in the Complaint filed by the EEOC in this case.

12. Plaintiff, **MARION SHAUB**, was first employed by Defendant, **FEDERAL EXPRESS CORPORATION**, in October 1995 as a courier. In July 1997 she was promoted to a ramp transport driver. From 1997 to September 2000, Ms. Shaub worked out of the Middletown, Pennsylvania ramp. She was the only female tractor-trailer driver with FedEx who was assigned to Middletown.

13. Throughout Plaintiff's employment with FedEx in Middletown, PA, she was continuously subjected to poor work assignments because of her sex, subjected to constant pressure to quit her job because she was a woman, subjected to sexual innuendo and harassment, and subjected to physical damages and intimidation because the male drivers did not want to work with a female. Many internal complaints (both formal written and verbal) of sex discrimination were filed with FedEx throughout Ms. Shaub's employment.

14. Plaintiff initially was assigned to work on a route called the IPT route in November 1997. In what was to become a familiar discriminatory scenario, a male tractor-trailer driver, Brian Kaufman, wanted that route. He approached management who upgraded Ms. Shuab's route to full time and reassigned the route to Mr. Kaufman. There were four times during the next three years in which Ms. Shaub was removed from a favorable route so that the position could be given to a male truck driver, the last time occurring in August 2000.

15. By the summer of 1999, the plaintiff was suffering under a continuing level of hostility and anger towards her from the male employees because of her sex. She complained to senior management about the hostility and anger she was suffering from the other drivers.

16. Steve Crumbling, the deck captain in charge of loading freight into her truck, repeatedly referred to her as porn star, a damn broad and in January 2000 told her " if you were my daughter, I'd have had you aborted". This was immediately reported to management.

17. Other tractor-trailer drivers began acting distant from the plaintiff after this report. The male drivers were obviously upset when the plaintiff was assigned a newer tractor that they had. In January 2000, shortly after she complained about the sexual comments from Crumbling, she discovered a hole in the brake hose under the hood of her assigned tractor.

18. In February 2000, The deck captain purposefully ignored the need to load her truck. The plaintiff was severely physically injured while attempting to load freight without the help of the deck captain. The incident was immediately reported to Senior Manager Bob Flynn on February 3, 2000.

19. Ms. Shaub told Flynn that she was the focus of anger because of her sex and that Crumbling refused to load her truck causing her injury. She was told to make sure that she didn't work too many hours, so that the men would not resent her so much.

20. By January 2000, unknown male employees of Federal Express purposefully

sabotaged the brake lines on Ms. Shaub's truck. The actual sabotage to her truck occurred over and over again. The sabotage happened on January 25, 2000, February 18, 2000, March 24, 2000 April 13, 2000, and April 27, 2000 She was so shaken that she telephoned to the Managing Director in Baltimore for the help that she could not get from Senior Manager Flynn at the airport. She received no answer. The male drivers met together and decided that Ms Shaub should not have a new tractor. Then Terry Igenfritz asked to switch tractors with her, but when she warned him that someone was tampering with the brakes, he decided not take that truck.

21. By the 19th of February, she was scared to be alone at the ramp, a driver turning a corridor filled her with fear. Ms. Shaub received anonymous note in her mail slot warning her about hiding the keys at other times her mail was purposefully destroyed. On several occasions, she went outside of Fed Ex to report the brake sabotage to the state police. The male drivers told plaintiff that they thought she was planning on taking their routes

22. Throughout her employment in Allentown, certain tractor-trailer drivers, employees of defendant, have made constant sexually offensive and threatening statements to Plaintiff. These employees referred to Plaintiff as a porn star.

23. Plaintiff complained to her supervisors at the Middletown ramp about the sexual language and abuse and the physically threatening behavior, which she was experiencing. Plaintiff's supervisors knew of her prior reports of discrimination and refused to help her although she was so fearful of her intimidators that she had asked the local police for help.

24. Defendant did nothing to stop the sexual harassment, which Plaintiff was experiencing, but instead, allowed the perpetrators to know of Plaintiff's complaints which increased the threats to her person.

25. Plaintiff was warned of potential sabotage her truck, which could cause her serious injury. In February 2000 and again in March 1, 2000 the plaintiff was threatened by her fellow workers pushing heavy freight in her direction in an attempt to physically harm her. Her supervisors refused to believe that the intimidation was intentional.

26. Although the threats and physical acts of intimidation were reported to Defendant, Defendant took no action and allowed retaliation against Plaintiff in the form of harassment and threats against Plaintiff by employees and supervisors of Defendant.

27. The working environment became one of such hostility that no reasonable woman would have been expected to continue to remain employed.

28. By August 2000, the plaintiff's last route had been deliberately taken away from her and assigned to a man (whom she was forced to train.) The plaintiff only wanted to be able to driver a tractor-trailer. In September 2000 she gave notice, unable to work under the severe stress she was experiencing on the job.

29. On four different occasions, the Plaintiff discovered that whether her brake lines had been deliberately cut or dirt had been inserted into them to cause brake failure. Each act of

vandalism and intimidation was reported to management and on two occasions to the police.

30. Plaintiff knew that the damage was deliberate because it was exactly the sort of sabotage, which her fellow employees had warned her of and had been previously reported to management. In addition, male employees bragged about the harassment which they subjected her to.

31. Plaintiff's mental health suffered greatly because of the Defendant's actions. She was too terrified to continue her employment at Defendant's ramp. She then tried to work for a second trucking concern and found that she was too terrified to continue as a truck driver

32. The actions of FedEx and its employees by threatening Plaintiff's life and person were specifically and intentionally designed to cause Plaintiff intense emotional distress.

33. Fed Ex knew of the actions of its employees acting during the course of their employment, which were designed to cause Ms. Shaub extreme emotional distress and make her quit her job. FedEx refused to protect the plaintiff from the abuse of her co-employees.

34. On information and belief, Defendant practiced a continuing course of conduct of discrimination against Ms. Shaub as the only female employee at the Middletown ramp.

35. The plaintiff reluctantly was forced to resign from her position because Federal Express refused to afford her atmosphere free of degrading and insulting language and physical threats to her safety.

36. By the actions of its employees and supervisors, Defendant berated Plaintiff, treated her differently than the male employees, pressured her to quit her job, failed to protect her from physical danger and threats and otherwise carried out and condoned a systematic attack on her self-esteem, all of which caused Plaintiff extreme emotional distress, great disruption to her family life and monetary loss.

37. The defendant knew that the plaintiff's life was in danger from the sabotage to her truck and the incidents involving the loading of heavy freight. Management at Federal Express had had prior reports of this sort of sabotage to female truck drivers and maliciously, intentionally and purposefully refused to help Ms. Shaub.

VI. CAUSES OF ACTION

A. FIRST CAUSE OF ACTION

(Sex Discrimination Under Title VII.

42 U.S.C. 2000)

38. Plaintiff, **MARION SHAUB**, hereby incorporates Paragraphs 1-37 as if more fully set forth herein.

38. By the actions of its employees and management which are set forth in the foregoing paragraphs of this Complaint, Defendant unlawfully harassed and discriminated and retaliated against Plaintiff on the basis of gender/sex, in violation of Title VII.

39. Defendant maliciously, intentionally and with extreme indifference to the civil rights of the plaintiff allowed its employees to act in such a manner when it knew, or should have know, that such actions would discriminate against the plaintiff because of her sex and create a hostile working environment for Plaintiff.

40. The Defendant on the basis of gender/sex discrimination against Plaintiff in work assignments and pay.

B. SECOND CAUSE OF ACTION

(Sex Discrimination Under 43 P.S. §955(a)

41. Plaintiff, **MARION SHAUB**, hereby incorporates Paragraphs 1-40 as if more fully set forth herein.

42. By the actions of its employees and management which are set forth in the foregoing paragraphs of this Complaint, Defendant unlawfully harassed and discriminated against Plaintiff on the basis of gender/sex, and retaliated against her for her complaints in violation of 43 P.S.§953, 955(a) and 955(d).

43. Defendant knew, or should have known, that such actions would create a hostile working environment for Plaintiff.

44. Such harassing and discriminatory actions by Defendant on the basis of gender/sex

created a hostile work environment for Plaintiff and repeatedly reassigned her driving position to male employees, ultimately forcing her from her job.

C. THIRD CAUSE OF ACTION

(Intentional Infliction of Emotional Distress)

45. Plaintiff, **MARION SHAUB**, hereby incorporates Paragraphs 1-44 as if more fully set forth herein.

46. Defendant, by the actions alleged above, perpetrated by itself and its agents and employees, and has intentionally or recklessly inflicted great emotional distress upon Plaintiff.

47. The behavior of FedEx's employees, by physically threatening and hurting the plaintiff, by deliberately sabotaging her truck brake lines thereby threatening her life and intimidating and ignoring the plaintiff within the scope of their employment exceeded all bounds tolerated by a decent society. The perpetrators were motivated by personal malice towards the plaintiff. FedEx knew of its employees' conduct, in fact it knew of similar incidents involving other women truck drivers. Federal Express maliciously did nothing to provide the plaintiff with a safe working environment.

48. Plaintiff continues to seek medical help for her mental health. Plaintiff has suffered, and will continue to suffer, mental anguish, physical trauma and severe emotional distress, the full

amount of which is not yet known, all because of the Defendant's actions.

49. As a result of the actions of Defendant, Plaintiff has, and will continue in the future, to expend large amounts of money to cure herself.

E. FIETH CAUSE OF ACTION

(Retaliation under Title VII act)

50. Plaintiff, **MARION SHAUB**, hereby incorporates Paragraphs 1-49 as if more fully set forth herein.

F. FOURTH CAUSE OF ACTION

(Pennsylvania Constitution Article 1 § 28)

54. Plaintiff, **MARION SHAUB**, hereby incorporates Paragraphs 1-53 as if more fully set forth herein.

55. By the actions of its employees and management which are set forth in the foregoing paragraphs of this Complaint, Defendant unlawfully harassed and discriminated against Plaintiff on the basis of gender/sex, and retaliated against her for her complaints and for other protected activity in violation of the Pennsylvania Constitution Article 1 § 28.

VII. PRAYER FOR RELIEF

56. **WHEREFORE**, Plaintiff, **MARION SHAUB**, respectfully requests that this Honorable Court:

(a) Declare Defendant Federal Express Corporation's conduct to be in violation of Plaintiff's rights;

(b) enjoin Defendant Federal Express Corporation from engaging in such conduct in the future;

(c) restore Plaintiff to her rightful place as a tractor-trailer driver at the Allentown ramp.

(d) award Plaintiff equitable relief of back pay and benefits up to the date of reinstatement and front pay and benefits accrual;

(e) award Plaintiff compensatory damages to which she is entitled for past and future pecuniary losses, emotional pain and suffering, physical pain and suffering inconvenience loss of enjoyment of life, damages for breach of contract, and any other compensatory damages;

(f) award Plaintiff punitive damages to which she proves herself entitle;

(g) award Plaintiff attorney's fees and costs; and

(h) grant such other relief as it may deem just and proper.

VIII. JURY DEMAND

55. Plaintiff, **MARION SHAUB**, demands a jury to try all claims triable by a jury.

RESPECTFULLY SUBMITTED

Martha Sperling

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Dated: 3/7/02

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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Equal Employment Opportunity Commission, Plaintiff, vs. Creative Networks, LLC, an Arizona corporation, and Res-Care, Inc., a Kentucky corporation, Defendants.	Case No.: COMPLAINT (JURY TRIAL DEMANDED)

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII") and Title I of the Civil Rights Act of 1991, 42 U.S. C. § 1981a, to correct unlawful employment practices on the basis of retaliation and to provide appropriate relief to Ms. Rhonda Encinas-Castro and Ms. Kathryn Allen who were adversely affected by such practices. The EEOC alleges that Defendants, Creative Networks, LLC and Res-Care, Inc., discriminated against Ms. Encinas-Castro and Ms. Allen in retaliation for having opposed discrimination and/or participating in a proceeding pursuant to Title VII, including an investigation of alleged employment discrimination.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706 (f) (1) and (3) of Title VII of the Civil Rights Act of 1964, as amended (Title VII), 42 U.S.C. §2000e-5 (f) (1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981(a).

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the District of Arizona.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Sections 706 (f) (1) and (3) of Title VII, 42 U.S.C. §2000e-5 (f) (1) and (3).

4. At all relevant times, Defendant Creative Networks, LLC has continuously been an Arizona corporation doing business in the State of Arizona, and the City of Surprise and has continuously had at least 15 employees.

5. At all relevant times, Defendant Creative Networks, LLC has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

6. At all relevant times, Defendant Res-Care, Inc. has continuously been a Kentucky corporation doing business in the State of Arizona, and the City of Surprise and has continuously had at least 15 employees.

7. At all relevant times, Defendant Res-Care, Inc. has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

8. More than thirty days prior to the institution of this lawsuit, Ms. Encinas-Castro and Ms. Allen filed a charge with the Commission alleging violations of Title VII by Defendants. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least May 2003, Defendants subjected Ms. Encinas-Castro to adverse employment actions in retaliation for opposing what she reasonably believed was discrimination and/ or participating in a proceeding pursuant to Title VII, including but not limited to filing a charge of discrimination with the EEOC, in violation of Section 704 (a) of Title VII, 42 U.S.C. Section 2000e-3 (a). These practices include but are not limited to discipline and termination.

10. Since at least May 2003, Defendants subjected Ms. Allen to adverse employment actions in retaliation for opposing what she reasonably believed was discrimination and/ or participating in a proceeding pursuant to Title VII, including but not limited to being named as a witness in Ms. Encinas-Castro's charge of discrimination, in violation of Section 704 (a) of Title VII, 42 U.S.C. Section 2000e-3 (a). These practices include but are not limited to discipline and threats of termination.

11. The effect of the practices complained of above have been to deprive Ms. Encinas-Castro and Ms. Allen of equal employment opportunities and otherwise adversely affect their employment status on account of retaliation.

12. The unlawful employment practices complained of above were and are intentional.

13. The unlawful employment practices complained of above were done with malice and/or reckless indifference to the federally protected rights of Ms. Encinas-Castro and Ms. Allen.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in retaliation or any other employment practice against employees who oppose practices made unlawful by Title VII or are participating in a proceeding pursuant to Title VII.

B. Order Defendants to institute and carry out policies, practices, and programs which provide equal employment opportunities for employees who oppose unlawful employment discrimination, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendants to make whole Ms. Encinas-Castro and Ms. Allen by providing appropriate back pay and benefits with prejudgment interest and other affirmative relief necessary to eradicate the effects of their unlawful employment practices, including other appropriate relief to be determined at trial.

D. Order Defendants to make whole Ms. Encinas-Castro and Ms. Allen by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices complained of above, including but not limited to medical expenses or other out of pocket expenses in amounts to be determined at trial.

E. Order Defendants to make whole Ms. Encinas-Castro and Ms. Allen by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of above, including but not limited to pain and suffering, emotional distress, inconvenience, loss of enjoyment of life, loss of self-esteem and humiliation, in amounts to be determined at trial.

F. Order Defendants to pay Ms. Encinas-Castro and Ms. Allen punitive damages for its malicious and reckless conduct complained of above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by this Complaint.

DATED this 30th day of September, 2005.

Respectfully submitted,

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, **City Crescent Building, 3rd Floor** **10 South Howard Street** **Baltimore, MD 21201** **Plaintiff,** **v.** **THE MARYLAND CLASSIFIED EMPLOYEES ASSOCIATION, INC.,** **7127 Rutherford Road** **Baltimore, Maryland 21207** **Defendant.**	**Case No.** **COMPLAINT AND JURY TRIAL DEMAND**

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended ("Title VII") and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of retaliation, and to provide appropriate relief to Charging Parties Gail Tate-Buntin and Michele Handy. As alleged with greater particularity, below, the United States Equal Employment Opportunity Commission ("the Commission" or "EEOC") alleges that Defendant The Maryland Classified Employees Association, Inc. ("MCEA") has committed retaliation in violation of Title VII by subjecting Gail Tate-Buntin and Michele Handy to adverse employment actions because of conduct protected by Section 704(a) of Title VII.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and

(3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Maryland, Northern Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission" or "EEOC"), is the Agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant MCEA is an independent labor organization, incorporated in the State of Maryland, which has continuously been doing business in the State of Maryland, and has continuously had at least 15 employees.

5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. § 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Gail Tate-Buntin and Michele Handy filed charges of discrimination with the Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. During the period December 2006 to October 2007, Defendant engaged in unlawful employment practices at its Maryland facilities in violation of Section 703(a)(1) and (a)(2) of Title VII, 42 U.S.C. § 2000e-2(a)(1) and (a)(2).

8. On or about March 2007, Defendant discharged Gail Tate-Buntin in violation of Section 704(a) of Title VII because she (a) opposed practices made unlawful by Title VII; (b) was perceived by Defendant as having participated in, and intending to further participate in, an EEOC investigation of charged unlawful employment practices; and (c) was associated with a person who filed a charge of discrimination with the EEOC.

9. Beginning on or about December 2006 and continuing until on or about October 11, 2007, Defendant subjected Michele Handy to a continuing course of retaliatory adverse employment actions in violation of Section 704(a) of Title VII, including denial of promotion, discriminatory terms and conditions of employment, and discharge because she filed a charge of discrimination with the EEOC.

10. The effect of the practices complained of in paragraphs 7-9, above, has been to deprive Gail Tate-Buntin and Michele Handy of equal employment opportunities and otherwise adversely affect their status as employees because of conduct protected by Section 704(a) of Title VII.

11. The unlawful employment practices complained of in paragraphs 7-9, above, were and are intentional.

12. The unlawful employment practices complained of in paragraphs 7-9, above, were and are done with malice or with reckless indifference to the federally protected rights of Gail Tate-Buntin and Michele Handy.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of conduct protected by Section 704(a) of Title VII.

B. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant to make whole Gail Tate-Buntin and Michele Handy by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to reinstatement and front pay in lieu thereof.

D. Order Defendant to make whole Gail Tate-Buntin and Michele Handy by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7-9, above, in amounts to be determined at trial.

E. Order Defendant to make whole Gail Tate-Buntin and Michele Handy by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraphs 7-9, above, including emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses, in amounts to be determined at trial.

F. Order Defendant to pay Gail Tate-Buntin and Michele Handy punitive damages for the malicious and reckless conduct described in paragraphs 7-9, above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its Complaint.

Respectfully submitted,

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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CBSNEWS

World Watch October 1, 2010 11:19 AM

U.S.: 1940s STD Experiments "Clearly Unethical"

Posted by David S Morgan



(Credit: CBS/AP)

The U.S. government has formally apologized for a secret study conducted in the 1940s in which Guatemalan prisoners, service members and mental hospital patients were secretly infected with gonorrhea and syphilis without their knowledge or consent, calling the program "clearly unethical."

In a joint statement issued Friday by Secretary of State Hillary Rodham Clinton and Secretary of Health and Human Services Kathleen Sebelius, released in English and Spanish, the government apologized to Guatemala and to those involved in the study, conducted by the U.S. Public Health Service (PHS) between 1946 and 1948.

The results of the Sexually Transmitted Disease Inoculation Study were uncovered by a Wellesley College researcher, Susan Reverby.

The story is uncomfortably similar to the "Tuskegee" Syphilis Study in the 1960s, in which the PHS monitored, but did not treat, hundreds of African American men suffering from syphilis.

EXHIBIT 152

Unlike that case, however, subjects in the Guatemala study were intentionally infected with sexually transmitted diseases, and then given penicillin, to help determine the efficacy of the drug to cure or even vaccinate against STDs.

Reverby wrote that the Guatemala syphilis inoculation project was run by a PHS physician, Dr. John C. Cutler (who would later oversee the Tuskegee, Ala., study two decades later).

The study's doctors chose as subjects men incarcerated at the Guatemala National Penitentiary, as well as army service members, and men and women confined in the National Mental Health Hospital. There was a total of 696 people in the study. Guatemalan authorities (and not the individuals themselves) granted permission, in exchange for supplies.

