

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

KAREN McPETERS, individually, and on §
behalf of those individuals, persons and entities §
who are similarly situated §
Plaintiff §

vs. §

CIVIL ACTION NO. 4:10-CV-1103

JURY

THE HONORABLE FREDERICK E. §
EDWARDS; BARBARA GLADDEN §
ADAMICK, DISTRICT CLERK; §
MONTGOMERY COUNTY, TEXAS, and §
REED ELSEVIER, INC. d/b/a LexisNexis §
Defendants §

ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

Now comes Karen McPeters (“McPeters”), individually and on behalf of those individuals, persons and entities similarly situated, and files her Original Complaint, against The Honorable **Frederick E. Edwards**, District Judge, 9th District Court, Montgomery County, Texas; **Barbara Gladden Adamick**, District Court Clerk of Montgomery County, Texas; **Montgomery County, Texas** through County Judge, Alan B. Sadler, and David K. Walker, Montgomery County Attorney, and **Reed Elsevier, Inc. d/b/a/ LexisNexis**.

1. Defendants, jointly and severally, have violated Karen McPeters’ equal rights, and due process protections of the U.S. Constitution, Bill of Rights, Amend. XIV. Defendants, jointly and severally, have violated Karen McPeters’ equal rights, open courts and due course of law protections of the Bill of Rights, Art. 1, §§§§ 3, 13, 19 and 29 of the Texas Constitution.

2. Defendants have received income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United State Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in the acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.
3. Karen McPeters brings suit on her behalf and on behalf of those individuals, persons and entities similarly situated.

JURISDICTION

4. This Court has jurisdiction to hear this complaint and to adjudicate the claims stated herein under 28 U.S.C. § 1331 and 1343. Further, jurisdiction is conferred by the U.S. Constitution, Article XIV, and Federal statutes, 18 U.S.C. § 1965, and 42 U.S.C. § 1983.

PARTIES

5. **Plaintiff, Karen McPeters**, is an individual involved in litigation in Montgomery County, Texas, in which Montgomery County, Texas is the Defendant.
6. **Defendant 1 is The Honorable Frederick E. Edwards**, individually and in his capacity as the District Judge of the 9th District Court, Montgomery County, Texas, who may be served with process at the Montgomery County Courthouse, 301 North Main, Suite 110, Conroe, Texas 77301.
7. **Defendant 2 is Barbara Gladden Adamick**, individually and as the District Court Clerk of Montgomery County, Texas, who may be served with process at the Montgomery County Courthouse, 301 North Main, Conroe, Texas 77301.

8. **Defendant 3 is Montgomery County, Texas**, a political sub-division of the State of Texas, which may be served with process by serving its agent, County Judge, Alan B. Sadler, 301 N. Thompson Street, Ste. 210, Conroe, Texas 77301, and David K. Walker, Montgomery County Attorney, 207 West Phillips, Ste. 100, Conroe, Texas 77301.
9. **Defendant 4 is Reed Elsevier, Inc. d/b/a LexisNexis**, a foreign corporation with offices in Newton, Massachusetts, registered to do business in Texas, which may be served with process by serving its registered agent, C T Corporation System, 350 North St. Paul St., Dallas, Texas 75201.

FACTS

10. Karen McPeters is the plaintiff in Cause No. 07-09-09142, styled “Karen McPeters v. Montgomery County, Texas,” a civil lawsuit in the 9th District Court of Montgomery County, Texas.
11. Judge Frederick E. Edwards presides over the 9th District Court of Montgomery County, Texas.
12. On February 10, 2003 Judge Edwards signed an order concerning electronic filing (“E-filing”), an administrative task, in Montgomery County. *See* Exhibit “A.”
13. The 2003 Judge Edwards order was signed with a blank line on the first page of the order.
14. Judge Frederick Edwards required Karen McPeters, as a party to a civil lawsuit, to **exclusively** use *LexisNexis fileandserve* (hence “LexisNexis”), an on-line electronic filing service, to file and serve documents and pleadings in her lawsuit.
15. LexisNexis is a division of Reed Elsevier, Inc.
16. Montgomery County and/or the Montgomery County District Court Clerk have an agreement with LexisNexis to provide E- filing services.

17. LexisNexis charges filing fees, service charges, taxes and other charges (hence “fees and charges”) to a litigant for each document filed on-line.
18. LexisNexis is personally and independently responsible for the amount billed to litigants for fees and charges for use of E-filing services.
19. Barbara Gladden Adamick, the District Court Clerk of Montgomery County, Texas, directed many civil litigants, including Karen McPeters, that each is required to **exclusively** use LexisNexis on-line E-filing. Barbara Gladden Adamick is sometimes referred to herein as the District Court Clerk.
20. Barbara Adamick’s direction to civil litigants is based on Judge Edward’s 2003 E-filing order.
21. For each new civil lawsuit that qualifies under the provisions of the 2003 order, the District Court Clerk apparently is supposed to enter the new cause number in the blank on a copy of Judge Edward’s 2003 E-filing order.
22. There is no standing order, signed by all of the District Judges in Montgomery County, establishing E-filing requirements for one, or more, of the courts of Montgomery County.
23. The Montgomery County District Court Clerk did not E-file a copy of Judge Edward’s 2003 E-filing order in Cause Number 07-09-09142 (“McPeters I”).
24. McPeters I was filed May 18, 2007.
25. The Montgomery County District Court Clerk did not provide Karen McPeters with a copy of the 2003 E-filing order in McPeters I. *See* Exhibit “G.”
26. The 2003 E-filing order purports to require Karen McPeters to use E-filing exclusively.

27. Barbara Gladden Adamick, the District Court Clerk of Montgomery County, Texas, enforced the requirement for Karen McPeters, and other similarly situated civil litigants, to use on-line E-filing by:

(a) refusing to file a document tendered to her in person;

(b) returning **unfiled** any document tendered to her by mail for filing, and

(c) returning a document **tendered and filed**, with a purported cancellation of the District Court Clerk file mark, and a letter directing the preparer of the document to file the document through LexisNexis.

See Exhibits “C” and “D.”

28. Barbara Gladden Adamick, the District Court Clerk, has disregarded the known and obvious consequences of her actions, as stated in the previous paragraph.

29. The purpose of filing documents is to place them in the court’s record of the lawsuit. *Todd v. Nello L. Teer Co.*, 308 F.2d 397, 400 (5th Cir. 1962).

30. Karen McPeters has been billed and required to pay fees and charges to LexisNexis.

31. LexisNexis delivered more than two (2) bills to Karen McPeters through the U.S. Mail.

32. LexisNexis delivered more than two (2) bills to Karen McPeters electronically by email through the Internet.

33. Karen McPeters paid LexisNexis \$444.71 as of April 4, 2010.

34. Bills from LexisNexis are not signed by the Montgomery County District Court Clerk or one of her deputies.

35. LexisNexis is the agent of the Montgomery County District Court Clerk, Barbara Adamick.

36. The Texas Supreme Court agreed that Montgomery County could establish an electronic filing system, pursuant to its Miscellaneous Order No. 97-9155.

37. The District Court Clerk is required by statute to accept and file documents tendered to her, *Tex. Gov't Code* § 51.303(a) and *Texas Rules of Civil Procedure* 21.
38. On information and belief, LexisNexis' fees and charges are not authorized by law, *Tex. Gov't Code* §101.061, and *Tex. Gov't Code* §51.317.
39. On information and belief, Montgomery County, Texas has financially benefitted from its agreement with LexisNexis.
40. On information and belief, LexisNexis has charged the fees and charges to more than five thousand individuals, persons and entities in civil litigation in Montgomery County, Texas.
41. On information and belief, Montgomery County, Texas has financially benefitted from its agreement with LexisNexis, and its previous providers of on-line electronic filing, since 1997.
42. On November 24, 2009, Karen McPeters filed a Rule 202 Petition ("Tex. R. Civ. P. 202"), Cause No. 09-11-11474-CV ("McPeters II") in Montgomery County, Texas. The petition was to investigate and determine the administrative remedies for refund of the LexisNexis fees and charges. *See* Exhibit "B."
43. Karen McPeters' Rule 202 Petition was assigned to Judge Edwards.
44. Karen McPeters attempted to set the hearing provided for under Rule 202 on January 8, 2010 via a hearing notice filed on-line with LexisNexis, and by email with Judge Edwards' court staff. *See* Exhibits "E" and "F."
45. Pursuant to Rule 202.3, Karen McPeters served Defendant Barbara Adamick with the petition and a notice of the hearing in accordance with Tex. R. Civ. P. 21a.
46. The Montgomery County District Court Clerk prepared and provided a copy of the 2003 E-filing order to Plaintiff McPeters in *McPeters II*. *See* Exhibit "A".