According to Reverby, who studied Cutler's records in the University of Pittsburgh archives, doctors used infected prostitutes to pass the disease on to prisoners (conjugal visits were allowed in Guatemalan jails). Direct inoculations of syphilis bacteria were made to other subjects. Treatment by penicillin was also administered, though not always successfully.

Cutler seemed to recognize the delicate ethical quandaries their experiments posed, particularly in the wake of the Nuremberg "Doctors' Trials," and was concerned about secrecy. "As you can imagine," Cutler reported to his PHS overseer, "we are holding our breaths, and we are explaining to the patients and others concerned with but a few key exceptions, that the treatment is a new one utilizing serum followed by penicillin. This double talk keeps me hopping at time."

Cutler also wrote that he feared "a few words to the wrong person here, or even at home, might wreck it or parts of it ... "

PHS physician R.C. Arnold, who supervised Cutler, was more troubled, confiding to Cutler, "I am a bit, in fact more than a bit, leery of the experiment with the insane people. They can not give consent, do not know what is going on, and if some goody organization got wind of the work, they would raise a lot of smoke. I think the soldiers would be best or the prisoners for they can give consent."

Apparently difficulties in transmission, as well as in replicating results, added to concerns over the study, and it was dropped after two years.

Cutler went on to participate in another Syphilis Study at Sing Sing Prison in Ossining, N.Y. (although in that case the subjects were informed about the nature of the inoculations administered to them).

"Although these events occurred more than 64 years ago, we are outraged that such reprehensible research could have occurred under the guise of public health," today's State Dept./DHS statement said. "We deeply regret that it happened, and we apologize to all the individuals who were affected by such abhorrent research practices.

"The conduct exhibited during the study does not represent the values of the United States, or our commitment to human dignity and great respect for the people of Guatemala. The study is a sad reminder that adequate human subject safeguards did not exist a half-century ago."

The officials also announced an investigation into the specifics of the case from 1946, and will also convene a meeting of international experts to devise methods that effectively ensure all human medical research meets rigorous ethical standards.

Slate

The AIDS Conspiracy Handbook

Jeremiah Wright's paranoia, in context.

By Juliet Lapidos

Posted Wednesday, March 19, 2008, at 5:51 PM ET

Barack Obama rebuked his former pastor the Rev. Jeremiah Wright on Tuesday for giving sermons in which he blamed the government for creating a racist state and "inventing the HIV virus as a means of genocide against people of color." Wright isn't the first to say that AIDS originated in the White House. Others have attributed the epidemic to a laboratory accident, malnutrition, or even God's divine will. Here's a field guide to the most prevalent conspiracy theories:

Government Involvement

The belief cited by Wright—that the government invented HIV—seems to have originated during the early years of the epidemic. In 1986, crackpot East German biologist Jakob Segal published "AIDS: USA Home-Made Evil." According to the pamphlet, scientists at a Fort Detrick, Md., military lab manufactured the disease by synthesizing HTLV-1 (a retrovirus that causes T-cell leukemia) with Visna (a sheep virus). The scientists administered their lethal concoction to prison inmates, who then introduced the disease into the general population. In case you're wondering, Segal has since been accused of being a Soviet disinformation agent.

Similarly, the aptly named Boyd E. Graves (who calls himself a doctor although he has only a law degree) has postulated that scientists in the employ of the U.S. Special Virus Program modified Visna to create HIV during the 1970s. The government, with help from pharmaceutical company Merck, added the virus to an experimental hepatitis B vaccine, which was given to gay men and blacks in New York and San Francisco.

And then there's Gary Glum, author of *Full Disclosure*, who fronts the theory that scientists at the Cold Spring Harbor lab in New York engineered HIV, and that the World Health Organization spread the virus under cover of the smallpox eradication program. Glum believes the virus was created to wipe out, or at least

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Slate

The AIDS Conspiracy Handbook

control, the black population. (According to a study released in 2005 by the Rand Corp., more than one-quarter of African-Americans believe the disease was engineered in a government lab, and 16 percent think it was created to control the black population.)

Laboratory Accident
Edward Hooper, a British journalist, argued in his 1999 book, *The River*, that Dr. Hilary Koprowski of the Wistar Research Institute unintentionally caused the AIDS epidemic by using chimp kidneys to produce an oral polio vaccine. The chimps, says Hooper, were infected with SIV (the simian precursor to AIDS). Then, via an experimental mass-vaccination program in the Belgian Congo, SIV made the jump from monkey to man.

Hooper's contaminated polio vaccine thesis sounds less wacky than most conspiracy theories and has attracted support from a few notable academics—including late Oxford professor W.D. Hamilton. But it's definitely wrong. Hooper says Koprowski got his kidney samples from chimps in the Congo. The problem is that the SIV strain endemic to chimps from that region is phylogenetically distinct from HIV. The offending chimps probably came from Cameroon.

It's Not a Virus
Among the most popular, and pernicious, conspiracy theories is that AIDS isn't c aused by a virus at all. Peter Duesberg, a biology professor at University of California-Berkeley, has argued that drugs and promiscuity are the principal causes of the disease in the United States. He attributes AIDS in Africa to malnutrition.

South African President Thabo Mbeki has voiced support for the so-called Duesberg hypothesis, and his health minister, Mantombazana Tshabalala-Msimang, has recommended treating AIDS with foodstuffs, like garlic, rather than pharmaceuticals.

God's Punishment
The Rev. Jerry Falwell famously argued that AIDS is a plague sent by God to punish homosexuals and American society for tolerating homosexuality.

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The AIDS Conspiracy Handbook

Jerry Thacker, the publisher of *Today's Christian Teen* and other Christian magazines, has also called AIDS a "gay plague" and referred to homosexuality as "the death style." In 2003, the Bush administration nominated Thacker to serve on the Presidential Advisory Council on HIV and AIDS. He withdrew his name under pressure from gay rights groups and Democrats.

Got a question about today's news? Ask the Explainer.

Explainer thanks Martin Delaney of Project Inform and Michael Worobey of the University of Arizona.

*Juliet Lapidos is a **Slate** associate editor.*

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CBSNEWS

THE PENTAGON, May 20, 2010

U.S. Soldiers Accused in Afghan Civilian Murders

Squad of 10 Soldiers Under Investigation in Deaths of 3 Villagers Who Angered Troops; Charges Could be Filed Next Week

By David Martin



Play CBS Video U.S. Troops Accused of Murder

The U.S. military has gone to extraordinary lengths to reduce the accidental killing of Afghan civilians. Now, 10 American soldiers are accused of intentionally murdering civilians. Dave Martin reports.



(CBS)

(CBS) Gen. Stanley McChrystal, the top commander in Afghanistan, has gone to extraordinary lengths to reduce the accidental killing of Afghan civilians, but now there is a case in which American soldiers are accused of murder.

The alleged killings happened near Kandahar in southern Afghanistan, where U.S. troops are gearing up for the most important operation of the war, **CBS News national security correspondent David Martin** reports.

Special Section: Afghanistan

Members of a squad of about 10 American soldiers are under investigation for murdering at least three local villagers who had angered them. According to the allegations, this is not a case of civilians being mistaken for Taliban fighters and not a one-time moment of rage.

Instead, it happened on different occasions over the past several months. The squad leader, a sergeant, is said to have done the shooting.

EXHIBIT 132

In addition, some members of the squad are accused of smoking hash.

Charges could be brought against the soldiers as early as next week.

CBSNEWS

THE PENTAGON, Sept. 8, 2010

U.S. Soldiers Charged in Afghan Civilian Murders

Five Soldiers Accused of Murdering Afghan Civilians Just Because They Could; Seven More Involved in Cover-Up



Five American soldiers are accused of murdering Afghan civilians. **(CBS)**

(CBS) Gen. David Petraeus has said the United States can't succeed in Afghanistan without winning the hearts and minds of Afghan civilians.

Now, **CBS News national security correspondent David Martin** reports, there's a disturbing development in a story first reported in May involving U.S. soldiers accused of killing civilians in cold blood.

Twelve soldiers have been charged in the case. If the charges are proven, this was the platoon from hell.

CBSNews.com Special Report: Afghanistan

Five American soldiers accused of murdering Afghan civilians just because they could, seven more involved in the cover-up; plus mutilating corpses, taking pot shots at Afghan civilians, smoking hashish, and beating up a private who blew the whistle.

They may have done more harm to the American cause in Afghanistan than any equivalent number of Taliban could hope to cause.

"This is the kind of thing that hurts us enormously," says Michael O'Hanlon, a senior fellow on foreign policy at the Brookings Institution. "It will have a disproportionate effect, just like Abu Ghraib did. Just like any such incident. Just like the Quran burning would in Florida."

The soldiers were operating in the Taliban heartland near Kandahar where they were supposed to be winning hearts and minds. According to court documents, it began when Sgt. Calvin Gibbs joked about how easy it would be "toss a grenade at someone and kill them."

It turned into a conspiracy when five soldiers allegedly formed a "kill team" and on separate occasions murdered three Afghan civilians, apparently chosen at random.

Defense attorneys intend to fight the charges -- but whatever the outcome of the court case the damage in Afghanistan has already been done.

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abcNEWS

Confession Video: US Soldier Describes Thrill Kill of Innocent Afghans

Corporal, 22, Tells How His 'Crazy' Sergeant Allegedly Murdered For Kicks, Collected Body Parts

By MATTHEW COLE and BRIAN ROSS

Sept. 27, 2010—

Dressed in a t-shirt and Army shorts, a 22-year-old corporal from Wasilla, Alaska casually describes on a video tape made by military investigators how his unit's "crazy" sergeant randomly chose three unarmed, innocent victims to be murdered in Afghanistan.

Corporal Jeremy N. Morlock is one of five GI's charged with pre-meditated murder in a case that includes allegations of widespread drug use, the collection of body parts and photos of the U.S. soldiers holding the Afghan bodies like hunter's trophies.

FOLLOW ME ON twitter

All five soldiers were part of the 5th Stryker Combat Brigade, of the 2nd Infantry Division, based at Ft. Lewis-McChord, Washington. In charging documents released by the Army, the military alleges that the five, Staff Sgt. Calvin R. Gibbs, Spec Adam C. Winfield, Spec. Michael S. Wagnon II, Pfc. Andrew H. Holmes and Morlock were involved in one or more of three murders that took place between January and May of this year.

Lawyers and family members of the soldiers say they all intend to fight the charges.

An Article 32 hearing for Morlock, the military equivalent of a grand jury, is scheduled later today at Fort Lewis-McChord, Washington.

On the tape, obtained by ABC News, Morlock admits his role in the deaths of three Afghans but claims the plan was organized by his unit's sergeant, Calvin Gibbs, who is also charged with pre-meditated murder.

"He just really doesn't have any problems with f---ing killing these people," Morlock said on tape as he laid out the scenario he said the sergeant used to make it seem the civilians were killed in action.

"And so we identify a guy. Gibbs makes a comment, like, you know, you guys wanna wax this guy or what?" Morlock told military investigators during an interview videotaped in May at Kandahar Airfield, Afghanistan.

The corporal said Gibbs gave orders to open fire on the civilian at the same time Gibbs threw a hand

grenade at the victim.

"He pulled out one of his grenades, an American grenade, you know, popped it, throws it, tells me where to go to whack this guy, kill this guy, kill this guy," Morlock told the investigators.

Allegations that US Soldiers Killed Innocent Civilians in Afghanistan

Morlock said Sergeant Gibbs carried a Russian grenade to throw next to the body of the dead Afghan, to make it seem he was about to attack the American soldiers.

The corporal said he opened fire as directed, fearful of not following Gibbs' orders.

"It's definitely not the right thing to do," Morlock told the investigators. "But I mean, when you got a squad leader bringing you into that, that type of real, that mindset, and he believes that you're on board with that, there's definitely no way you wanted him to think otherwise."

The investigator asked Morlock, "Because you felt maybe the next shot might be coming your way?"

"You never know. Exactly," answered Morlock. "I mean Gibbs talked about how easy it is, people disappear on the battlefield all the time."

A lawyer for Gibbs declined to comment. All five charged are in military custody.

Morlock's lawyer, Michael Waddington, said his client made his confession at a time when he was taking heavy medication.

"My client did not kill anyone," said Waddington. "He did not use any bullets or any grenades to kill any of these individuals."

In addition to murder, the Army's charging documents allege rampant drug use in Morlock's unit, as well as the dismemberment of dead Afghan civilians.

Cpl. Morlock describes how Sergeant Gibbs allegedly collected the fingers of some of his Afghan victims.

"It's his thing now," said Morlock. "I don't know, his crazy stuff. War trophies, whatever."

Morlock said Gibbs boasted of carrying out similar murders in Iraq but was never caught and threatened the men in his unit with harm if they refused to participate or revealed what was happening.

"If Gibbs knew that I was sitting in front of this camera right now, there's no doubt in my mind that he'd f---ing take me out if he had to," Morlock told the Army investigators.

Matthew.A.Cole@Abcnews.com

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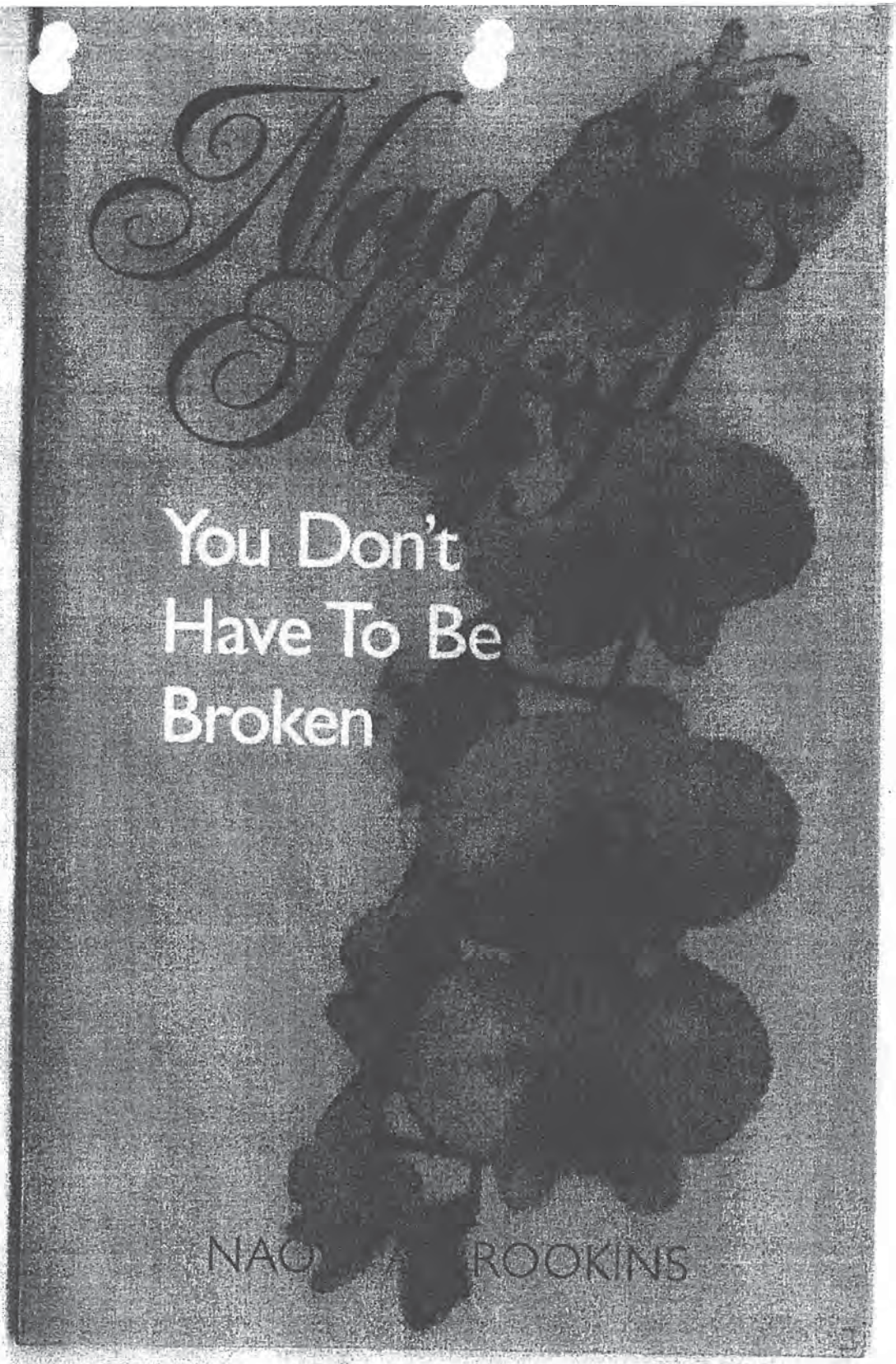

EXHIBIT
154

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Naomi's Story: You Don't Have To Be Broken is a compelling work of strength and perseverance. Naomi's dedication to succeed against tremendous odds and obstacles serves as an inspiration to us all and her self-confidence is contagious.

The book is spiritually uplifting as well, for it provides reasurrance that there is a higher being gently guiding us through life.

Naomi A. Brookins is a teacher, librarian, college lecturer, public speaker, and writer. She earned a bachelor's degree in education and master's degrees in library science and U.S. history. She has also been the recipient of the Superior Public Service Award for her work in the Chicago Metropolitan Area.

From **Naomi's Story: You Don't Have To Be Broken**

My day, my hopes, and yes my life had taken on a new dimension. My faith in God and in myself had created a vista for my life.

✦

I now knew that the power filled action that my faith endowed me with could never be destroyed by anyone or anything.

If there were many storms-- and I knew that there would be many with the intent of shattering my hopes--I would not be afraid.

✦

"If I don't sell, you're going to kill me. If I sell, you're still going to kill me. Therefore, I'm going to die standing like a giant for my God."

✦

I said to Him, "God, I want you to become my best friend and teacher." Within my heart I heard these words, "Naomi, I will never leave you alone. I will be all that you need."

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American Literary Press, Inc.
Five Star Special Edition

As I continued to read the Bible and grow in spiritual strength, I began to ask questions about the scriptures that I did not understand. Children and adults attended the same Bible class in which my papa was the teacher. As expected, I received no answers from my papa. He demanded that I just listen and ask no questions. My uncle, who was the pastor of the church, felt the same way. My mama let me know that only adult men discussed the Bible in church. I then knew that no help was forthcoming. Therefore, I got out of bed very early in the morning and borrowed my mama's Bible and then left the house. When I found a quiet place for study and meditation, the answers that I needed burst forth with clarity.

One very hot Wednesday in August my grandma let me know that I was mature enough to be given answers to many of my questions. She reminded me that I would be eleven years of age in December. She also let me know that she was counting on me to be successful with my life. She asked me to come to her house on Saturday and stay for a long discussion.

When I arrived at her house, she seemed very sad. She, my aunt, and I went into the front bedroom where we sat in front of her big fireplace. She and my aunt sat in rocking chairs; I sat in a comfortable but smaller chair with a firm backrest. I began to feel that something serious was about to take place. I quietly bowed my head and asked God to give me the heart to understand all that I heard.

My grandma began by stating that she had heard about all of the questions that I had been asking. She let me know that Mrs. Killingsworth had asked her to explain to me why I would have to stop talking about becoming a teacher. This was because Mrs. Killingsworth wanted to keep her job so that she could help me quietly. She let me know that our conversation that day would always be a secret between the three of us. She stressed that for the welfare of all, I must never talk about what was about to be said. At that moment the feeling of being a child vanished and I began to feel the weight of responsibility.

I learned that Rev. Milligan Newsome, her husband and my grandfather, was a special kind of person who took God's

work very seriously. He was a preacher, educator, teacher, and one who felt that it was his duty to look out for all those who lived in Spindle Bottom. Everyone loved and depended on him. All of this land around our houses, church, and school once belonged to him. He, along with one deacon, built Clark Creek Church and school. He was supported by two very powerful men of God, Rev. Charles Harrison Mason and Rev. Charles Price Jones.