47. The Montgomery County District Court Clerk did not file a copy of Exhibit “A” on-line with LexisNexis in McPeters II.
48. Judge Edwards did not set the Rule 202 hearing on his January 8, 2010 docket.
49. Judge Edwards’ court staff stated that the matter would be assigned to a new judge appointed by the Regional Judge. *See* Exhibit “F.”
50. The Montgomery County District Court Clerk returned the filed copy of the Rule 202 Petition with the word “VOID” stamped in blue over the original District Court Clerk file stamp. *See* Exhibit “D.”
51. Judge Bob Wortham, Jefferson County, Texas was assigned and held a hearing in McPeters II on March 26, 2010.
52. Defendant Barbara Gladden Adamick, Montgomery County District Court Clerk, violated the Texas Rules of Civil Procedure by voiding Karen McPeters’ filing in McPeters II.
53. The action of Defendant Barbara Gladden Adamick, Montgomery County District Court Clerk, was objectively unreasonable in light of clearly established law at the time of her action, to wit: voiding Karen McPeters’ filing in McPeters II, violating her ministerial duty.
54. Based on provisions in the 2003 Judge Edwards order, the following classes of individuals and entities do not pay the same fees and charges to LexisNexis that Karen McPeters has been forced to pay:
 - (a) The State of Texas
 - (b) Child Protective Services
 - (c) Adoption Actions, and
 - (d) New divorce and annulment cases that are resolved within 90 days.

55. Judge Edwards' 2003 order was objectively unreasonable in light of clearly established law at the time he entered the order, to wit: one may not discriminate against certain classes of civil litigants in deciding who must use on-line E-filing. One may not discriminate in favor of all criminal litigants, and other classes of civil litigants. Doing so violates Karen McPeters' rights, and other similarly situated persons' equal protection rights.
56. The actions of Barbara Adamick, District Court Clerk, pursuant to Judge Edwards' 2003 order were objectively unreasonable in light of clearly established law at the time she applied the 2003 order to Montgomery County civil litigants, and ordered the respective cases to E-filing, to wit: one may not discriminate against certain classes of civil litigants in deciding who must use on-line E-filing . One may not discriminate in favor of all criminal litigants, and other classes of civil litigants. Doing so violates Karen McPeters' rights, and other similarly situated persons' equal protection rights.
57. The actions of the District Court Clerk under Judge Edwards 2003 order were objectively unreasonable in light of clearly established law at the time she applied the 2003 order to Karen McPeters when she refused to file tendered documents and returned other documents with the file-stamp designations shown as being voided.
58. “[T]he date of filing is when the document is first tendered to the Clerk [even if no filing fee is paid].” *Jamar v. Patterson*, 868 S.W.2d 318, 319 (Tex. 1993); *Tate v. E.I. DuPont de Nemours & Co.*, 934 S.W.2d 83, 84 (Tex. 1996).
59. On information and belief, Montgomery County, Texas, as a civil litigant, does not pay the same fees and charges to LexisNexis that Karen McPeters has been forced to pay.
60. On information and belief, no criminal defendant pays the same fees and charges to LexisNexis that Karen McPeters has been forced to pay.

FIRST CAUSE OF ACTION
RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

As her first cause of action, Karen McPeters complains that Defendants, jointly and severally, have violated 18 U.S.C. §§ 1961-1968 (“RICO”), and incorporates all paragraphs herein.

61. Defendants, jointly and severally, have engaged in actions with a common purpose (“Plan”). The Plan constitutes an enterprise with a common purpose –requiring Karen McPeters, and similarly situated litigants, to pay filing fees, service charges and taxes that are not authorized by statute, and that exceed the amounts required by statute.
62. Judge Edwards’ stated objective has been to force certain civil litigants, but not others, into exclusively on-line E-filing in Montgomery County, Texas.
63. Judge Edwards’ act, to force on-line E-filing through a 2003 order for cases filed after February 10, 2003, is an “ultra vires” act performed in the clear absence of all jurisdiction.
64. Defendants, jointly and severally, have required Karen McPeters to pay fees and charges when identical civil litigants in other Texas counties have not been required to pay those fees and charges.
65. LexisNexis is personally and independently responsible for the amount billed to litigants for fees and charges for use of E-filing services.
66. This payment requirement violates Karen McPeters’, and similarly situated litigants’ equal protections rights, clearly established constitutional rights under the U.S. and Texas Constitutions at the time of Defendants’ actions.
67. Defendants’ actions are objectively unreasonable because they are contrary to the statutory duties of the Montgomery County District Court Clerk.
68. On information and belief, Montgomery County, Texas has financially benefitted from the Plan and the “ultra vires” acts of Defendants Edwards and Adamick.

69. As an example, on October 2, 2009, Karen McPeters filed her Notice of Appeal in person in the litigation described in paragraph 10 above (“McPeters I”).
70. The District Court Clerk cancelled her filing, an “ultra vires” act; Karen McPeters had to re-file the Notice of Appeal on October 7, 2009 on LexisNexis, and pay its fees and charges.
71. On November 24, 2009, Karen McPeters filed her Rule 202 Petition (“McPeters II”).
72. On or about January 6, 2010, the Montgomery County District Court Clerk cancelled her filing, an “ultra vires” act.
73. On or about February 8, 2010, the District Court Clerk failed to perform a purely ministerial act by failing to file (and returning) the vacation letter of plaintiff’s counsel in McPeters II.
74. The Montgomery County District Court Clerk has disregarded the known and obvious consequences of her actions. She and Judge Edwards have denied Karen McPeters’ due process rights as those are set forth in the Texas Rules of Civil Procedure and the Constitution.
75. McPeters II clearly provided Barbara Gladden Adamick, the Montgomery County District Court Clerk, with notice of her complaints and an opportunity to respond.
76. Her response was to cancel Karen McPeters’ filing by marking it “VOID,” and returning it.
77. Defendants, jointly and severally, have continued the Plan, not only with Karen McPeters, but also with numerous individuals, persons and entities that have engaged in civil litigation in Montgomery County, Texas.
78. On information and belief, Defendants’ Plan has been in place since 1997.
79. Karen McPeters has suffered direct injury, and Defendants injured Karen McPeters by using the U.S. Mail to bill her, with each billing and required payment being a violation of RICO

and her rights to equal protection, open courts and due process. The actions of Defendants, jointly and severally, violated 42 U.S.C. § 1983, and 18 U.S.C. § 1341.

80. Karen McPeters has suffered direct injury, and Defendants injured Karen McPeters by using the Internet to send bills to her via email, with each billing and required payment being a violation of RICO and her rights to equal protection, open courts and due process.

Defendants, jointly and severally, violated 42 U.S.C. § 1983, and 18 U.S.C. § 1343.

81. Defendants obstructed, delayed or affected commerce by requiring and obtaining payment from Karen McPeters in furtherance of their Plan under the color of official right. 18 U.S.C. § 1951.

82. Defendants, jointly and severally, violated 18 U.S.C. § 1349.

83. All reasonable officials similarly situated to Judge Edwards and District Court Clerk Adamick would have known that the Plan clearly violated the U.S. Constitution, the Texas Constitution and clearly defined rights under state and federal statutes as enumerated herein.

84. No reasonable public official, under the same or similar circumstances, would have taken the action that caused the violations enumerated herein.

SECOND CAUSE OF ACTION
VIOLATION OF PROCEDURAL AND SUBSTANTIVE DUE PROCESS RIGHTS
UNDER 42 U.S.C. §1983 AND THE U.S. CONSTITUTION

As her second cause of action, Karen McPeters complains of the violation of her right to procedural and substantive due process rights by Defendants, jointly and severally, and incorporates all paragraphs herein.

85. 42 U.S.C. § 1983 provides:

Every person who under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within 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, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

86. Amendment XIV, to the U.S. Constitution provides:

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.

87. The Defendants, jointly and severally, violated Plaintiff McPeters' procedural and substantive due process rights under 42 U.S.C. § 1983 and the U.S. Constitution.

Defendants denied Plaintiff McPeters her equal protection rights by failing to treat her and all similarly situated civil litigants the same, by preventing them from filing paper pleadings in person. Defendants' actions were and are an intentional violation of Karen McPeters' procedural and substantive due process rights.

88. The Montgomery County District Court Clerk's refusal to accept paper filings from Karen McPeters, and similarly situated litigants, was and is an official policy, and was and continues to be a part of the Plan.

89. Barbara Gladden Adamick had actual knowledge of the policy both due to Judge Edwards' 2003 order and McPeters II petition.