"When the white community saw the progress that your grandpa was making, they tried to force him to sell all of his land. He refused to even discuss it with them. He then began to advise others not to sell their land."

My grandmother stood and walked over to where I was sitting. She placed her arm around my shoulder and said, "Naomi, your grandfather was a wonderful, stubborn, black Indian, God fearing preacher who did not fear what man could do to him.

"Within a year the head of a prominent white family came to him and let him know that if he did not sell his land, he would be killed. Your grandfather looked him straight in the eye and said, 'If I don't sell, you're going to kill me. If I sell, you're still going to kill me. Therefore, I'm going to die standing like a giant for my God.'

"Shortly after this encounter, your grandfather went down by the covered bridge to cut firewood. Your papa, who was only seventeen years of age and very devoted, went with him. The man who had voiced the threat came by the house and asked me where had that nigger gone. He was carrying a rifle and a baseball bat. He stated that he only wanted to talk to that stubborn boy. I made the mistake of letting him know where they had gone.

"As the white man walked away from me, I knew within my heart that your grandfather would be killed. When he found your grandfather and shot him, your papa stood and watched. Your papa helped his dad to climb into the wagon. Your grandpa always carried the Holy Bible with him. He took the Bible from the wagon and stumbled into the house to let me know that he

had been shot. Your papa and I put him in the bed. He asked me to place the Bible under his pillow, but he could hardly speak as he said, 'My love, teach our five children not to hate anyone.' He then gasped for breath and fell asleep."

My grandmother went on to say that there was a very strange look on my papa's face. She said that she had never heard anyone cry so loud and strange. "His screams seemed to shake his whole body. He was totally out of control. I did not know what to do. He said over and over that no one should have told the man where they were.

"To this day, I feel so guilty. I knew that your papa would never be the same. He seemed to be falling apart. He was truly a broken young man."

At this point my grandma became very emotional and as she was leaving the room, she demanded that my aunt finish the story. The following is the rest of the story.

"Within a year after this, the man who murdered your grandpa took all of the land. He went around bragging about how he had killed that nigger Indian and then took his land. There was no law in Mississippi that would help the family. They were left at the mercy of the murderer.

"About two years later, the murderer offered to give back part of the land. Your grandma refused to accept the offer. She said that she wanted all of her land or none. None is what she received. Within this same year, the murderer entered the hospital in Vicksburg, Mississippi. He was suffering and dying from cancer that had consumed his whole body, including his brain. The word got around that as he was dying, he continued to scream these words, 'I'm sorry that I killed that nigger Indian preacher for nothing.' Still the law did nothing about it."

After my aunt had finished talking, there was complete silence in the room. I asked for permission to go outside for a little while. She said, "Yes Naomi, take a few minutes away from all of this. You're still so very young and yet you wanted to know." As I left the room, I felt so very, very tired.

When I returned, I thanked my aunt and grandma for letting me know just what happened to my grandpa. My grandma then

said that she was sorry that she did not take the part of the land that was offered to her. I answered her by saying that I understood. She then said, "I want you to let us know how you feel about what is taking place in your life and with your family."

This was the moment that I had been waiting for. I began by saying that my papa was not seventeen years of age anymore. "He is a grown man with a family. He needs to let us know that he loves us. Everyone in the house is afraid of him. I want to become educated so that I can help all of us. I would like to buy back some of the land that belonged to grandpa. I know that we're sharecroppers who grow a lot of corn, cotton, sugarcane, potatoes, peanuts and much more. I don't understand why my papa gives our share of the crop to other people. Most of the time we have nothing to eat. All of our neighbors have their own homes, wagons, mules, trucks, etc. We have nothing. My papa even sold the cows, horses and hogs that my mama's papa gave her. He even gets angry when we go by a friend's house and get a glass of milk. He even sells our food and uses the money to send the church's secretary away to high school. Why doesn't he want any of us to go to high school? He doesn't even want my two older brothers to finish eighth grade."

There was so very much more that I wanted to say. However, I was too exhausted.

At that moment everyone began to cry. My aunt and grandma said that they did not have the answers to all of my questions. They said that they believed that I had the kind of faith that my grandpa had. With this kind of headstart, I would someday be able to answer all of our questions. I promised them that I would not let them down.

Now that I understood, to some degree, why my papa was so full of hate and anger, I asked, "Why am I the only one in my family who is always in so much pain?"

My grandma asked my aunt to explain this to me.

My aunt began by saying that when my mama gave birth to each baby, my papa demanded that my mama herself cut the umbilical cord. "Even though we knew of a midwife who would have done the job, your papa would not listen to anyone. With

AO 399 (Rev. 10/95)

WAIVER OF SERVICE OF SUMMONS

TO: Ronald L. Phillips, EEOC Acting Supervisory Trial Attorney
(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, Maryland Classified Employees Assoc., Inc., acknowledge receipt of your request
(DEFENDANT NAME)

that I waive service of summons in the action of EEOC v. MCEA,
(CAPTION OF ACTION)

which is case number 1:10cv00762WDQ in the United States District Court
(DOCKET NUMBER)

for the _____ District of Maryland.

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after 4/18/2010,
(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

4/21/2010
(DATE)

_____
(SIGNATURE)

Printed/Typed Name: Craig F. Ballew, Esq.

As agent/counsel of MCEA
(TITLE) (CORPORATE DEFENDANT)

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

EXHIBIT 155

WAIVER OF SERVICE OF SUMMONS

TO: Marjam Supply Company, Inc. and
Choice Labor Inc.
c/o Burke; Miele & Golden
30 Matthews Street, **P.O.** Box 216
Goshen,NY 10924

I acknowledge receipt of your request that I waive service of Summons in the action ***of Kevin Dickerson, Willie Dubose and Dennis Newton v. Marjam Supply Company, Inc. and Choice Labor Inc.,*** which is case number **03 CV 5413** in the United States District Court of the Southern District of New York. I have also received a copy of the Complaint in this action, two copies of this instrument and the means by which I can return a signed Waiver to you without cost to me.

I agree to save the cost of service of Summons and an additional copy of this Complaint in this lawsuit by not requiring Marjam Supply Company, Inc. and Choice Labor Inc. to be served with judicial process in the manner provided by Rule 4. Marjam Supply Company,

Inc. and Choice Labor Inc. will retain all defenses or objections to the lawsuit or to the Jurisdiction or venue of the Court except for objections based on a defect in the Summons or the service of the Summons.

I understand a judgment may be entered against Marjam Supply Company, Inc. and Choice Labor Inc. if an answer or motion under Rule 12 is not served upon you within sixty (60) days after July 14, 2004 or within ninety (90) days after the date if the request was sent outside the United States which it was not.

Dated: July 14, 2004

BURKE, MIELE & GOLDEN

By: /s/
Richard B. Golden, Esq
Attorneys for Defendants Marjam Supply Company, Inc. and Choice Labor Inc.

Michael E. Lively (0066536)
Patrick B. Healy (0083756)
Counsel for Stor-All Alfred, LLC

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STOR-ALL ALFRED, LLC,	:	**CASE NO. A0901302**
Plaintiff,	:	**(Judge John Andrew West)**
v.	:	
DENISE V. NEWSOME,	:	**AFFIDAVIT OF LORI WHITESIDE IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**
Defendant.	:	
	:	
	:	

State of Kentucky)
) ss:
County of Carter)

I, Lori Whiteside, being first duly cautioned, state the following is true and accurate to the best of my personal knowledge:

1. I have been employed by Stor-All for the last 8 years as an administrative assistant. My primary job responsibilities are accounts payable, accounts receivable, payroll, scheduling, notice and advertisement of sales, as well as assistance with collections of past due tenants.

2. On July 27, 2007, Denise Newsome rented storage unit #173 with Crown Self Storage, 1109 Alfred Street, Cincinnati, Ohio 45214 location.

3. Prior to Stor-All Alfred's purchase of the property on January 18, 2008, I had never had any communication with Denise Newsome or knowledge concerning her.

EXHIBIT 156

4. To my knowledge, none of the employees at Stor-All had any prior communication with or knowledge of Denise Newsome prior to Stor All Alfred's purchase of the property on January 18, 2008.

5. Denise Newsome has not paid rent to Stor-All for the use of its property since April 1, 2008.

6. Between approximately December 8, 2008 and January 9, 2009, I personally communicated multiple times with Denise Newsome in an attempt to either have her vacate the premises and/or become current on her past-due payments.

7. On December 8, 2008 I had a telephone conversation with Newsome while I was working from my home, attempting to resolve this matter. At that time I told Ms. Newsome I would fax a letter confirming our conversation when I arrived at the office on December 9, 2008.

8. On December 9, 2008, after I had prepared the letter to fax to Newsome, I realized I did not have her fax number with me. I called Ms. Newsome's work number which was listed as a contact when we bought out Crown Self-Storage, and called that number. When the receptionist answered, I requested a fax number for Denise Newsome. The receptionist provided me with a fax number and I then faxed my correspondence to Ms. Newsome. My only intention in sending this fax was to follow through on my promise to Newsome by faxing a letter confirming our telephone conversation the previous evening.

9. On December 19, 2008, Stor-All offered to provide transportation to Denise Newsome so that she may remove her property from Stor-All's premises. Stor-All also offered to waive late fees and reduce the amount of past due rent. Newsome rejected these offers.

10. With Newsome refusing to negotiate her past-due rent and/or vacate the storage unit, Stor-All initiated a forcible entry and detainer action, pursuant to R.C. § 1923.

11. In order to comply with R.C. § 1923, I served Denise Newsome with written notice to leave the premises via first class mail, certified mail, and posting of the notice on Unit #173 at Stor All Alfred.

12. The only motivation for initiating the forcible entry and detainer action against Denise Newsome was so that Stor-All may re-acquire its property. After several attempts to negotiate with Ms. Newsome, including offering the free use of Stor All Afred's moving truck, driver, and gas, and reducing her balance due to $0.00, there was no other way for us to re-acquire Unit #173 from Ms. Newsome but court intervention. There was no ulterior motive or purpose for the forcible entry and detainer action.

FURTHER AFFIANT SAYETH NOT.

Lori Whiteside

Sworn before me and subscribed in my presence by Lori Whiteside this 17 day of September, 2009.

Notary Public
Expires 11/29/09

Ledger History

Thursday, May 01, 2008

Printed on Thurs... May 01, 2008 10:36:31AM

Stor-All Alfred, 1109 Alfred St., Cincinnati OH 45214 TEL: 513-681-6464

10323

Tenant Newsome, Denice V.
Company
Unit 173
Size 5x5
Area 25.0
Lease # 2543
Lease Date 7/27/2007

Address P.O Box 14731
Cincinnati OH 45250
USA

Phone 513-680-2922
Alternate Phone 513-852-6053
Business Phone 513-000-0000

Billing Monthly
Billing Day 1
Rental Rate 35.00

Date Out
Paid Thru 3/31/2008

NSF Checks 0

Charge Balance 101.90
Current Balance 101.90
Credit Balance 0.00
Deposit Liability (Cash Basis) 0.00
Refund Due 0.00

Tax Exemption #
Transferred From
Transferred To

* marks partially paid charges.
! marks reversed NSF payments and charges.

Date	End Date	Description	Check/Card Number	Receipt	Invoice	Charge Batch	Applied Refund	Issued Credit	Payment	Charge	Balance
7/27/2007		Check	2126	25147					50.60	0.00	-50.60
7/27/2007	7/27/2007	Administrative Fee				12495				15.97	-34.63
7/27/2007	7/31/2007	Rent				30111				29.82	-4.81
8/1/2007	8/31/2007	Rent				30112				4.81	0.00
9/1/2007	9/30/2007	Rent				30902				29.82	29.82
9/1/2007		Check	2158	25527					29.82	0.00	0.00
10/1/2007	10/31/2007	Rent				31299				29.82	29.82
10/6/2007		Internet	*0000	26005					29.82	0.00	0.00
11/1/2007	11/30/2007	Rent				31691				29.82	29.82
11/5/2007		Internet	*0000	26348					29.82	0.00	0.00
11/29/2007		Check	2219	26554					39.82	0.00	-39.82
12/1/2007	12/31/2007	Rent				31806				29.82	-10.00
12/31/2007		Check	2253	26860					39.82	0.00	-49.82
1/1/2008	1/31/2008	Rent				31807				29.82	-20.00
2/1/2008	2/29/2008	Rent				32159				29.82	9.82
2/4/2008	2/4/2008	Late Fee				15055				15.00	24.82
2/16/2008		Credit		27559				15.00		0.00	9.82
		Waived current late fee 1.									
2/16/2008		Check	posted on	27560					9.84	0.00	-0.02
3/1/2008	3/31/2008	Rent				32900				29.82	29.80
3/4/2008	3/4/2008	Late Fee				33391				5.00	34.80
3/4/2008		Check	2295	27760					30.00	0.00	4.80
3/4/2008		Credit		27760				5.00		0.00	-0.20
		Waived current late fee 1.									
4/1/2008	4/30/2008	*Rent				33464				29.82	29.62
4/4/2008	4/4/2008	Late Fee				34202				5.00	34.62
4/4/2008	4/4/2008	Overlock Fee				34293				10.00	44.62
4/14/2008	4/14/2008	2nd Late Notice Fee				34395				10.00	54.62
4/21/2008	4/21/2008	Pre. Lien Not. Fee				34503				10.00	64.62
5/1/2008	5/31/2008	Rent				34799				37.28	101.90
		$14.00 off stnd.rate									

EXHIBIT 157

Ledger History

Tuesday, January 20, 2009

Printed on Tuesday, January 20, 2009 10:16:38AM

Stor-All Alfred, 1109 Alfred St., Cincinnati OH 45214 TEL: 513-681-6464

10323

Tenant Newsome, Denice V.
Company
Unit 173
Size 5x5
Area 25.0
Lease # 2543
Lease Date 7/27/2007

Address P.O Box 14731
Cincinnati OH 45250
USA

Phone 513-680-2922
Alternate Phone 513-852-6053
Business Phone 513-000-0000

Billing Monthly
Billing Day 1
Rental Rate 42.00

Date Out
Paid Thru 3/31/2008

NSF Checks 0

Charge Balance	552.39
Current Balance	552.39
Credit Balance	0.00
Deposit Liability (Cash Basis)	0.00
Refund Due	0.00

Tax Exemption #
Transferred From
Transferred To

* marks partially paid charges.
! marks reversed NSF payments and charges.

Date	End Date	Description	Check/Card Number	Receipt	Invoice	Charge Batch	Applied Refund	Issued Credit	Payment	Charge	Balance
7/27/2007	7/27/2007	Administrative Fee				12495				15.97	15.97
7/27/2007	7/31/2007	Rent				30111				29.82	45.79
7/27/2007		Check	2126	25147					50.60	0.00	-4.81
8/1/2007	8/31/2007	Rent				30112				4.81	0.00
9/1/2007	9/30/2007	Rent				30902				29.82	29.82
9/1/2007		Check	2158	25527					29.82	0.00	0.00
10/1/2007	10/31/2007	Rent				31299				29.82	29.82
10/6/2007		Internet	*0000	26005					29.82	0.00	0.00
11/1/2007	11/30/2007	Rent				31691				29.82	29.82
11/5/2007		Internet	*0000	26348					29.82	0.00	0.00
11/29/2007		Check	2219	26554					39.82	0.00	-39.82
12/1/2007	12/31/2007	Rent				31806				29.82	-10.00
[illegible]31/2007		Check	2253	26860					39.82	0.00	-49.82
[illegible]/2008	1/31/2008	Rent				31807				29.82	-20.00
2/1/2008	2/29/2008	Rent				32159				29.82	9.82
2/4/2008	2/4/2008	Late Fee				15055				15.00	24.82
2/16/2008		Credit Waived current late fee 1.		27559				15.00		0.00	9.82
2/16/2008		Check	posted on	27560					9.84	0.00	-0.02
3/1/2008	3/31/2008	Rent				32900				29.82	29.80
3/4/2008	3/4/2008	Late Fee				33391				5.00	34.80
3/4/2008		Check	2295	27760					30.00	0.00	4.80
3/4/2008		Credit Waived current late fee 1.		27760				5.00		0.00	-0.20
4/1/2008	4/30/2008	*Rent				33464				29.82	29.62
4/4/2008	4/4/2008	Late Fee				34202				5.00	34.62
4/4/2008	4/4/2008	Overlock Fee				34293				10.00	44.62
4/14/2008	4/14/2008	2nd Late Notice Fee				34395				10.00	54.62
4/21/2008	4/21/2008	Pre. Lien Not. Fee				34503				10.00	64.62
5/1/2008	5/31/2008	Rent $14.00 off stnd.rate				34799				37.28	101.90
5/4/2008	5/4/2008	Late Fee				35005				5.00	106.90
5/7/2008	5/7/2008	Lien Process Fee				35226				35.00	141.90
5/20/2008	5/20/2008	Lock Cut & Inv. Fee				35344				35.00	176.90
5/31/2008	5/31/2008	Lien Advertise Fee				35466				25.00	201.90
6/1/2008	6/30/2008	Rent $14.00 off stnd.rate				35601				37.28	239.18
6/4/2008	6/4/2008	Late Fee				35759				5.00	244.18
6/7/2008	6/7/2008	Lien Advertise Fee				35895				25.00	269.18
6/16/2008	6/16/2008	Auction Fee				35995				50.00	319.18
7/1/2008	7/31/2008	Rent $14.00 off stnd.rate				36294				37.28	356.46
7/4/2008	7/4/2008	Late Fee				36489				5.00	361.46
8/1/2008	8/31/2008	Rent $14.00 off stnd.rate				37062				37.28	398.74

Ledger History

Tuesday, January 20, 2009

Stor-All Alfred, 1109 Alfred St., Cincinnati OH 45214 TEL: 513-681-6464 10323

Tenant Newsome, Denice V.
Company
Unit 173
Size 5x5
Area 25.0
Lease # 2543
Lease Date 7/27/2007

Address P.O Box 14731
Cincinnati OH 45250
USA

Phone 513-680-2922
Alternate Phone 513-852-6053
Business Phone 513-000-0000

Billing Monthly
Billing Day 1
Rental Rate 42.00

Date Out
Paid Thru 3/31/2008

NSF Checks 0

Charge Balance 552.39
Current Balance 552.39
Credit Balance 0.00
Deposit Liability (Cash Basis) 0.00
Refund Due 0.00

Tax Exemption #
Transferred From
Transferred To

* marks partially paid charges.
! marks reversed NSF payments and charges.