90. The policy caused the constitutional violation, the denial of Karen McPeters' rights to equal protection, and due process under Amendment XIV to the U.S. Constitution.

THIRD CAUSE OF ACTION
VIOLATION OF EQUAL PROTECTION, OPEN COURTS AND DUE COURSE OF LAW
UNDER ARTICLE 1, SECTIONS 1, 3, 19 AND 29 OF THE TEXAS CONSTITUTION

As her third cause of action, Karen McPeters complains that her rights under the Texas Constitution, Bill of Rights, Art. 1, § 3, § 13, §19 and §29, to equal rights, open courts and due course of law have been violated, and incorporates all paragraphs herein.

91. Art. 1, § 3 provides:

All free men, when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services.

Defendants cannot discriminate against Karen McPeters and similarly situated civil litigants by requiring them to E-file, while others need not E-file.

92. Art. 1, § 13 provides:

All courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law.

Defendants' requirement for Karen McPeters, and similarly situated civil litigants, to pay more than other litigants restricts her, and their, access to the courts of the State of Texas, and violates their constitutional rights.

93. Art. 1, § 19 provides:

No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disenfranchised, except by the due course of the law of the land.

Defendants have violated Karen McPeters' and similarly situated civil litigants' due process rights by the enforcement of a void order against them. Karen McPeters due process rights were violated when Barbara Adamick cancelled her petition in McPeters II and returned documents unfiled in McPeters I and II.

94. Art. 1, § 29 provides:

To guard against transgressions of the high powers herein delegated, we declare that everything in this “Bill of Rights” is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

Defendants Judge Frederick Edwards, District Clerk Barbara Adamick and Montgomery County, Texas, have violated Karen McPeters’ rights guaranteed by the Texas Bill of Rights. They have no sovereign immunity.

FOURTH CAUSE OF ACTION
VIOLATION OF STATUTORY DUTIES

As her fourth cause of action, if necessary, Karen McPeters complains that Barbara Adamick, Montgomery County District Court Clerk, failed to perform her statutory duties, seeks the statutory penalties against her provided by Tex. Civ. Prac. & Rem. Code § 7.001, and incorporates all paragraphs herein.

CLASS ACTION

95. Pursuant to Fed. R. Civ. P. 23, Karen McPeters requests the Court to designate this case as a class action, because

(1) the class of persons (Montgomery County civil litigants) subjected to the Plan by Defendants, and forced to pay fees and charges to LexisNexis, is so numerous (**more than 5,000**) that joinder of all members is impracticable;

(2) there are questions of law or fact common to the class, namely how much was each litigant required to pay for on-line E-filing;

(3) the claims of the representative party, Karen McPeters, are typical of the claims of the class (Karen McPeters paid LexisNexis \$444.71 for her Montgomery County litigation – McPeters I and II, and the charges are on-going); and

(4) Karen McPeters will fairly and adequately protect the interests of the class.

96. The parties expected to oppose the class, the Defendants, have acted on grounds, the Plan, that apply generally to the class, so that final injunctive relief is appropriate respecting the class as a whole.

INJUNCTIVE RELIEF REQUESTED

97. Karen McPeters requests a permanent injunction prohibiting Defendants, including **Barbara Gladden Adamick, District Court Clerk of Montgomery County, Texas** and **Frederick E. Edwards, District Judge of Montgomery County, Texas**, from continuing their Plan.

98. Plaintiff McPeters has alleged her causes of action as are stated herein.

99. She has suffered immediate and irreparable injury, and has no adequate remedy at law. Karen McPeters continues to be charged fees and charges not authorized by statute.

100. Karen McPeters has no administrative remedy, because (a) no mechanism exists for a refund from Lexis Nexis, (b) she was denied a deposition to determine if any other remedy existed, and (c) a motion to exclude her case from E-filing is inadequate because Judge Edwards cannot decide to grant or deny Karen McPeters her equal protection rights; they are constitutionally protected.

101. There is a substantial likelihood that Karen McPeters will succeed on the merits of her case, because the correct fees for filings in District Court are set forth by statute.

102. The injury faced by Plaintiff McPeters outweighs the injury that would be sustained by the Defendants as a result of the injunctive relief. Defendants would only have to comply with the Texas statutes on fees that can be legally charged to litigants.

103. The granting of injunctive relief would not adversely affect public policy or public interest, because litigants would then be afforded their constitutional rights.