Date	End Date	Description	Check/Card Number	Receipt	Invoice	Charge Batch	Applied Refund	Issued Credit	Payment	Charge	Balance
8/4/2008	8/4/2008	Late Fee				37202				5.00	403.74
9/1/2008	9/30/2008	Rent $14.00 off stnd.rate				37765				44.73	448.47
9/4/2008	9/4/2008	Late Fee				37905				5.00	453.47
10/1/2008	10/31/2008	Rent $14.00 off stnd.rate				38438				44.73	498.20
10/4/2008	10/4/2008	Late Fee				38598				5.00	503.20
11/1/2008	11/30/2008	Rent $14.00 off stnd.rate				39185				44.73	547.93
11/4/2008	11/4/2008	Late Fee				39326				5.00	552.93
11/5/2008		Credit INVALID OR DUPLICATE CHARGE		30632				100.00		0.00	452.93
12/1/2008	12/31/2008	Rent				39816				44.73	497.66
12/4/2008	12/4/2008	Late Fee				39948				5.00	502.66
1/1/2009	1/31/2009	Rent				40392				44.73	547.39
1/4/2009	1/4/2009	Late Fee				40504				5.00	552.39

TELEPHONE LIST

NAME	EMP.NO.	EXT.	FAX NO.	SECRETARY	EXT.
Armbruster, Ami M.	168	6017	419-6417		
Bender, Edward D.	041	6002	419-6402	Sharon Flood	6046
Benjamin, Roxanne M.	125	6038	419-6438		
Berninger, Paul R.	013	6088	419-6488	Sharon Flood	6046
Bowling, Beverly A.	102	0	N/A		
Breed, Thomas J.	037	6076	419-6476	Denise Newsome	6053
Brue, Jennifer M.	259	6048	419-6448		
Burrell, Peter M.	051	6096	419-6496	Sherry Kellison	6084
Coutinho, Rayan F.	085	6030	419-6430	Hope Kortanek	6015
Daniels, Rebecca J.	136	6011	419-6411		
Davis, Gary J.	035	6085	419-6485	Hope Kortanek	6015
Eder, William H., Jr.	008	6025	419-6425		
Eilers, John W.	055	6079	419-6479	Janet Kemper-Hull	6050
Engel, Heather L.	104	6022	419-6422		
Flood, Sharon A.	105	6046	419-6446		
Flottman, Anne B.	27	6094	419-6494		
Forbes, Jeffrey D.	058	6092	419-6492	Janet Kemper-Hull	6050
Frank, Kevin K.	075	6004	419-6404	Kathy Richey	6081
Frankel, Jan M.	029	6045	419-6445	Beci Daniels	6011
Garry, Timothy A., Jr.	061	6035	419-6435	Beci Daniels	6011
Gillan, Brian P.	034	6055	419-6455	Beci Daniels	6011
Griffith, Andrea M.	129	6006	419-6406		
Hall, Suzanne M.	*301*	*6059*	*419-6459*		
Hamilton, Juanita L.	106	6014	419-6414		
Harrison, James B.	039	6047	419-6447	Jennifer Brue	6048
Harrison, Jonathan D.	990	6029	N/A		
Heidkamp, Rose A.	163	6064	419-6464		
Hoffman, Meredith R.	101	6016	419-6416		
Horwitz, Elizabeth A.	028	6032	419-6432	Kathy Ritchey	6081
Kellison, Sherry M.	174	6084	419-6484		
Kemper-Hull, Janet	114	6050	419-6450		
Knarr, Judy I.	161	6089	419-6489		
Knauer, Brian M.	131	6042	419-6442		
Korbee, Harold G.	33	6082	419-6482	Juanita Hamilton	6014
Kortanek, Hope R.	112	6015	419-6415		
Lehner, Lisa deHart	*045*	*6013/4013*	*419-6413*	*Suzanne Hall*	*6059*
Lewis, Mary J.	072	6061	419-6461	Beci Daniels	6011
Malloy, Robert P.	021	6043	419-6443	Janet Kemper-Hull	6050
McGuire, Joel F.	087	6003	419-6403	Sharon Flood	6046
McSherry, Jeffrey P.	046	6008	419-6408	Sherry Kellison	6084
Menker, David J.	142	6010	419-6410		
Menninger, Hank E., Jr.	019	6033	419-6433	Diane Werner	6005
Menninger, Michael J.	086	6077	419-6477	Diane Werner	6005
Milliken, Mary M.	134	6009	419-6409		
Myers, Marianne E.	126	6020	419-6420		
Newsome, V. Denise	109	6053	419-6453		
Niehaus, Roccina S.	057	6062	419-6462	Judy Knarr	6089
Oster, E. Wednesday	084	6071	419-6471		
Pannos, Lisa K.	146	6018	419-6418		
Parsley, Sharon S.	89	6012	419-6412	Denise Newsome	6053
Pikna, Raymond J., Jr.	060	6039	419-6439	Diane Werner	6005
Pugh, Julie R.	088	6007	419-6407	Kathy Richey	6081
Rammes, Lisa M.	050	6051	419-6451	Jennifer Brue	6048
Reckman, Mark S.	030	6054	419-6454	Hope Kortanek	6015
Reckman, Robert F.	005	6019	419-6419	Sharon Flood	6046
Richey, Kathy M.	118	6081	419-6481		
Richshafer, Howard L.	25	6027	419-6427	Juanita Hamilton	6014
Rollman, Jeffrey M.	023	6057	419-6457		
Schmidt, C.J., III	048	6052	419-6452	Juanita Hamilton	6014
Schneider, Kenneth J.	006	6021	419-6421	Judy Knarr	6089
Shafer, Laura K.	127	6036	419-6436		
Sherman, Marcia V.	128	6023	419-6423		
Vogelsang, Stacey L.	121	6074	419-6474		
Walsh, Heather D.	90	6075	419-6475		
Weber, Arthur D., Jr.	031	6097	419-6497	Sharon Flood	6046
Werner, Dianna P.	113	6005	419-6405		
Westendorf, Douglas L.	062	6093	419-6493	Kathy Richey	6081
Woebkenberg, Thomas M.	036	6044	419-6444	Judy Knarr	6089

Indiana Number

CONFERENCE ROOMS

Lamping	**6080***
Legacy	6083
Mt. Airy	6031
Mt. Auburn	6109
Wood	**6070****

***Must be plugged in as needed**
****Must be plugged in as follows:**
Red jack – regular telephone
Yellow jack – conference telephone

MISCELLANEOUS NUMBERS

Copy Room /East	6104
Copy Room/West	6068
Fax Machine	852-6087
Lobby	**No telephone**
Lunch Room	6099
Mail Room	6107
Page	Dial #30

MISCELLANEOUS INFORMATION

W&L is a partnership, ID #31-0494955
W&L Website: www.woodlamping.com
Indiana Phone: (812) 537-2375
Indiana Fax (812) 537-2368

BUILDING MANAGEMENT

Hertz Properties Garage 421-0063
Hertz Prop. Offices/Security 241-6006
Hertz Properties Fax 241-9242

EXHIBIT 158

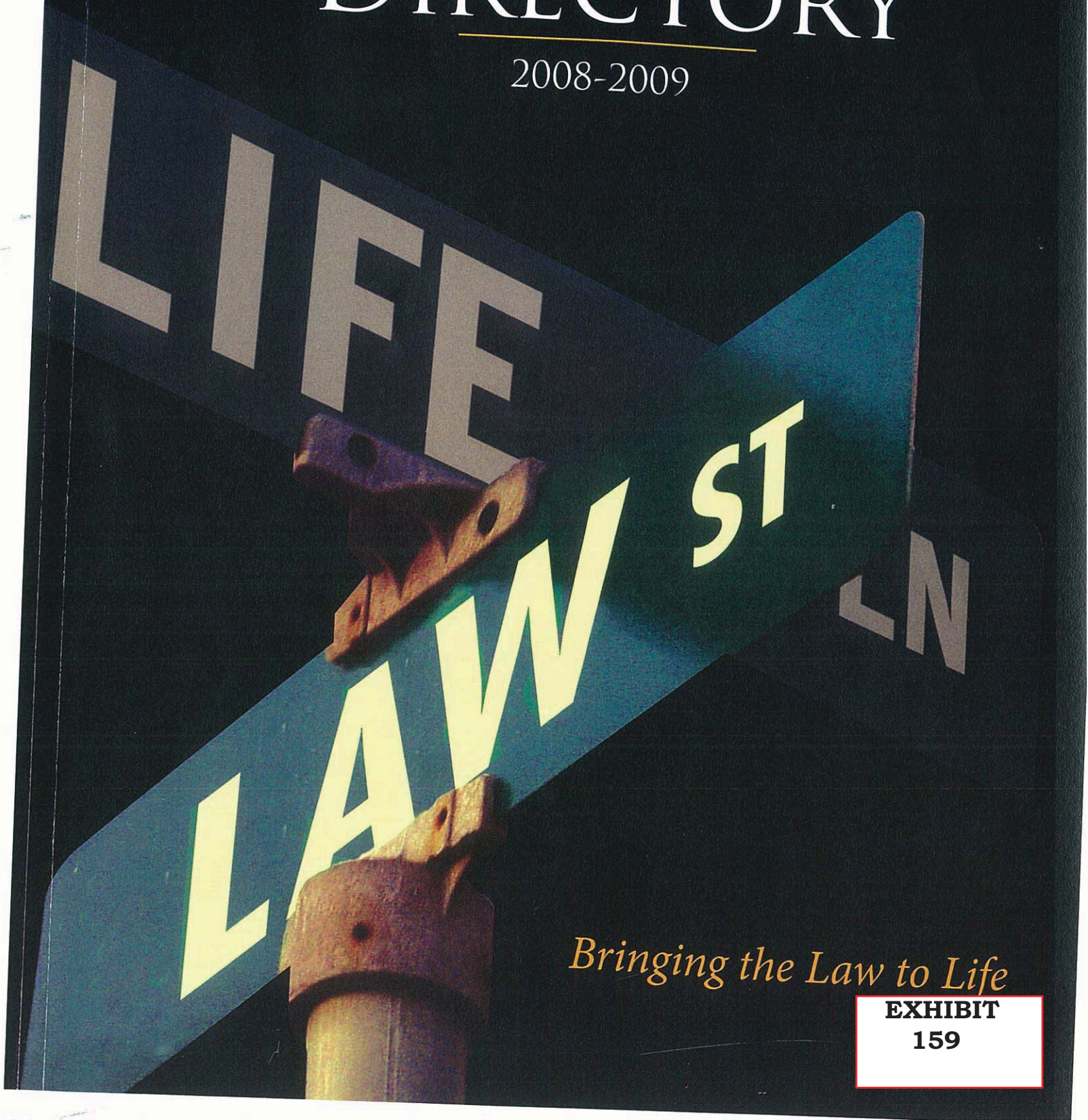
NAME	Ext/VM	DID	FAX
ARMBRUSTER, AMI	6017	513-852-6017	513-419-6417
BENDER, ED	6002	513-852-6002	513-419-6402
BENJAMIN, ROXANNE	6038	513-852-6038	513-419-6438
BERNINGER, PAUL	6088	513-852-6088	513-419-6488
BLONDELL, TOM	*6019*	*513-852-6019*	*513-419-6419*
BOWLING, BEVERLY	6001		
BREED, TOM	6076	513-852-6076	513-419-6476
BRUE, JENNIFER	6048	513-852-6048	513-419-6448
BURKE-TILLEMA, CHRISTINA	6027	513-852-6027	513-419-6427
BURRELL, PETER	6096	513-852-6096	513-419-6496
CALLOW, AMY	6012	513-852-6012	513-419-6412
COUTINHO, RAYAN	6030	513-852-6030	513-419-6430
CRABLE, SUE	6065	513-852-6065	513-419-6465
DANIELS, BECI	6011	513-852-6011	513-419-6411
DARRELL TRUITT	*6058*	*513-852-6058*	*513-419-6458*
DAVIS, GARY	6085	513-852-6085	513-419-6485
DONOVAN, LINDSAY	6029	513-852-6029	513-419-6429
EDER ROOM	6094	513-852-6094	
EDER, BILL	6025	513-852-6025	513-419-6425
EILERS, JOHN	6079	513-852-6079	513-419-6479
ELLINGTON-HICKS, SARAH	6026	513-852-6026	513-419-6426
ELLIS, BILL	6067	513-852-6067	513-419-6467
ENGEL, HEATHER	6022	513-852-6022	513-419-6422
FLOOD, SHARON	6046	513-852-6046	513-419-6446
FORBES, JEFF	6092	513-852-6092	513-419-6492
FRANK, KEVIN	6004	513-852-6004	513-419-6404
FRANKEL, JAN	6045	513-852-6045	513-419-6445
GARRY, TIM	6035	513-852-6035	513-419-6435
GILLAN, BRIAN	6055	513-852-6055	513-419-6455
GRIFFITH, ANDREA	6006	513-852-6006	513-419-6406
HAGEMAN, MARILYN	6010	513-852-6010	513-419-6410
HAMILTON, JUANITA	6014	513-852-6014	513-419-6414
HARRISON, JAMIE	6047	513-852-6047	513-419-6447
HART, ANGIE	6037	513-852-6037	513-419-6437
HEIDKAMP, ROSE	6064	513-852-6064	513-419-6464
HIGGINS, KAREN	6024	513-852-6024	513-419-6424
HOFFMAN, MEREDITH	6016	513-852-6016	513-419-6416
HOLZAPEL ROOM	6031	513-852-6031	
HOLZAPFEL, ERIC	6041	513-852-6041	513-419-6441
HORWITZ, ELIZABETH	6032	513-852-6032	513-419-6432
INSURANCE FILE ROOM	6034	513-852-6034	
KARLA BANSCHBAUD	*6056*	*513-852-6056*	*513-419-6456*
KELLISON, SHERRY	6084	513-852-6084	513-419-6484
KEMPER-HULL, JANET	6050	513-852-6050	513-419-6450
KITCHEN	6099		
KNARR, JUDY	6089	513-852-6089	513-419-6489
KNAUER, BRIAN	6042	513-852-6042	513-419-6442
KORBEE, HAL	6082	513-852-6082	513-419-6482
KORTANEK, HOPE	6015	513-852-6015	513-419-6415
LAMPING CONFERENCE ROOM	6080	513-852-6080	
LEHNER, LISA	6013	513-852-6013	513-419-6413

NAME	Ext/VM	DID	FAX
LEWIS, MARY	6061	513-852-6061	513-419-6461
LIBRARY	6018	513-852-6018	
MAILROOM	6068	513-852-6068	
MALLOY, BOB	6043	513-852-6043	513-419-6443
MCGRATH, BRANDON	6066	513-852-6066	513-419-6466
MCSHERRY, JEFF	6008	513-852-6008	513-419-6408
MENNINGER, HANK	6033	513-852-6033	513-419-6433
MENNINGER, MIKE	6077	513-852-6077	513-419-6477
MILLIKEN, MARY	6009	513-852-6009	513-419-6409
MILNER, SANDY	6049	513-852-6049	513-419-6449
MYERS, MARIANNE	6020	513-852-6020	513-419-6420
NEWMAN, PETER	6028	513-852-6028	513-419-6428
NEWSOME, DENISE	6053	513-852-6053	513-419-6453
NIEHAUS, ROCCINA	6062	513-852-6062	513-419-6462
OSTER, EW	6071	513-852-6071	513-419-6471
PERKINS, PAT	6040	513-852-6040	513-419-6440
PIKNA, RAY	6039	513-852-6039	513-419-6439
PUGH, JULIE	6007	513-852-6007	513-419-6407
RAMMES, LISA	6051	513-852-6051	513-419-6451
RECKMAN, MARK	6054	513-852-6054	513-419-6454
~~RICHEY, KATHY~~	~~6081~~	~~513-852-6081~~	~~513-419-6481~~
ROLLMAN, JEFF	6057	513-852-6057	513-419-6457
SCHMIDT, CJ	6052	513-852-6052	513-419-6452
SCHNEIDER ROOM	6091	513-852-6091	
SCHNEIDER, KEN	6021	513-852-6021	513-419-6421
SHAFER, LAURA	6036	513-852-6036	513-419-6436
SHERMAN, MARCIA	6023	513-852-6023	513-419-6423
SHOCKNEY, BILL	6095	513-852-6095	513-419-6495
SUZANNE HALL	*6059*	*513-852-6059*	*513-419-6459*
TERRI WORTHINGTON	*6060*	*513-852-6060*	*513-419-6460*
VOGELSANG, STACEY	6074	513-852-6074	513-419-6474
WEBER, ART	6097	513-852-6097	513-419-6497
WERNER, DIANE	6005	513-852-6005	513-419-6405
WESTENDORF, DOUG	6093	513-852-6093	513-419-6493
WOEBKENBERG, TOM	6044	513-852-6044	513-419-6444
WOOD CONFERENCE ROOM	6070	513-852-6070	

Cincinnati Bar Association

Cincinnati Bar Association Directory

2008-2009



Bringing the Law to Life

EXHIBIT
159

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Covington KY 41012-0352
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(859) 491-1001 Fax
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Leonard G. Rowekamp
Shane C. Sidebottom
Matthew B. DeMarcus

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Thomas J. Breed ..... (513) 852-6076
Lisa deHart Lehner ..... (513) 852-6013
Elizabeth A. Horwitz ..... (513) 852-6032
John W. Eilers..... (513) 852-6079
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Lisa M. Rammes ..... (513) 852-6051
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Douglas L. Westendorf ..... (513) 852-6093
Raymond J. Pikna Jr. ..... (513) 852-6039
Roccina S. Niehaus..... (513) 852-6062
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Kevin K. Frank..... (513) 852-6004
Jeffrey D. Forbes..... (513) 852-6092
Joel F. McGuire ..... (513) 852-6003
E. Wednesday Oster ..... (513) 852-6071
Rayan F. Coutinho Ph.D. ..... (513) 852-6030
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Anne Barry Flottman..... (513) 852-6000
Sharon S. Parsley ..... (513) 852-6000
Howard L. Richshafer ..... (513) 852-6027
Heather D. Walsh..... (513) 852-6075
Of Counsel
Robert F. Reckman ..... (513) 852-6000
William H. Eder Jr. ..... (513) 852-6025
Brian P. Gillan..... (513) 852-6055

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Gregory J. Lunn
Kurt L. Grossman
Clement H. Luken Jr.
Thomas J. Burger
Gregory F. Ahrens
Wayne L. Jacobs
Kurt Andrew Summe
Kevin G. Rooney
Keith R. Haupt
Theodore R. Remaklus
Thomas W. Humphrey
Scott A. Stinebruner
David H. Brinkman
Kristi L. Davidson
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P. Andrew Blatt
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David W. Dorton
Steven W. Benintendi
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Charles R. Figer Jr.
Adam R. Weeks
Kevin E. Kuehn
Ana Cristina Jaquez
Colin Lee Wier
Timothy D Ardizzone
Chastity Diane Shaffer Whitaker
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Adam Russell

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Lawrenceburg IN 47025
(812) 537-5297
(812) 537-5290 Fax
matt@zerbelaw.com

Stor All
253 Womstead Drive.
Grayson, KY 41143
Phone Number: (606) 474-6601 ext. 103
Fax Number: (606) 474-0222

Email: lorifoor@hughes.net

FAX TRANSMITTAL FORM

To: Denise Newsome
From: Lori Whiteside
Date Sent: 12/9/08
Phone: 513-680-2922
Number of Pages: 3
Fax: 513-852-6087

Message:

See attached letter. I look forward to hearing from you.

Lori

EXHIBIT 160

Stor All
253 Womstead Drive
Grayson, KY 41143
Phone Number: (606) 474-6601 ext. 103
Fax Number: (606) 474-0222

Email: lorifoor@hughes.net

FAX TRANSMITTAL FORM

To: Denise Newsome

From: Lori Whiteside

Date Sent: 12-9-08

Phone: _____

Number of Pages: 12 (incl. cover)

Fax: 513-419-6453

Message:

Fax to: Denise Newsome
Direct Fax: 513-419-6453

From: Lori Whiteside
Fax: 606-474-0222
Mobile: 606-232-0225

Date: 12/19/08

Dear Denise:

Thanks for your fax of December 19, 2008. I appreciate your providing the applicable Landlord Tenant portions of the law. I have actually contacted Dave Meranus in Cincinnati, Ohio and forwarded our file on your unit for his review and instruction to see if we would be better off to move forward with a Forcible Entry and Detainer action. Dave is to get back with me by next week.

However, in lieu of taking these steps and trying to bring this matter to a close, Stor All Alfred is in the process of scheduling an amnesty weekend for January 9, 10, and 11, 2009, at which time we are going to have a moving truck and driver available for any of the tenants that wish to vacate the premises at absolutely no cost to the tenant. Note that there is going to be a restriction in how many miles from our facility we will be able to deliver belongings, and as soon as I find that out, I will let you know right away.

While I await your response, if you can take a look at your schedule, maybe this whole matter can be resolved during our amnesty weekend – the only thing you would need to do is to load your unit (hopefully you'll have some help) and we will provide the vehicle and driver to deliver your belongings to another location as long, again taking into consideration that mileage restriction that is going to be set. This means you have to pay absolutely nothing, and you will be in control of your property, plus you have a free truck and driver to get it delivered.

If you are interested in looking at this approach, please let me know. I will be at Stor All Alfred January 9, 10, and 11th and I would be glad to get you scheduled to vacate. I am sure you would love to bring this matter to a conclusion as would I.

In any event, I certainly look forward to hearing from you by December 23, 2008. Have a great weekend.

Sincerely,

Lori

Lori A. Whiteside

EXHIBIT
161

NOTICE OF INTENT TO ENFORCE LIEN ON STORED PROPERTY PURSUANT TO RC §5322.01, ET SEQ.

November 14, 2008
Certified #7006 2760 0002 4757 1716 Security Tag# 534228

ALF Unit# 173
Denice Newsome
P O Box 14731
Cincinnati, OH 45250

Dear Denice:

PLEASE TAKE NOTICE THAT Stor-All Alfred ("Owner") is hereby providing notice to each of the above persons at their last known address. The above names represent all persons that might claim an interest in the personal property described in this notice and all persons who have filed security agreements in the name of Occupant evidencing a security interest in said personal property with either the Secretary of State of Ohio or the County Recorder.

1. Owner's claim against Occupant is in the amount of $452.93 as of today, 11/14/08, which amount is itemized on the statement of account listed below as Exhibit A.
2. The contents of Unit 173 subject to this lien is Personal property.
3. The parties named above are hereby notified that they will be denied access to the personal property. The name of person, address and telephone number to be contacted in order to pay this claim and either obtain personal property or enter into new rental agreement is:

Manager, Stor All Alfred
1109 Alfred Street
Cincinnati, OH 45214
(513) 681-6464

4. Owner hereby demands Occupant to pay sums described in Section 1 above within ten days from the date this notice is delivered.
5. **UNLESS PAYMENT IS MADE WITHIN TEN DAYS FROM THE DATE THIS NOTICE IS DELIVERED, THE PERSONAL PROPERTY WILL BE ADVERTISED FOR SALE AND WILL BE SOLD BY AUCTION AT OWNER'S FACILITY WHERE THE PROPERTY IS STORED ON January 7, 2009 AT 12:00 NOON. IF NO PERSON PURCHASES THE PERSONAL PROPERTY IT MAY BE SOLD AT A PRIVATE SALE OR DESTROYED.**

EXHIBIT "A"

AMOUNT DUE:

RENT	$312.93
DEFAULT FEES	$140.00
TOTAL AMOUNT DUE AS OF 11/14/08	**$452.93**

NOTE: THE AMOUNT DUE IS THE AMOUNT DUE AS OF 11/14/08. ADDITIONAL CHARGES WILL BE INCURRED UNTIL PAYMENT IS MADE IN FULL. IF PAYMENT IS NOT RECEIVED IN FULL BY December AT 8:00 A.M., AN ADDITIONAL $25.00 LIEN ADVERTISEMENT FEE WILL BE ADDED TO THE AMOUNT DUE FOR THE COSTS INVOLVED WITH SELL OUT. IF PAYMENT IS NOT RECEIVED BY December AT 8:00 A.M., A SECOND $25.00 LIEN ADVERTISEMENT FEE WILL BE ADDED TO THE AMOUNT DUE. YOU WILL NOT BE ALLOWED ACCESS UNTIL THE TOTAL AMOUNT DUE IS PAID IN FULL AND THE LOCK ON THE UNIT IS REPLACED. **CASH OR MONEY ORDER ONLY (NO CHECKS).**

IF THE OCCUPANT DOES NOT PAY THE AMOUNT DUE AND A SALE OF CONTENTS DOES OCCUR, THE OCCUPANT WILL INCUR THE CHARGES OF COST OF SALE, DEFAULT FEES, AND ADDITIONAL RENT. DUE TO THESE NOTICES BEING MAILED FROM THE HOME OFFICE, ERRORS IN CHARGES MAY OCCUR. IN ALL CASES, THE ON-SITE MANAGER'S ACCOUNTING IS CORRECT AND THE AMOUNT SHOWN AT LOCATION IS THE AMOUNT DUE.

EXHIBIT 162

To Place a Legal Ad Call 513-768-8184

PROOF

NOTICE OF SALE
THE FOLLOWING TENANT'S CONTENTS WILL BE SOLD TO SATISFY A LIEN HELD BY STOR ALL ALFRED, 7109 ALFRED STREET, CINCINNATI, OHIO 45214 - TELEPHONE NO. 513-681-6464 ON JULY 9, 2008 @ 12:00 NOON. SALE WILL BE CONDUCTED AT 7109 ALFRED STREET, CINCINNATI, OHIO 45214. THIS AD IS IN ACCORDANCE WITH THE OHIO STATUTE. THE CONTENTS OF THE UNITS WILL BE SHOWN AT 12:00 NOON ON SAID DATE, WITH SEALED BIDS BEING PLACED ON CONTENTS OF UNITS. THE CONTENTS WILL BE SOLD AS A WHOLE, NOT INDIVIDUALLY. HIGH BIDDER WILL BE NOTIFIED IMMEDIATELY FOLLOWING SALE AND HAS 24 HOURS TO REMOVE ALL CONTENTS. STOR-ALL RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS CASH ONLY $15 DEPOSIT UNTIL UNIT IS CLEAN AND EMPTY.
Unit #D02, Linda S. Smith, 1627 Sutter Ave, Cincinnati, OH 45225, Personal property; Unit#B45, Rhonda D. Lowe, 1730 Blue Rock Rd., Cincinnati, OH 45223, Personal property; Unit#B24, Tammy Johnson, 664 Darby Ave, Cincinnati, OH 49282, Personal property; Unit # 385, Tonia Blunt, 4814 Winneste Ave, Cincinnati, OH 45232, Personal property; Unit # 316, Darleen Lewis, 849 West Liberty St., Apt A, Cincinnati, OH 45214, Personal property; Unit#285, Samuel Colbert, 3811 Bowling Green, Cincinnati, OH 49225, Personal property; Unit#248, Robert L. Nutt, 8694 Cabot, Cincinnati, OH 45231; Unit#243, Lee Hughes, 1323 E. McMillan, Cincinnati, OH 46206, Personal property; Unit#238, Tamishi A. Dickerson, 508 E. 12th St., #4, Cincinnati, OH 45202, Personal property; Unit#201, Derry L. Hooks, 2220 Westwd Nthrn Blvd, 819, Cincinnati, OH 48225, Personal property; Unit #179, Danica V. Newsome, PO Box 14731, Cincinnati, OH 45250, Personal property; Unit #36, Ken Koesters, 6595 Tall Timbers, Mason, OH 45040, Personal property. 458561/1069724

Johnson

246 Personal property

2 & 2

Attn: Doris

Corrected!

EXHIBIT 163

6/17/2008 12:06:15PM P. 4 NO. 601 Legals
JUN 17 2008 12:37PM CINCINNATI ENQUIERER
STOR ALL CORP 1586947/48222
PAGE 05/09

Affidavit of Publication

Publisher's Fee: 819.20 Affidavit Charge: 10.00

State of Ohio }
}
} SS.
}
Hamilton County }

Personally appeared Lyndsay K Dumond

Of the The Enquirer, a newspaper printed in Cincinnati, Ohio and published in Cincinnati, in said County and State, and of general circulation in said county, and as to the Kentucky Enquirer published in Ft. Mitchell, Kenton County, Kentucky, who being duly sworn, deposeth and saith that the advertisement of which the annexed is a true copy, has been published in the said newspaper 2 times, once in each issue as follows:

6/20/08 6/27/08

- [x] Cincinnati Enquirer
- [ ] Kentucky Enquirer
- [x] Cincinnati.Com



Lyndsay K Dumond
AFFIANT

Sworn to before me, this
June 30, 2008

Roberta D. Hyde
Notary Public of Ohio

Roberta D. Hyde
Notary Public, State of Ohio
My Commission Expires 05-19-2013

PAGE 01/01 STOR ALL COPY 16084740222 06/30/2008 10:03

PROOF

NOTICE OF SALE

THE FOLLOWING TENANT'S CONTENTS WILL BE SOLD TO SATISFY A LIEN HELD BY STOR ALL ALFRED, 1109 ALFRED STREET, CINCINNATI, OHIO 45214 - TELEPHONE NO. 513-681-6464 ON JULY 5, 2008 @ 12:00 NOON. SALE WILL BE CONDUCTED AT 1109 ALFRED STREET, CINCINNATI, OHIO 45214. THIS AD IS IN ACCORDANCE WITH THE OHIO STATUTE. THE CONTENTS OF THE UNITS WILL BE SHOWN AT 12:00 NOON ON SAID DATE, WITH SEALED BIDS BEING PLACED ON CONTENTS OF UNIT'S. THE CONTENTS WILL BE SOLD AS A WHOLE. NOT INDIVIDUALLY. HIGH BIDDER WILL BE NOTIFIED IMMEDIATELY FOLLOWING SALE AND HAS 24 HOURS TO REMOVE ALL CONTENTS, STOR-ALL RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS CASH ONLY $15 DEPOSIT UNTIL UNIT IS CLEAN AND EMPTY.

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Johnson

246 Personal

RULE 1.7: CONFLICT OF INTEREST: CURRENT CLIENTS

(a) A lawyer's acceptance or continuation of representation of a client creates a conflict of interest if either of the following applies:

(1) the representation of that client will be directly adverse to another current client;

(2) there is a *substantial* risk that the lawyer's ability to consider, recommend, or carry out an appropriate course of action for that client will be materially limited by the lawyer's responsibilities to another client, a former client, or a third person or by the lawyer's own personal interests.

(b) A lawyer shall not accept or continue the representation of a client if a conflict of interest would be created pursuant to division (a) of this rule, unless all of the following apply:

(1) the lawyer will be able to provide competent and diligent representation to each affected client;

(2) each affected client gives *informed consent*, *confirmed in writing*;

(3) the representation is not precluded by division (c) of this rule.

(c) Even if each affected client consents, the lawyer shall not accept or continue the representation if either of the following applies:

(1) the representation is prohibited by law;

(2) the representation would involve the assertion of a claim by one client against another client represented by the lawyer in the same proceeding.

Comment

General Principles

[1] The principles of loyalty and independent judgment are fundamental to the attorney-client relationship and underlie the conflict of interest provisions of these rules. Neither the lawyer's personal interest, the interests of other clients, nor the desires of third persons should be permitted to dilute the lawyer's loyalty to the client. All potential conflicts of interest involving a new or current client must be analyzed under this rule. In addition, a lawyer must consider whether any of the specific rules in Rule 1.8, regarding certain conflicts of interest involving current clients, applies. For former clients, see Rule 1.9; for conflicts involving those who have consulted a lawyer about representation but did not retain that lawyer, see Rule 1.18. [analogous to Model Rule Comment 1]

EXHIBIT 164

RULE 1.9: DUTIES TO FORMER CLIENTS

(a) Unless the former client gives *informed consent, confirmed in writing*, a lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a *substantially related matter* in which that person's interests are materially adverse to the interests of the former client.

(b) Unless the former client gives *informed consent, confirmed in writing*, a lawyer shall not *knowingly* represent a person in the same or a *substantially related matter* in which a *firm* with which the lawyer formerly was associated had previously represented a client where both of the following apply:

(1) the interests of the client are materially adverse to that person;

(2) the lawyer had acquired information about the client that is protected by Rules 1.6 and 1.9(c) and material to the matter.

(c) A lawyer who has formerly represented a client in a matter or whose present or former *firm* has formerly represented a client in a matter shall not thereafter do either of the following:

(1) use information relating to the representation to the disadvantage of the former client except as these rules would permit or require with respect to a client or when the information has become generally *known*;

(2) reveal information relating to the representation except as these rules would permit or require with respect to a client.

Comment

[1] After termination of a client-lawyer relationship, a lawyer has certain continuing duties with respect to confidentiality and conflicts of interest and thus may not represent another client except in conformity with this rule. Under this rule, for example, a lawyer could not properly seek to rescind on behalf of a new client a contract drafted on behalf of the former client. So also a lawyer who has prosecuted an accused person could not properly represent the accused in a subsequent civil action against the government concerning the same transaction. Nor could a lawyer who has represented multiple clients in a matter represent one of the clients against the others in the same or a substantially related matter after a dispute arose among the clients in that matter, unless all affected clients give informed consent, confirmed in writing. See Comment [9]. Current and former government lawyers must comply with this rule to the extent required by Rule 1.11.

[2] The scope of a "matter" for purposes of this rule depends on the facts of a particular situation or transaction. The lawyer's involvement in a matter can also be a question of degree. When a lawyer has been directly involved in a specific transaction, subsequent representation of other clients with materially adverse interests in that transaction clearly is

RULE 1.10: IMPUTATION OF CONFLICTS OF INTEREST: GENERAL RULE

(a) While lawyers are associated in a *firm*, none of them shall represent a client when the lawyer *knows* or *reasonably should know* that any one of them practicing alone would be prohibited from doing so by Rule 1.7 or 1.9, unless the prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the *firm*.

(b) When a lawyer is no longer associated with a *firm*, no lawyer in that *firm* shall thereafter represent a person with interests materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the *firm*, if the lawyer *knows* or *reasonably should know* that either of the following applies:

(1) the formerly associated lawyer represented the client in the same or a *substantially related matter*;

(2) any lawyer remaining in the *firm* has information protected by Rules 1.6 and 1.9(c) that is material to the matter.

(c) When a lawyer has had *substantial* responsibility in a matter for a former client and becomes associated with a new *firm*, no lawyer in the new *firm* shall *knowingly* represent, in the same matter, a person whose interests are materially adverse to the interests of the former client.

(d) In circumstances other than those covered by Rule 1.10(c), when a lawyer becomes associated with a new *firm*, no lawyer in the new *firm* shall *knowingly* represent a person in a matter in which the lawyer is personally disqualified under Rule 1.9 unless both of the following apply:

(1) the new *firm* timely *screens* the personally disqualified lawyer from any participation in the matter and that lawyer is apportioned no part of the fee from that matter;

(2) *written* notice is given as soon as practicable to any affected former client.

(e) A disqualification required by this rule may be waived by the affected client under the conditions stated in Rule 1.7.

(f) The disqualification of lawyers associated in a *firm* with former or current government lawyers is governed by Rule 1.11.

RULE 1.2: SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LAWYER

(a) Subject to divisions (c), (d), and (e) of this rule, a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer does not violate this rule by acceding to requests of opposing counsel that do not prejudice the rights of the client, being punctual in fulfilling all professional commitments, avoiding offensive tactics, and treating with courtesy and consideration all persons involved in the legal process. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision as to a plea to be entered, whether to waive a jury trial, and whether the client will testify.

(b) [RESERVED]

(c) A lawyer may limit the scope of a new or existing representation if the limitation is *reasonable* under the circumstances and communicated to the client, preferably in *writing*.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer *knows* is *illegal* or *fraudulent*. A lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client in making a good faith effort to determine the validity, scope, meaning, or application of the law.

(e) Unless otherwise required by law, a lawyer shall not present, participate in presenting, or threaten to present criminal charges or professional misconduct allegations solely to obtain an advantage in a civil matter.

Comment

Allocation of Authority between Client and Lawyer

[1] Division (a) confers upon the client the ultimate authority to determine the purposes to be served by legal representation, within the limits imposed by law and the lawyer's professional obligations. The decisions specified in division (a), such as whether to settle a civil matter, must also be made by the client. See Rule 1.4(a)(1) for the lawyer's duty to communicate with the client about such decisions. With respect to the means by which the client's objectives are to be pursued, the lawyer shall consult with the client as required by Rule 1.4(a)(2) and may take such action as is impliedly authorized to carry out the representation.

[2] On occasion, however, a lawyer and a client may disagree about the means to be used to accomplish the client's objectives. Clients normally defer to the special knowledge and skill of their lawyer with respect to the means to be used to accomplish their objectives,

EXHIBIT 165

particularly with respect to technical, legal, and tactical matters. Conversely, lawyers usually defer to the client regarding such questions as the expense to be incurred and concern for third persons who might be adversely affected. Because of the varied nature of the matters about which a lawyer and client might disagree and because the actions in question may implicate the interests of a tribunal or other persons, this rule does not prescribe how such disagreements are to be resolved. Other law, however, may be applicable and should be consulted by the lawyer. The lawyer should also consult with the client and seek a mutually acceptable resolution of the disagreement. If such efforts are unavailing and the lawyer has a fundamental disagreement with the client, the lawyer may withdraw from the representation. See Rule 1.16(b)(4). Conversely, the client may resolve the disagreement by discharging the lawyer. See Rule 1.16(a)(3).

[3] At the outset of a representation, the client may authorize the lawyer to take specific action on the client's behalf without further consultation. Absent a material change in circumstances and subject to Rule 1.4, a lawyer may rely on such an advance authorization. The client may, however, revoke such authority at any time.

[4] In a case in which the client appears to be suffering diminished capacity, the lawyer's duty to abide by the client's decisions is guided by reference to Rule 1.14.

[4A] Division (a) makes it clear that regardless of the nature of the representation the lawyer does not breach a duty owed to the client by maintaining a professional and civil attitude toward all persons involved in the legal process. Specifically, punctuality, the avoidance of offensive tactics, and the treating of all persons with courtesy are viewed as essential components of professionalism and civility, and their breach may not be required by the client as part of the representation.

Independence from Client's Views or Activities

[5] A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social, or moral views or activities. Legal representation should not be denied to people who are unable to afford legal services or whose cause is controversial or the subject of popular disapproval. By the same token, representing a client does not constitute approval of the client's views or activities.

Agreements Limiting Scope of Representation

[6] [RESERVED]

[7] Although division (c) affords the lawyer and client substantial latitude in defining the scope of the representation, any limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law that the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives.

Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. See Rule 1.1.

[7A] Written confirmation of a limitation of a new or existing representation is preferred and may be any writing that is presented to the client that reflects the limitation, such as a letter or electronic transmission addressed to the client or a court order. A lawyer may create a form or checklist that specifies the scope of the client-lawyer relationship and the fees to be charged. An order of a court appointing a lawyer to represent a client is sufficient to confirm the scope of that representation.

[8] All agreements concerning a lawyer's representation of a client must accord with the Ohio Rules of Professional Conduct and other law. See, *e.g.*, Rules 1.1, 1.8 and 5.6.

Illegal, Fraudulent and Prohibited Transactions

[9] Division (d) prohibits a lawyer from knowingly counseling or assisting a client to commit an illegal act or fraud. This prohibition, however, does not preclude the lawyer from giving an honest opinion about the actual consequences that appear likely to result from a client's conduct. Nor does the fact that a client uses advice in a course of action that is illegal or fraudulent of itself make a lawyer a party to the course of action. There is a critical distinction between presenting an analysis of legal aspects of questionable conduct and recommending the means by which an illegal act or fraud might be committed with impunity.

[10] When the client's course of action has already begun and is continuing, the lawyer's responsibility is especially delicate. The lawyer is required to avoid assisting the client, for example, by drafting or delivering documents that the lawyer knows are fraudulent or by suggesting how the wrongdoing might be concealed. A lawyer may not continue assisting a client in conduct that the lawyer originally supposed was legally permissible but then discovers is improper. See Rules 3.3(b) and 4.1(b).

[11] Where the client is a fiduciary, the lawyer may be charged with special obligations in dealings with a beneficiary.

[12] Division (d) applies whether or not the defrauded party is a party to the transaction. Hence, a lawyer must not participate in a transaction to effectuate illegal or fraudulent avoidance of tax liability. Division (d) does not preclude undertaking a criminal defense incident to a general retainer for legal services to a lawful enterprise. The last clause of division (d) recognizes that determining the validity or interpretation of a statute or regulation may require a course of action involving disobedience of the statute or regulation or of the interpretation placed upon it by governmental authorities.

[13] If a lawyer comes to know or reasonably should know that a client expects assistance not permitted by the Ohio Rules of Professional Conduct or other law or if the lawyer

intends to act contrary to the client's instructions, the lawyer must consult with the client regarding the limitations on the lawyer's conduct. See Rule 1.4(a)(5).

Comparison to former Ohio Code of Professional Responsibility

Rule 1.2 replaces several provisions within Canon 7 of the Code of Professional Responsibility.

The first sentence of Rule 1.2(a) generally corresponds to EC 7-7 and makes what previously was advisory into a rule. The second sentence of Rule 1.2(a) states explicitly what is implied by EC 7-7. The third sentence of Rule 1.2(a) corresponds generally to DR 7-101(A)(1) and EC 7-10. Rule 1.2(a)(1) and (2) correspond to several sentences in EC 7-7.

Rule 1.2(c) does not correspond to any Disciplinary Rule or Ethical Consideration.

The first sentence of Rule 1.2(d) corresponds to DR 7-102(A)(7). The second sentence of Rule 1.2(d) is similar to EC 7-4.

Rule 1.2(e) is the same as DR 7-105 except for the addition of the prohibition against threatening "professional misconduct allegations."

Comparison to ABA Model Rules of Professional Conduct

Rule 1.2(a) is modified slightly from the Model Rule 1.2(a) by the inclusion of the third sentence, which does not exist in the Model Rules.

Model Rule 1.2(b) has been moved to Comment [5] of Rule 1.2 because the provision is more appropriately addressed in a comment rather than a black-letter rule.

Rule 1.2(c) differs from Model Rule 1.2(c) in that it requires only that the limitation be communicated to the client, preferably in writing. The Model Rule requires that the client give informed consent to the limitation.

Rule 1.2(d) is similar to Model Rule 1.2(d) but differs in two aspects. The Model Rule language "criminal" was changed to "illegal" in Rule 1.2(d), and Model Rule 1.2(d) was split into two sentences in Rule 1.2(d).

Rule 1.2(e) does not exist in the Model Rules.

RULE 1.16: DECLINING OR TERMINATING REPRESENTATION

(a) Subject to divisions (c), (d), and (e) of this rule, a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if any of the following applies:

(1) the representation will result in violation of the Ohio Rules of Professional Conduct or other law;

(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client;

(3) the lawyer is discharged.

(b) Subject to divisions (c), (d), and (e) of this rule, a lawyer may withdraw from the representation of a client if any of the following applies:

(1) withdrawal can be accomplished without material adverse effect on the interests of the client;

(2) the client persists in a course of action involving the lawyer's services that the lawyer *reasonably believes* is *illegal* or *fraudulent*;

(3) the client has used the lawyer's services to perpetrate a crime or *fraud*;

(4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;

(5) the client fails *substantially* to fulfill an obligation, financial or otherwise, to the lawyer regarding the lawyer's services and has been given *reasonable* warning that the lawyer will withdraw unless the obligation is fulfilled;

(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client;

(7) the client gives *informed consent* to termination of the representation;

(8) the lawyer sells the law practice in accordance with Rule 1.17;

(9) other good cause for withdrawal exists.

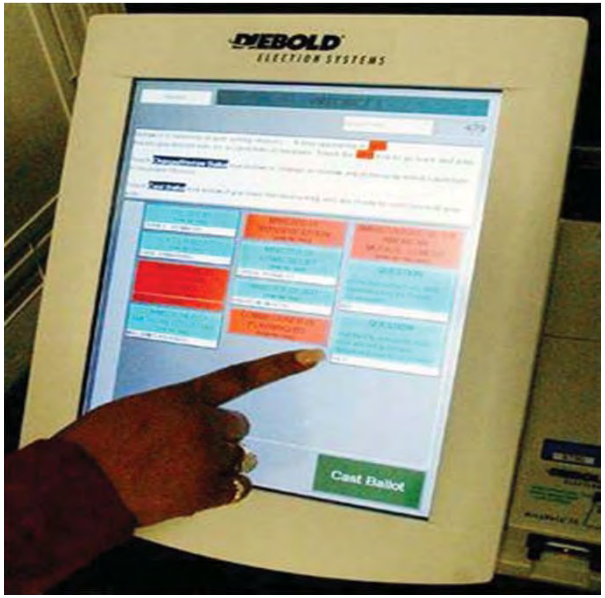
(c) If permission for withdrawal from employment is required by the rules of a *tribunal*, a lawyer shall not withdraw from employment in a proceeding before that *tribunal* without its permission.

NOVEMBER 2010 / 2012 ELECTIONS

CHANGE:

IT'S TIME TO CLEAN HOUSE

Vote OUT The Incumbents/ CAREER Politicians

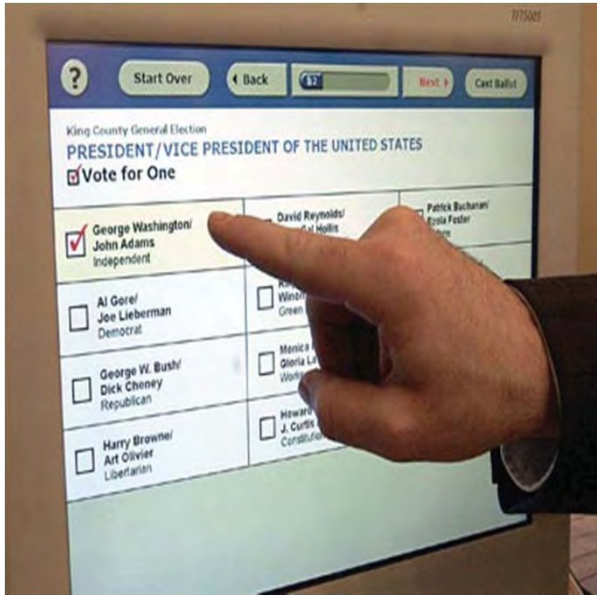


Where have our

CHRISTIAN

Morals/Values Gone?

EXHIBIT 166





HEALTH CARE REFORM

The JOKE/LAUGH may be on YOU!!

*Obama is willing to **GAMBLE** with your life and **sell out** to the highest bidder for a few pieces of silver!*

ASK YOURSELF: WHY THE RUSH/HURRY – WHAT IS OBAMA HIDING not SAYING!!

MATTHEW 24:24(b)

[24]For. . . **IF** ***it were possible***, they ***shall deceive the very elect***.

Is this the CHANGE Citizens voted for?





BEWARE OF THE WOLF (False Leader(s)) IN SHEEP'S CLOTHING!

MATTHEW 7: 15 – 20

15 Beware of false prophets, which come to you in sheep's clothing, but inwardly they are ravening wolves.

16 Ye shall know them by their fruits. Do men gather grapes of thorns, or figs of thistles?

17 Even so every good tree bringeth forth good fruit; but a corrupt tree bringeth forth evil fruit.

18 A good tree cannot bring forth evil fruit, neither can a corrupt tree bring forth good fruit.

19 Every tree that bringeth not forth good fruit is hewn down, and cast into the fire.

20 Wherefore by their fruits ye shall know them.

Is this the CHANGE Citizens voted for?

BEWARE OF THE FALSE LEADER(S) PROMISING CHANGE – But Are Giving More of the SAME!

MATTHEW 24:24

[24]For there shall arise false . . .prophets, and shall shew great signs and wonders; insomuch that, **IF** ***it were possible***, they ***shall deceive the very elect***.

Is this the CHANGE Citizens voted for?





Is this the
CHANGE
Citizens voted for?

BEWARE OF THE FALSE LEADER(S) WHO HAVE EYES BUT REFUSE TO SEE and EARS BUT CANNOT HEAR and WILL NOT HEAR WHEN GOD IS SPEAKING!

EZEKIEL 12:2-3

[2]Son of man, thou dwellest in the midst of a **rebellious house**, **which have eyes to see, and see not; they have ears to hear, and hear not:** for **they are a rebellious house.**

[3]Therefore, thou son of man, prepare thee stuff for removing, and remove by day in their sight; and thou shalt remove from thy place to another place in their sight: it may be they will consider, though they be a rebellious house.





BEWARE OF THE FALSE LEADER(S) WHO HAVE EYES BUT REFUSE TO SEE and EARS BUT CANNOT HEAR and WILL NOT HEAR WHEN GOD IS SPEAKING!

EXODUS 5:2

[2]And Pharaoh said, ***Who is the LORD, that I should obey his voice*** to let Israel go? **I know not the LORD, neither will I let Israel go**.

PROVERBS 16:18

[18]**Pride goeth before destruction**, and an **haughty *spirit before a fall***.

Is this the

CHANGE

Citizens voted for?



Is this the
CHANGE
Citizens voted for?

One of President Barack H. Obama's famous sayings during the Presidential Campaign was:

"You can put LIPSTICK on a Pig!
It is still a PIG!"

PSALM 2:2-3

[2]They speak vanity every one with his neighbour: ***with flattering lips and with a double heart do they speak***.

[3]The LORD shall cut off all flattering lips, and the tongue that speaketh proud things

PSALM 5:9-10

[9]For there is ***no faithfulness in their mouth***; their inward part is very wickedness; their throat is an open sepulchre; ***they flatter with their tongue***.

[10]Destroy thou them, O God; ***let them fall by their own counsels***; cast them out in the multitude of their transgressions; ***for they have rebelled against thee***.

PROVERBS 6:16-17

[16]These six things doth the LORD hate: yea, seven are an abomination unto him:

[17]A **proud** look, a **lying** tongue,. . .





Did American citizens vote for a ROCKSTAR or for a *United States President*?

Is Barack Obama a President full of **PRIDE**, an **INFLATED EGO**, **ARROGANGE**. . . and upon obtaining **"HIS"** goal of becoming the President, **ABANDONED** promises because he feels he is **INVINCIBLE**?

I CORINTHIANS 10:12
[12]Wherefore let him that **thinketh** he standeth ***take heed lest he fall***.

PROVERBS 16:18
[18]**Pride goeth before destruction**, and **an haughty *spirit before a fall*.**



Is this the
CHANGE
Citizens voted for?



What CHANGE (if any) did Americans see in 2009?

President Barack Obama is aware what ***VOTERS*** meant when they voted for **CHANGE** and the ***first alleged*** African-American President!

Now that Obama is President, he and his **COUNSELORS/ADVISORS** are ***steering clear*** and ***AVOIDING*** having to deal with the **CHANGE** that Americans voted for.

PSALM 1:1

[1]**Blessed** is the man ***that walketh not in the counsel of the ungodly, nor standeth in the way of sinners, nor sitteth in the seat of the scornful.***

PSALM 5:9-10

[9]For there is ***no faithfulness in their mouth***; their inward part is very wickedness; their throat is an open sepulchre; they flatter with their tongue.

[10]Destroy thou them, O God; ***let them fall by their own counsels; cast them out*** *in the multitude of their transgressions*; for they have rebelled against thee.





On November 4, 2008, did citizens vote for merely another *"PUPPET-On-A-String?"*

Did citizens know that in voting for Barack Obama they were voting for a President who ***would lack COURAGE, would be full of FEAR to do what is right, would be easily INTIMIDATED*** by those ***pulling his strings and not wanting the CHANGE*** citizens voted for?



Is this the CHANGE Citizens voted for?



WHO IS REALLY RUNNING THE WHITE HOUSE? DO CITIZENS KNOW?

So who is really pulling the strings and **AVOIDING** ***addressing the ISSUES*** (racial injustices, prejudices, discrimination. . .) and CHANGE citizens voted for? –**DON'T BE DECEIVED** this is being done with OBAMA's **FULL** SUPPORT **and** WILLINGNESS!!



JUST **ANOTHER** POLITICIAN ***CLAIMING TO BE A CHRISTIAN!!***

Tired of the **"LIES/DECEIT"** of **another** **PRESIDENT**/*ATTORNEY/LAWYER/POLITICIAN* who will use/quote scriptures to DECEIVE people to get their votes and a President who has no fear of God?

Tired of another **PRESIDENT**/*ATTORNEY/LAWYER/POLITICIAN* who will take money and sell out to the highest bidder – one who has been bought by **corrupt** CORPORATIONS, BUSINESSES, EMPLOYERS, LAWYERS, INSURANCE COMPANIES, LOBBYISTS – saying what he think citizens want to hear for DECEPTIVE purposes to get their votes!! ***Even Satan attempted to use scriptures (misquoted) to try and get Jesus to commit suicide AND abandon his calling. – ST. MATTHEW 4:1-10.*** **DON'T ALLOW** the President/Politicians to merely quote a few scriptures (**visit your churches. . .**) in speeches to get votes to take citizens over the cliff with him/them!!

MATTHEW 24:24(b)

[24]For.. . **IF** ***it were possible***, they ***shall deceive the very elect***.



PRESIDENT BARACK OBAMA:

MORE OF THE SAME. . .

President Barack Obama is aware of the **RACIAL INJUSTICES/PREJUDICES** relating to our **COURTS/JUDICIAL SYSTEM, GOVERNMENT OFFICIALS, HOUSING, EMPLOYMENT. . . Is Obama and his Administration *taking bribes/money to look the other way and not take on these ISSUES and bring about CHANGE* citizens voted for?** **If so, it is time for President Obama and his Administration to GO! THIS IS NOT THE CHANGE VOTED FOR!!!**

I SAMUEL 8:1, 3

[1]And it came to pass, when Samuel was old, that he made his sons judges over Israel. . . .

[3]And his sons walked not in his ways, ***but turned aside after lucre, and took bribes, and perverted judgment.***

JEREMIAH 1:8, 10

[8]Be not afraid of their faces: for I am with thee to deliver thee, saith the LORD. . .

[10]See, I have this day *set thee over the nations and over the kingdoms,* ***to root out, and to pull down, and to destroy, and to throw down, to build, and to plant.***





PRESIDENT BARACK OBAMA:

Birds of a Feather Flocking Together



Is this the CHANGE Citizens voted for?

Chicago Tribune

46° F

Saturday, March 1

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Breaking | Video | Trib Nation | Skilling's weather | Traffic | Obits | Ask Amy | Hor

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Topics > Politics > Government > Rod Blagojevich

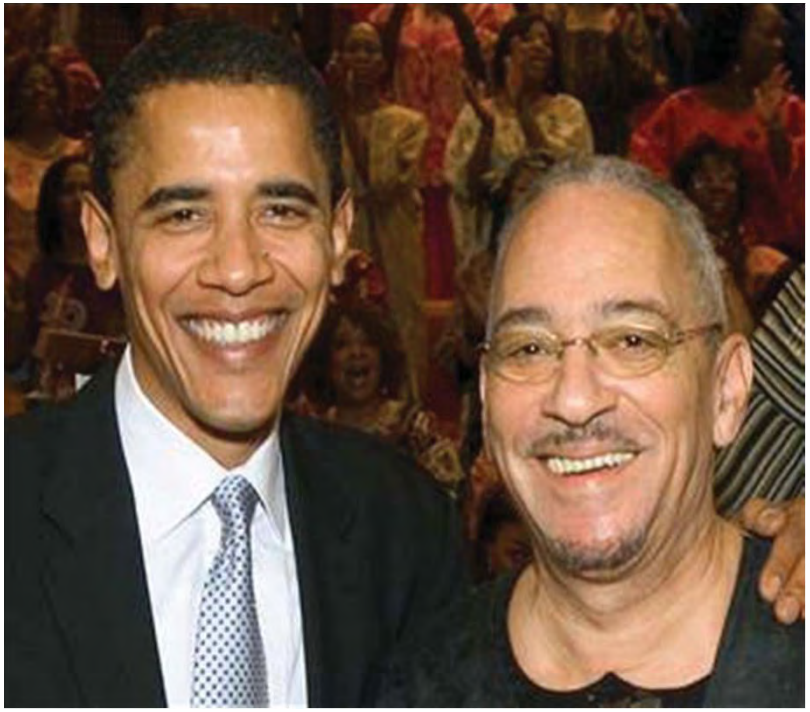
Rod Blagojevich

subscribe

Highlights | Story: Gov arrested | Story: Impeachment



Rod R. Blagojevich was the 40th governor of Illinois. He was first elected in 2002 and was re-elected in 2006. Blagojevich was born in Chicago in 1956. He graduated from Northwestern University in 1979 and earned his law degree from Pepperdine in 1983. Prior to being elected governor, Blagojevich was a Cook County Assistant State's Attorney. He was elected to the U.S. House of Representatives in 1996. On December 9, 2008, Blagojevich was arrested for political corruption. The Illinois House of Representatives impeached him, and the Senate voted on January 29, 2009, to remove him from office.



PRESIDENT BARACK OBAMA

A *SMOOTH* OPERATOR:

A **POLITICIAN** **FULL –TIME**

A **CHRISTIAN** when it is **CONVENIENT** and he wants your ***MONEY & VOTE***.

BE CAREFUL!! Obama may sell you (like he did his Pastor) out for a few pieces of silver **WHEN** it means losing his seat or the election.

OBAMA: A President who will **ABANDON** *Christian Values/Beliefs to achieve his* ***"OWN"*** *SELFISH Agenda/Goals*!

Is this the
CHANGE
Citizens voted for?







Have citizens seen the CHANGE voted for?

SEND PRESIDENT OBAMA A MESSAGE *THAT HE WILL SEE AND HEAR AT THE POLLS THROUGH VOTERS*:

IT'S TIME TO CLEAN HOUSE – STARTING WITH THE CONGRESS/LEGISLATURE

(Senate and House of Representatives)

CLEAN HOUSE 2010



Just Say No!

Speak President Obama's Language:

- In the November ELECTION **"DO NOT"** *vote for the Incumbent* – **Vote for CHANGE: Out with the Career Politicians**!!

Example: ***If you are one that vote STRICTLY party*** (Democrat/Republican) line, ***vote for the Incumbent's Opponent (if one)*** in that party.

HOUSE CLEANING
JUST SAY "NO" TO OBAMA:

Taking Back Our Government

In November,

let's say **"NO"** to the ***Incumbents*** –

CAREER POLITICIANS!!

It is time to take back the Government and *clean out the house* – not just sweep around the door.



COME THE

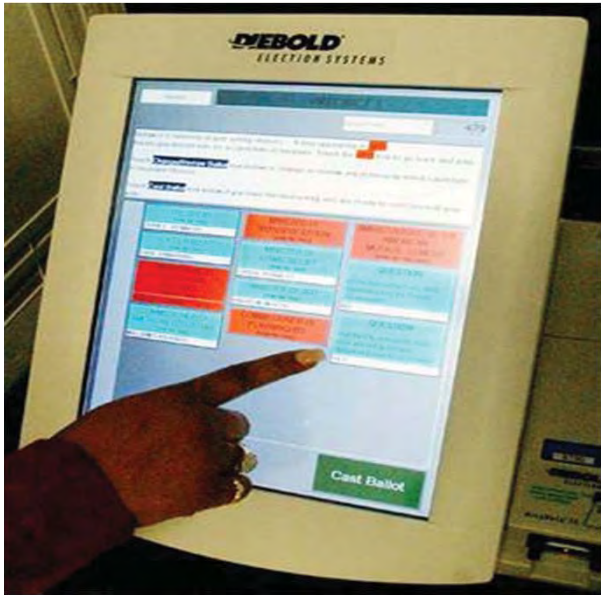
NOVEMBER 2010 / 2012

ELECTIONS

VOTE FOR CHANGE:

IT'S TIME TO CLEAN HOUSE

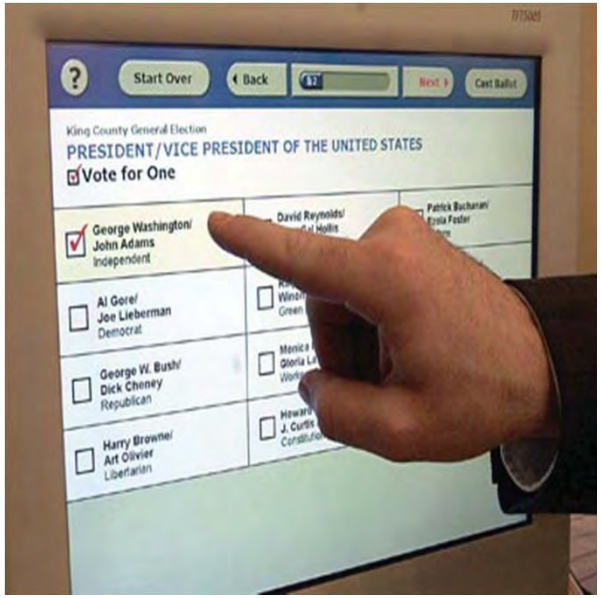
Vote OUT The Incumbents/ CAREER Politicians



Where have our

CHRISTIAN

Morals/Values Gone?



Zimbra

UNITED STATES PRESIDENT BARACK OBAMA: A CALL FOR IMPEACHMENT/RESIGNATIONS/FIRINGS - - -COVER-UP OF RACIAL INJUSTICES – How Many More Senseless/Needless Shootings As The Connecticut/Port Gibson/Virginia Tech, etc. Will Have To Continue – CLEARLY UNACCEPTABLE!!! What Is President Obama/Obama Administration Doing Regarding Complaints Filed by Newsome Which Addresses Such Matters?

From : Thu, Aug 19, 2010 02:39 PM

1 attachment

Subject : UNITED STATES PRESIDENT BARACK OBAMA: A CALL FOR IMPEACHMENT/RESIGNATIONS/FIRINGS - - -COVER-UP OF RACIAL INJUSTICES – How Many More Senseless/Needless Shootings As The Connecticut/Port Gibson/Virginia Tech, etc. Will Have To Continue – CLEARLY UNACCEPTABLE!!! What Is President Obama/Obama Administration Doing Regarding Complaints Filed by Newsome Which Addresses Such Matters?

To : bhobama@who.eop.gov, president@who.eop.gov, contact@whitehouse.gov, contact@who.eop.gov, askdoj@usdoj.gov, contact@usdoj.gov, clintonhr@state.gov, sf nancy <sf.nancy@mail.house.gov>, AmericanVoices@mail.house.gov, jrbiden@who.eop.gov, vdnewsome@gmail.com, remanuel@who.eop.gov, ian swanberg <ian_swanberg@collins.senate.gov>, rob epplin <rob_epplin@collins.senate.gov>, john richter <john_richter@snowe.senate.gov>, anna levin <anna_levin@snowe.senate.gov>, john gentzel <john.gentzel@mail.house.gov>, whitney smith <whitney_smith@kerry.senate.gov>, sebastian hazzard <sebastian_hazzard@kerry.senate.gov>, tina gray <tina_gray@cornyn.senate.gov>, mark busse <mark_busse@cornyn.senate.gov>

Cc : info@afghanembassy.ir, afghaembassytehran@hotmail.com, afghanistan ge con mashad <afghanistan_ge_con_mashad@samanir.net>, g c afgh i zahedan <g_c_afgh_i_zahedan@yahoo.com>, emarteh@yahoo.com, dfat-tehran@dfat.gov.au, teheran-ob@bmeia.gv.at, azaremb@neda.net, tehran mission <tehran.mission@mofa.gov.bh>, info@bangladoot.ir, belarus-iri@apadana.com, Claudia coffey <Claudia.coffey@foxtv.com>, lark mccarthy <lark.mccarthy@foxtv.com>, kelly frank <kelly.frank@foxtv.com>, matt gaffney

EXHIBIT 167

<matt.gaffney@foxtv.com>, allison seymour
<allison.seymour@foxtv.com>, steve shenevey
<steve.shenevey@foxtv.com>, gurvir dhindsa
<gurvir.dhindsa@foxtv.com>, cindytclc@aol.com,
bishop@actsfullgospel.org, cjackson@actsfullgospel.org,
drlimbrick@actsfullgospel.org,
lbogwalker@actsfullgospel.org

FOR YOUR INFORMATION (FYI):

----- Forwarded Message -----

From:

To: bhobama@who.eop.gov, president@who.eop.gov, contact@whitehouse.gov, contact@who.eop.gov, askdoj@usdoj.gov, contact@usdoj.gov, solis hilda , clintonhr@state.gov, sf nancy , AmericanVoices@mail.house.gov, jrbiden@who.eop.gov, vdnewsome@gmail.com, mrobama@who.eop.gov, jtbiden@who.eop.gov, remanuel@who.eop.gov, vice president , first lady , jenelle krishnamoorthy , beth stein , jenny wing , sonja hoover , lindsay jones , brian hart , becky ogilvie , galen roehl

Cc: larochelle young , brian robertson , darin guries , riley scott , landon fulmer , melanie benning , leslie bolz , josh carter , stacy cervenka , maggie fleming , josh lynch , ariel wolf , devon gallagher , jackie cottrell , sarah little , molly haase , mike seyfert , jennifer cook

Sent: Thu, 19 Aug 2010 13:20:26 -0400 (EDT)

Subject: UNITED STATES PRESIDENT BARACK OBAMA: A CALL FOR IMPEACHMENT/RESIGNATIONS/FIRINGS - - -COVER-UP OF RACIAL INJUSTICES – How Many More Senseless/Needless Shootings As The Connecticut/Port Gibson/Virginia Tech, etc. Will Have To Continue – CLEARLY UNACCEPTABLE!!! What Is President Obama/Obama Administration Doing Regarding Complaints Filed by Newsome Which Addresses Such Matters?

TO: United States President Barack Obama
United States Attorney General Eric Holder
United States Legislature/Congress
United Nations Leaders
Churches/Saints
Public/Media

NO NEED OF RUNNING TO HIDE NOW!!!

Psalm 27:1-2 - - [1]The LORD is my light and my salvation; whom shall I fear? the LORD is the strength of my life; of whom shall I be afraid?

081910-Email.zip
10MB

Zimbra

VS: WITHHOLD YOUR SUPPORT OF UNITED STATES PRESIDENT BARACK OBAMA: A CALL FOR IMPEACHMENT/RESIGNATIONS/FIRINGS - - -COVER-UP OF RACIAL INJUSTICES - How Many More Senseless/Needless Shootings As The Connecticut/Port Gibson/Virginia Tech, etc. Will Have To Continue - CLEARLY UNACCEPTABLE!!! What Is President Obama/Obama Administration Doing Regarding Complaints Filed by Newsome Which Addresses Such Matters?

From :	Kirjaamo <Kirjaamo@mintc.fi>	Sun, Aug 29, 2010 01:59 PM
Subject :	VS: WITHHOLD YOUR SUPPORT OF UNITED STATES PRESIDENT BARACK OBAMA: A CALL FOR IMPEACHMENT/RESIGNATIONS/FIRINGS - - -COVER-UP OF RACIAL INJUSTICES - How Many More Senseless/Needless Shootings As The Connecticut/Port Gibson/Virginia Tech, etc. Will Have To Continue - CLEARLY UNACCEPTABLE!!! What Is President Obama/Obama Administration Doing Regarding Complaints Filed by Newsome Which Addresses Such Matters?	
To :		

Kiitos viestistä, sähköpostiviestinne on vastaanotettu liikenne- ja viestintäministeriön kirjaamossa.

Liikenne- ja viestintäministeriön kirjaamo on muuttanut väliaikaisiin tiloihin osoitteeseen Yliopistonkatu 5. Ministeriön postiosoite ja puhelinnumerot eivät ole muutuneet.

Liikenne- ja viestintäministeriö käyntiosoite:
Yliopistonkatu 5
00100 Helsinki

Postiosoite:
Liikenne- ja viestintäministeriö
PL 31
00023 Valtioneuvosto

Vaihde: (09) 160 02
Faksi: (09) 160 28619
kirjaamo@lvm.fi
www.lvm.fi

Tack för meddelandet, ert e-postmeddelande har mottagitts av kommunikationsministeriets registratorskontor.

Kommunikationsministeriets registratorskontor har flyttat tillfälligt till Universitetsgatan 5. Ministeriets postadress och telefonnummer har inte ändrat.

Kommunikationsministeriets besöksadress:
Universitetsgatan 5
00100 Helsingfors

Postadress:
Kommunikationsministeriet
PB 31
00023 Statsrådet

Växel: (09) 160 02
Fax: (09) 160 28619
kirjaamo@lvm.fi
www.lvm.fi

Zimbra

Out of Office: WITHHOLD YOUR SUPPORT OF UNITED STATES PRESIDENT BARACK OBAMA: A CALL FOR IMPEACHMENT/RESIGNATIONS/FIRINGS - - -COVER-UP OF RACIAL INJUSTICES – How Many More Senseless/Needless Shootings As The Connecticut/Port Gibson/Virginia Tech, etc. W

From :	Netherlands Consulate General Monaco <Netherconsul@sbmoffshore.com>	Sat, Aug 28, 2010 05:08 PM
Subject :	Out of Office: WITHHOLD YOUR SUPPORT OF UNITED STATES PRESIDENT BARACK OBAMA: A CALL FOR IMPEACHMENT/RESIGNATIONS/FIRINGS - - -COVER-UP OF RACIAL INJUSTICES – How Many More Senseless/Needless Shootings As The Connecticut/Port Gibson/Virginia Tech, etc. W	
To :		

Thank you for contacting the Consulate General. Please note that the Netherlands Consulate General in Monaco has moved to: 1 ave Henri Dunant Palais de la Scala bureau n° 1251 6th floor MC 98000 Monaco tel: + 377 97 70 36 44 fax: + 377 93 50 32 26 Email: consulatgeneralpaysbas@monaco.mc

Zimbra

Autoreply: WITHHOLD YOUR SUPPORT OF UNITED STATES PRESIDENT BARACK OBAMA: A CALL FOR IMPEACHMENT/RESIGNATIONS/FIRINGS - - -COVER-UP OF RACIAL INJUSTICES – How Many More Senseless/Needless Shootings As The Connecticut/Port Gibson/Virginia Tech, etc. Will Have To Continue – CLEARLY UNACCEPTABLE!!! What Is President Obama/Obama Administration Doing Regarding Complaints Filed by Newsome Which Addresses Such Matters?

From : brasemb helsinki <brasemb.helsinki@kolumbus.fi> Sun, Aug 29, 2010 01:29 PM

Subject : Autoreply: WITHHOLD YOUR SUPPORT OF UNITED STATES PRESIDENT BARACK OBAMA: A CALL FOR IMPEACHMENT/RESIGNATIONS/FIRINGS - - -COVER-UP OF RACIAL INJUSTICES – How Many More Senseless/Needless Shootings As The Connecticut/Port Gibson/Virginia Tech, etc. Will Have To Continue – CLEARLY UNACCEPTABLE!!! What Is President Obama/Obama Administration Doing Regarding Complaints Filed by Newsome Which Addresses Such Matters?

To :

Esta mensagem foi gerada automaticamente. (message in English below)

A Embaixada do Brasil em Helsinque adotou novos endere□os de correio eletr□nico. As mensagens enviadas a este endere□o at□ julho de 2010 ser□o encaminhadas automaticamente ao setor competente e n□o precisam ser reenviadas.

Pedimos a gentileza de atualizar sua lista de endere□os para uso futuro
(visite http://www.brazil.fi/brazil/index.php?lang=PO&p=Contact_Us para conhecer nossos novos e-mails).

This is an automated message.

The email addresses of the Brazilian Embassy in Helsinki have changed. The messages sent to this address until July 2010 will be automatically forwarded to the competent department and do not need to be resent.

We kindly ask you to update your address book with the new addresses for future use
(visit http://www.brazil.fi/brazil/index.php?lang=EN&p=Contact_Us to get to know our new addresses).

Zimbra

Sisäasiainministeriön kirjaamo on vastaanottanut viestinne

From : SM_VP_HY_Kirjaamo <kirjaamo@intermin.fi> Sun, Aug 29, 2010 01:10 PM
Subject : Sisäasiainministeriön kirjaamo on vastaanottanut viestinne
To :

Sisäasiainministeriön kirjaamo on vastaanottanut viestinne. - Inrikesministeriets registratorskontor har mottagit ert meddelande. - Your message has been delivered to the Ministry of the Interior in Finland.

Sisäasiainministeriö
PL 26, 00023 VALTIONEUVOSTO
Puhelin 07187 88500
Sähköposti: kirjaamo@intermin.fi

Zimbra

Re: [WITHHOLD YOUR SUPPORT OF UNITED STATES PRESIDENT BARACK OBAMA: A =]

From : Consulat Pays Bas <no-reply@bignonlebray.com> Sat, Aug 28, 2010 05:09 PM

Subject : Re: [WITHHOLD YOUR SUPPORT OF UNITED STATES PRESIDENT BARACK OBAMA: A =]

To :

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Topics: Democracy, U.S. Government, East Asia and the Pacific
Keywords: White House Chief of Staff, Rahm Emanuel, Pete Rouse

01 October 2010

Asian American Named Obama's Top Aide



Interim White House Chief of Staff Pete Rouse

By Bridget Hunter
Staff Writer

Washington — An Asian American is President Obama's choice to fill — at least temporarily — a post that has been described as the second most powerful job in U.S. government.

The president announced October 1 that longtime counselor Pete Rouse will serve as interim chief of staff following the departure of Rahm Emanuel, whom Obama laughingly described as "leaving his post today to explore other opportunities." Media outlets across the country have reported Emanuel will be a mayoral candidate in the city of Chicago in 2011.

"As difficult as it is to leave, I do so with the great comfort of knowing that Pete Rouse will be there to lead the operation forward," Emanuel said. "From the moment I arrived, and the moment he arrived, Pete has been a good friend with great judgment. He commands the respect of everyone in this building and brings decades of experience to this assignment.

The White House chief of staff, an office established in 1952, serves as the U.S. president's senior aide. The chief of staff typically is involved in the president's major decisions and frequently represents the president during negotiations with congressional leaders. Within the White House, the chief of staff manages the staff, sets the tone for the office operations and coordinates the work of the many offices within the Executive Office of the President.



Outgoing Chief of Staff Rahm Emanuel (left), President Obama and interim Chief of Staff Pete Rouse walk together at the White House.

The position, which is filled at the discretion of the president, was first established by President Dwight D. Eisenhower. Presidents John F. Kennedy, Lyndon B. Johnson and, for a time, Jimmy Carter opted not to have a chief of staff, but every president since then has filled the post.

Rouse served as Obama's chief of staff in the U.S. Senate, an adviser on the Obama presidential campaign and a White House staff member throughout the Obama administration. He also had been chief of staff to South Dakota Senator Tom Daschle, who had been Senate majority leader until his defeat in the 2004 election. He is the grandson of Japanese immigrants.

Goro (George) and Mine Mikami came to the United States in 1911 and arrived in Seward, Alaska, in 1915, according to a September 30 article in the *Anchorage Daily News*. In 1918, they moved to Anchorage, where their daughter, Mary, entered school speaking only Japanese. She went on to become valedictorian at Anchorage High School and then to graduate in 1934 with honors from the Alaska Agricultural College and School of Mines in Fairbanks (later the University of Alaska). She earned a doctorate at Yale University, and while there met Irving Rouse, her future husband. They became parents of two sons, Peter and David.

EXHIBIT 168

The boys' maternal grandparents, who had retired and moved to Los Angeles just before World War II, were sent to a Japanese internment camp in Arizona during the war, two among nearly 120,000 Japanese Americans removed from their homes and held in internment camps in the aftermath of the Japanese attack on Pearl Harbor. In 1983, the U.S. government acknowledged the injustice of internment with limited payments to Japanese Americans of that era who were still living.

Although Rouse will be the first Asian-American chief of staff, his predecessors include members of other minorities. John Sununu, chief of staff to President George H.W. Bush, was of Lebanese descent on his father's side, making him the first Arab American in the post. Kenneth Duberstein, who served as chief for President Ronald Reagan, was the first Jewish chief of staff. Joshua Bolten, who served under President George W. Bush, was the second and departing Obama chief Rahm Emanuel was the third.

Obama's remarks at the press conference announcing Emanuel's departure and Rouse's appointment are available on the White House website.



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Obama selects Daschle to lead revamp of health care system

No formal offer yet for Hillary Clinton

THE WASHINGTON POST

November 20, 2008

WASHINGTON – Former Sen. Tom Daschle is in line to become President-elect Barack Obama's health and human services secretary while Sen. Hillary Rodham Clinton appears to be a step closer to becoming his secretary of state.

Daschle, a former Senate majority leader from South Dakota and a confidant of Obama's, will be nominated for the Cabinet post and take on a broader role as the administration's health policy chief, according to several sources close to the transition process.

Meanwhile, former President Clinton has agreed to a series of concessions requested by officials representing the transition team to eliminate potential conflicts of interest if his wife is offered the top foreign policy spot, said people close to the Clintons.

Aides to Obama and Hillary Clinton said that a formal job offer had not been made, but the former president's decision to disclose the identities of donors to his charitable foundation and to vet speeches and overseas activities with members of the Obama administration appears to have removed some of the biggest hurdles to her nomination.

“I'll do whatever they want,” Bill Clinton said yesterday at a public appearance.

Obama's staff has thoroughly vetted both Clintons with the understanding that, if he should make an official job offer, she would accept.

As uncertainty continued to surround that Cabinet post, Daschle's selection to head the Department of Health and Human Services was confirmed yesterday by people close to the transition team.

The selection is a recognition of the central role Daschle played in Obama's political ascendancy and a signal that the new president wants a Washington insider to shepherd comprehensive health legislation.

“Having Senator Daschle at HHS and as the point person for the Obama administration on health care would only improve the chances of” enacting an overhaul of the system, said Senate Finance Committee Chairman Max Baucus, D-Mont., who is already pushing for a bill.

If confirmed by the Senate, Daschle would take over a

$707.7 billion department with nearly 65,000 employees spread across 11 operating divisions. As secretary, he will be under pressure to revitalize the Food and Drug Administration, bring financial stability to the Medicare and Medicaid programs, and move away from what many researchers have complained is the ideologically driven scientific agenda of the Bush administration.



CHRIS MADDALONI / New York Times News Service
Tom Daschle, a former senator from South Dakota, has worked at a Washington, D.C., law firm since losing his re-election bid four years ago.

Daschle, 60, recently wrote a book on his proposals to improve health care and has been working with former Senate leaders on recommendations to expand coverage.

In his book, "Critical: What We Can Do About The Health-Care Crisis," Daschle advocates creating an independent body, modeled after the Federal Reserve Board, to oversee health policy.

That idea received a hearty endorsement from Obama.

"The American health-care system is in crisis, and workable solutions have been blocked for years by deeply entrenched ideological divisions," Obama wrote. "Sen. Daschle brings fresh thinking to this problem, and his Federal Reserve for Health concept holds great promise for bridging this intellectual chasm and, at long last, giving this nation the health care it deserves."

An array of consumer groups quickly lined up in support of Daschle as secretary of a department that oversees nearly a quarter of federal spending.

"Someone with his stature and clout, combined with his passion and expertise in health care, is an exciting choice," said DeAnn Friedholm, Consumers Union's campaign director for health care reform.

Daschle, a native of South Dakota who served as an Air Force intelligence officer, spent four terms in the House and three in the Senate. A soft-spoken conciliator, he is nevertheless a fierce competitor who surprised many when he defeated Sen. Christopher Dodd, D-Conn., in the 1994 race for Senate Democratic leader, a job he held for a decade. From a policy perspective, he was best known for his work on veterans' affairs, ethanol subsidies and rural issues.

The nomination represents a political rebirth for Daschle, who four years ago was reeling from a bitter re-election defeat.

While he weighed his own future, Daschle handed over to Obama dozens of his most trusted aides and political supporters, a gift that continues to pay dividends. Obama already has placed Daschle allies Pete Rouse and Phil Schiliro in top White House positions, and named former Daschle adviser John Podesta as co-chairman of the transition team.

Daschle serves as a distinguished senior fellow at the Center for American Progress, the liberal research group formed by Podesta.

Republicans made clear yesterday that Daschle can expect questions at his confirmation hearing about lobbying by his law firm, as well as his wife's work as a Washington lobbyist.

"Barack Obama is filling his administration with longtime Washington insiders," said Alex Conant, spokesman for the Republican National Committee. "For voters hoping to see new faces and fewer lobbyist connections in government, Daschle's nomination will be another disappointment."

Daschle is not a lobbyist, although his firm – Alston & Bird – does have a lobbying arm. He serves on the advisory boards of Intermedia Partners and the BP America External Advisory Council.

Linda Hall Daschle is a registered federal lobbyist with Baker, Donelson, Bearman, Caldwell & Berkowitz, which has numerous health care clients. To avoid a potential conflict, Linda Hall Daschle announced yesterday she will resign and set up her own lobbying shop focused narrowly on transportation issues. She served as acting administrator of the Federal Aviation Administration in the Clinton administration.

Meanwhile, CNN is reporting that Democratic sources say Obama is close to making two more Cabinet nominations: Arizona Gov. Janet Napolitano for homeland security secretary and Chicago businesswoman Penny Pritzker for commerce secretary. Pritzker ran Obama's record-breaking fundraising effort, serving as the campaign's finance chair.

Yesterday, the transition team also formalized several hires, including David Axelrod, the chief strategist of Obama's presidential campaign, as a senior adviser, and Washington lawyer Greg Craig as White House counsel. Lisa Brown, a former counsel to Vice President Al Gore, was named staff secretary, and Obama's Senate legislative director, Christopher Lu, was tapped to be Cabinet secretary.

Pete Rouse



Credit: Melina Mara/TWP

Current Position: White House Interim Chief of Staff (since 2010)

Boss: Barack Obama

- Why He Matters
- Path To Power
- The Issues
- The Network
- Footnotes

Why He Matters

A veteran aide to former Senate Majority Leader Tom Daschle (D-S.D.), Rouse joined the Senate office of Barack Obama in 2004, shortly after Daschle lost his reelection bid. Rouse continued advising Obama through the first two years of his presidency, and in 2010, he was named temporary White House chief of staff as Rahm Emanuel departed to run for Chicago mayor.

Occasionally called the 101st senator during his time on Capitol Hill, Rouse began working in the House in 1973, and has a large network of friends in high places, including Daschle and Senate Majority Whip Dick Durbin (D-Ill.), for whom Rouse worked as chief of staff.

But most of Rouse's career was spent working for Daschle, who was leader of Senate Democrats for 10 of his 18 years in the Senate — all 18 of which he spent with Rouse at his side. When Daschle lost his seat in 2004, Rouse moved into the office of Obama, who had just been elected senator.

Rouse was Obama's Senate chief of staff throughout the 2008 presidential campaign, but he spent an increasing amount of time on the trail and in Chicago campaign headquarters.(1) After Obama was elected president, Rouse was named as one of three members of Obama's

At a Glance

Current Position: White House interim Chief of Staff to President Barack Obama (since 2010)

Career History: Adviser to President Barack Obama (2005 to 2010); Adviser to Sen. Tom Daschle (1986 to 2004)

Birthday: April 15, 1946

Hometown: New Haven, Conn.

Alma Mater: Colby College, B.A., 1968; Harvard University, M.A.; London Schools of Economics, M.A., 1970

Spouse: Single

Religion: N/A

DC Office: N/A

transition team, along with John Podesta and Valerie Jarrett.

Email N/A

Web site

"Everybody smiles when you talk about Pete, because he is tough on the outside and soft on the inside and everybody knows that," Daschle said. "I think his secret of success, his magic, is that he has an amazing capacity to bring disparate people together and create a unity in a level of cooperation and chemistry that is remarkable."(2)

Unlike his forceful predecessor Emanuel, Rouse is described as a compromiser who is "completely ego-free" in the words of President Obama.(3)



In His Own Words

“I was well aware that we could use an injection of fresh blood and talent in the Senate,” Rouse said of Obama in 2008. “So my view was, since he's not running for president in 2008, to get him started: to set up his operation; get a good team in place; get a good strategic plan in place; get a good structure. ... I'll lay that foundation, and we'll see what happens. I'll be in my rocking chair when he runs in 2016 or whatever.”(4)

Next Section >

Path to Power

Rouse was born in New Haven, Conn., and went to Colby College. He earned masters' degrees from Harvard University and the London Schools of Economics and arrived in Washington to work in the Senate mailroom. Rouse met Daschle in 1973, when they sat next to each other as aides to then-Sen. James Abourezk (D-S.D.). When Abourezk retired, Daschle went back to South Dakota to campaign for an open House seat, and Rouse stayed in Washington and worked in a variety of Hill Democratic offices.(2)

Rouse's mother grew up in Alaska, and he moved to Anchorage in 1979 to work as the chief of staff for Republican Lt. Gov. Terry Miller for three years.(5) That was the only time Rouse worked for a Republican, saying: "I am more interested in what people stand for and what my philosophical compatibility is. I have found only one Republican. All the rest of them have been Democrats."(2)

The stint with Miller was also the only time Rouse worked outside of Washington. He returned after just a few years to work in then-Rep. Dick Durbin's (D-Ill.) office. After coming to the House in the early 1980s, Durbin hired Rouse to be his chief of staff.

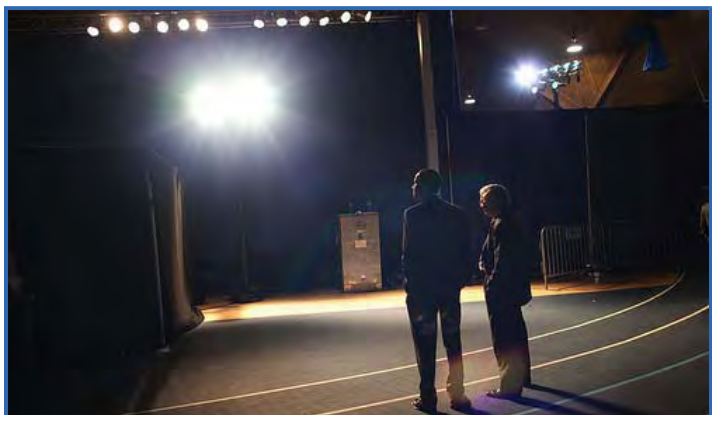
Rouse worked there until Daschle called him in 1986. Daschle said he was planning on a Senate run and wanted Rouse to run his House office during the campaign. After the victory, Rouse moved into Daschle's Senate office as his chief of staff.(2)

Longtime Daschle Aide

Rouse served as Daschle's top staffer for nearly 20 years, building an impressive Rolodex along the way.

As Daschle's chief of staff, Rouse described his job as "to make sure everything stays on track and every once in a while help out with a little perspective here and there and on the controversial issues that are not just political in South Dakota but matters of principle."(2)

He was considered one of the most important people on the Hill, earning him the moniker the "101st senator."(6) He helped get Daschle elected Senate minority leader in 1994 by one vote in an election against Sen. Christopher J. Dodd (D-Conn.). After Daschle was upset by Sen. John Thune (R-S.D.) in the 2004 election, Rouse contemplated getting out of government.



But then Obama asked him to be his chief of staff. Rouse didn't expect Obama to be running for president two years later — and he says he hadn't even seen the senator's electrifying 2004 Democratic National Convention speech — but after a little prodding from Obama and adviser Cassandra Butts, he agreed.(4)

"I was well aware that we could use an

injection of fresh blood and talent in the Senate," Rouse said. "So my view was, since he's not running for president in 2008, to get him started: to set up his operation; get a good team in place; get a good strategic plan in place; get a good structure. ... I'll lay that foundation, and we'll see what happens. I'll be in my rocking chair when he runs in 2016 or whatever."(4)

Nonetheless, Rouse methodically prepared for a possible Obama presidential bid - which he said was more of a "vision for the future" - in case Obama chose to run from the time the freshman senator came to Washington in 2005. But he said there were no serious meetings about such a bid until after the 2006 midterm elections.(4)

The Issues

Rouse mastered a low-profile advisory role in his first two years at the Obama White House. Obama's faith in him won him the role of temporary replacement for Chief of Staff Rahm Emanuel when Emanuel departed in fall 2010 to mount a campaign for Chicago mayor. He is known among White House aides as simply "the fixer." (3)

One of Rouse's first pieces of advice to Obama was to warn him that a rule barring future lobbying for potential White House staffers might deter good candidates from applying.

And when plans, spearheaded by then-White House Counsel Gregory Craig, to close controversial terrorist detention camp Guantanamo Bay went awry, Rouse was called in to fix the problem.(7)

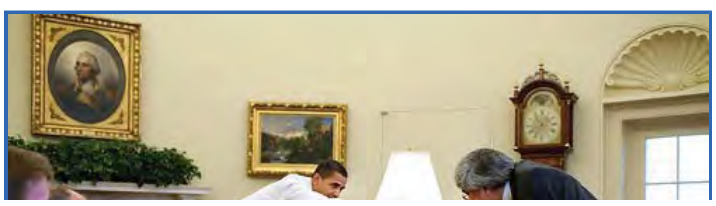
During the dustup over how to establish a new consumer watchdog required by the July 2010 regulatory reform bill, it was Rouse who crafted the compromise allowing liberal favorite Elizabeth Warren to emerge as a presidential adviser, avoiding Senate confirmation but influencing the formation of the body. (3)

Obama in the Senate

As soon as Obama was elected senator, Rouse went to work building the newcomer's "street cred." He and Obama decided to focus on Illinois issues that first year and show that he could be a team player in the Senate, while continuing to lay the groundwork for the future.

Defining and honing Obama's place in the Senate fell largely to Rouse.(4) "There was a reason why he was Tom Daschle's former chief of staff. He's one of the best staffers on the Hill, tremendously respected by all," Obama said.(8)

Rouse also helped Obama build bridges with conservative members of Congress, like Sens. Tom Coburn (R-Okla.) and Richard Lugar (R-Ind.). *The Washington Post* called



him “a fixer steeped in the ways of a
Washington that Obama has been both eager to learn and quick to publicly condemn,” and Obama said, “Pete’s very good at looking around the corners of decisions.”(9)

Rouse understands the Senate, and he understands the implications of each vote. When Obama thought about voting to confirm now-U.S. Supreme Court Chief Justice John Roberts because he respected him, despite disagreeing with him on the issues, Rouse explained that the vote would haunt him in the future.

The Network

After three decades on the Hill, the list of Rouse’s friends in Washington is long and distinguished. But many of his top connections come from his 18 years in Sen. Tom Daschle’s office, ten of which were as Senate Democratic leader.

Obama communications director Dan Pfeiffer, a former communications director for Sen. Evan Bayh (D-Ind.), and Obama Deputy Campaign Manager Steve Hildebrand, a strategist who worked with Vice President Al Gore in 2000, both were friends from Rouse’s days with Daschle.

Rouse also worked as the chief of staff for Senate Majority Whip Durbin when he was in the House.



(photos courtesy Pete Souza / White House)

Footnotes

1. Pickeler, Nedra, “Democrat Barack Obama brings in friend and long-term adviser amid concerns about campaign,” *The Associated Press*, Sept. 21, 2007

2. Preston, Mark, “A career ally keeps ‘Daschle Inc.’ steady,” *Roll Call*, July 28, 2004

3. Kornblut, Anne, The Washington Post, Pete Rouse, who will replace Emanuel as chief of staff, is known as 'fixer,' Sept. 30, 2010

4. Frontline interview with Pete Rouse, Oct. 16, 2008

5. Cockerham, Sean, “Obama targets Alaska as battleground state, aide says,” *Anchorage Daily News*, July 18, 2008

6. “The New Team: Pete Rouse,” *The New York Times*, Nov. 6, 2008

7. Kornblut, Anne and Linzer, Dafna, "White House Regroups on Guantanamo," Sept. 25, 2009

8. Lannan, Maura Kelly, “Obama gets committee assignments, hires Daschle aide,” Dec. 6, 2004

9. Bacon Jr., Perry, “The Outsider’s Insider,” *The Washington Post*, Aug. 27, 2007

VOGEL D. NEWSOME

Post Office Box 31265
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September 23, 2004

[RESPONSE REQUESTED]

BY PRIORITY MAIL –Confirmation
Office of the Solicitor General
c/o Honorable Paul D. Clement
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

***BY PRIORITY MAIL –Confirmation**
Madonna Cynthia Douglass, Chair
Administrative Review Board
Room S-4309
200 Constitution Avenue, N.W.
Washington, D.C. 20210

***BY PRIORITY MAIL – Confirmation**
Tammy D. McCutchen, Administrator
Alfred Robinson, Acting Administrator
Wage and Hour Division
U.S. Department of Labor/ESA
Room S-3502
200 Constitution Avenue, NW
Washington, D.C. 20210

*Sent in same Priority Mail envelope with names highlighted to be distributed to proper department/individual(s)

RE: *ARB Case No. 04-082*
Newsome v. Mitchell, McNutt & Sams, P.A.

Request for Review of March 19, 2004, Decision Rendered by the United States Department of Labor – Wage and Hour Division, Jackson, Mississippi Office

Request for Department of Justice's Intervention/Participation in this Case

Dear Mr. Clement:

I am in receipt of The Administrative Review Board's ("ARB") Final Decision and Order entered on or about September 14, 2004, in this case. Enclosed, for your review, is a copy of same.

I am requesting your Agency's intervention/participation in this matter, in that I find that based upon the evidence in the record, federal officials' with the Wage and Hour Division ("WHD") and ARB actions may be unlawful. Moreover, done to obstruct justice, hinder the proceeding before it and deprive me rights secured under the United States Constitution and other laws governing said matters. Therefore, your agency's intervention/participation in this

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case is needed to insure that the proper laws are enforced and justice rendered to correct the wrongs and injustice complained of on this Appeal.

It is important to note that the ARB, first, attempted to assert that it did not have jurisdiction over matters requesting review of the United States Department of Labor – Wage and Hour Division, Jackson, Mississippi Office's decision entered on or about March 19, 2004. The ARB requested that I provide a response to its Order to Show Cause dated June 22, 2004, by July 6, 2004. I complied with said demands by the ARB and provided documentation to support the ARB's jurisdiction over this matter – in that the ARB attempted to mislead me and assert that under no circumstances did it have jurisdiction over this matter.

However, when such a frivolous argument by the ARB failed, on or about September 14, 2004, the ARB entered a Final Decision and Order advising the following:

> "In this case, Newsome appeals a decision issued by the Department of Labor's Wage and Hour Division. The Secretary of Labor has delegated authority to the ARB to review final decisions of the Administrator of the Wage and Hour Division or an approved agent of the Administrator[2]"

fn. 2 states:

> The Administrator of the Wage and Hour Division did not sign the letter of which Newsome seeks review, nor does the letter purport to be a final decision of the Administrator. Given our conclusion that the ARB does not have jurisdiction of this case in any event, it is not necessary for us to determine whether the letter was a final decision by an authorized agent of the Administrator.

Copy attached hereto at p. 2.

The conclusion of the ARB is vague and appears to lack substance to support it. So, I conclude, that the ARB is not exercising jurisdiction over this matter – based on a mere technicality (Administrator did not sign March 19, 2004, letter containing the WHD's decision). *Neither does the ARB make it clear whether or not the District Director – Billy R. Jones of the WHD, Jackson Mississippi Office – is an approved agent of the Administrator.* Even if such technicality had merits, the record evidence will support that the Administrator for the WHD – Tammy D. McCuthen ("McCuthen) – was timely, properly and adequately placed on notice and/or informed of the WHD's handling of this matter. A courtesy copy of the Request for Review dated April 15, 2004, was submitted to McCuthen. *Therefore, giving the Administrator/Acting Administrator of the WHD plenty of time to intervene and/or respond to this Appeal because* ***no*** *final decision has been entered. Thus, it is safe to conclude the* ***March 19, 2004, decision*** *by the WHD* ***is amendable***. Rather than create a trail of *bread crumbs* leading to this conclusion, all the ARB had to do was advise Newsome that the WHD has failed to comply with the laws governing said matters – when the WHD failed to enter a ***Final Decision***

in compliance with the laws. Moreover, as requested by Newsome, all the ARB had to do was forward information onto the Administrator/Acting Administrator for the WHD as requested by Newsome in her April 15, 2004, letter submitting Request for Review.

It is important to note that I submitted my *Request for Review of March 19, 2004, Decision Rendered by the United States Department of Labor – Wage and Hour Division, Jackson, Mississippi Office* ("Request for Review"), on or about **April 15, 2004**.

This matter has been before the United States Department of Labor since about **February 11, 2004**. *It is now September*, approximately ***seven*** months later, and neither the ARB or Wage and Hour Division's Administrator, Tammy D. McCuthen, have addressed the issues raised in my Request for Review dated April 15, 2004. It has almost been **a year** that my employer, Mitchell, McNutt & Sams, P.A. has not paid me in compliance with the FLSA.

You will see from the record evidence in the ARB's handling of this matter, that the following persons have been notified and/or are aware of this matter brought before the ARB by myself:

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Associate Solicitor
Division of Fair Labor Standards
U.S. Department of Labor
Room N-2716, FPB
200 Constitution Avenue, NW
Washington, DC 20210

Alfred Robinson
Acting Administrator
Wage and Hour Division
U.S. Department of Labor/ESA
200 Constitution Avenue, NW
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Howard Radzely
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Clyde Payne
U.S. Department of Labor
Occupational Safety & Health Administration
Jackson Area Office
3780 I-55 North, Suite 210
Jackson, MS 39211

Billy R. Jones
District Director
Jackson Area Office
U.S. Department of Labor
ESA Wage & Hour Division
McCoy Federal Building
100 West Capitol Street, Suite 608
Jackson, MS 39269

yet, to date, neither have come forth on its own to correct the wrongs and unlawful practices of Mitchell, McNutt & Sams, P.A.

Therefore, I am requesting that your Agency/Department get involved in this matter, and am requesting that your Agency/Department require the Administrator – Tammy D. McCuthen or Acting Administrator, Alfred Robinson –provide written responses to the Request for Review, and the 26 Issues raised therein, submitted to their Agency's attention via copy in April, 2004.

Mr. Clement, because of the procrastination and needless delay by the WHD and ARB, I hope you will agree ***that requesting*** *that the Administrator and/or Acting Administrator for the WHD produce* ***written responses to the Issues raised*** *in Request for Review and the Request for Review itself* ***by October 12, 2004****, is reasonable*.

There are approximately 26 numbered Issues raised in the Request for Review. Therefore, as a matter of law, I am requesting the Administrator/Acting Administrator for the Wage and Hour Division provide me with written responses to the Issues raised in my Request for Review and all supporting evidence the Administrator/Acting Administrator relied upon to derive their decision(s)/conclusion(s) on each. A COPY OF THE REQUEST FOR REVIEW (Brief Only)[1] is attached hereto for your reference.

I hope and believe that you will find that based upon the evidence in the record of the WHD, said agency has failed to follow its own procedures governing said matters. Therefore, said failure may be challenged under the Administrative Procedure Act. – See pp. 39 thru 42 of the Request for Review attached hereto.

Should you have further questions or comments, please do not hesitate to contact me.

Sincerely,

Vogel Newsome

Vogel Newsome
Post Office Box 31265
Jackson, Mississippi 39286
(601) 885-9536 or 362-4910

cc: Tammy D. McCuthen, Administrator - Wage and Hour Division (w/ encls.)
Billy R. Jones, District Director (w/ encls.)
Howard Radzely, Office of the Solicitor (w/o encls.)
Steven J. Mandel, Esq., Associate Solicitor (w/o encls.)
Clyde Payne (w/o encls.)
James T. Allen, COO, MMS (w/ encls.)

[1] If the Solicitor General's Office is requesting the exhibits as well, copies are in the record and possession of the ARB.