104. The relief requested against Judge Edwards concerns acts outside his judicial immunity.
105. Karen McPeters requests a permanent injunction prohibiting **Barbara Gladden Adamick, District Court Clerk of Montgomery County, Texas** from
- (a) acting to apply any order to a case not existing at the time of the order,
 - (b) failing to enter orders in a case that affect the rights of the parties to the case,
 - (c) refusing to accept and file pleadings on paper tendered to her,
 - (d) requiring litigants to prepare scanned documents or pdf files to be uploaded into any E-filing system adopted by Montgomery County, and
 - (e) voiding District Court Clerk file-stamp designations on pleadings.
- See, for example, Fed. R. Civ. P. 79.*

106. Karen McPeters requests a permanent injunction prohibiting **Frederick E. Edwards, District Judge of Montgomery County, Texas** from
- (a) purporting to order either the District Court Clerk, or her deputies, to enter a cause number into a order signed prior to the existence of the case; and
 - (b) requiring the District Court Clerk to apply that order to any case not in existence as of the date of the order.

This request does not attempt to proscribe any constitutionally valid Standing Order adopted by all of the District Judges of Montgomery County, Texas.

107. Karen McPeters further requests that the permanent injunction prohibit **Frederick E. Edwards, District Judge of Montgomery County, Texas** from entering orders in any case that requires the Montgomery County District Court Clerk to violate her statutory duties, including:

(a) ordering the District Court Clerk to refuse to accept and file pleadings on paper tendered to the District Court Clerk, and

(b) ordering the District Court Clerk to void any District Court Clerk file-stamp designations on previously filed pleadings, and require that they be filed on-line by the document author with an E-filing provider designated for Montgomery County.

In the alternative, and only if necessary, Karen McPeters requests a declaratory judgment, pursuant to Fed. R. Civ. P. 57, ordering relief equivalent to the requested injunctive relief.

108. Karen McPeters further requests that the permanent injunction order Montgomery County to adopt the e-filing requirements (county and district court templates) set forth at www.uscourts.state.tx/jcit/Efiling/EfilingHome.asp, in the event that it elects to utilize e-filing, to prevent future unlawful actions, such as those described herein. Those templates are the standard set approved by the Texas Supreme Court.

109. The injunction should also recite that the Miscellaneous Order 97-9155 of the Texas Supreme Court, as applied by Montgomery County, Texas, is void.

DAMAGES
COMPENSATORY AND STATUTORY DAMAGES

110. Plaintiff McPeters, individually and on behalf of all similarly situated civil litigants, seeks compensation for damages proximately caused by the joint and several activities of the Defendants and their unlawful Plan, including out-of-pocket filing fees, service charges, and taxes. Plaintiff McPeters requests statutory damages.

EXEMPLARY DAMAGES

111. Plaintiff McPeters seeks the imposition of exemplary damages upon proof of Defendants' bad faith, callous indifference, intentional and collective misconduct, malice and

recklessness, all factors recognized as justifying exemplary damages in litigation under 42 U.S.C. § 1983.

112. In the alternative to the above paragraph, and only if necessary, based on Defendants' malice, as is set forth in § 41.003 (a)(2) of the Texas Civil Practice & Remedies Code, Plaintiff seeks exemplary damages, specifically awarded as to each individual Defendant pursuant to § 41.006 of the Code and based upon consideration by the jury of the six factors found at § 41.011 of the Code. Plaintiff McPeters seeks an amount of exemplary damages equal to two times the total amount of economic damages found by the jury, plus the sum of \$200,000.00, pursuant to § 41.008 of the Code.
113. Evidence of conduct justifying exemplary damages includes the fact that the Defendants *persisted in forcing Karen McPeters to pay fees and charges not authorized by statute.*
114. Plaintiff McPeters has been damaged by the actions of Montgomery County, Texas, by and through its county judge, commissioners, supervisors, agents and employees (throughout this petition "Montgomery County, Texas") and all other Defendants.
115. As a direct and/or proximate result of the actions of the Defendants, Plaintiff has sustained actual and legal damages for which Plaintiff is entitled to have this Court grant a judgment against the Defendants, jointly and severally.
116. The herein-described wrongful actions, statements, and/or omissions by Defendants are the producing cause of Plaintiff McPeters' herein-described damages.
117. Defendants' actions have been knowing, willful, and with complete indifference to the rights of Plaintiff McPeters, and all other similarly situated civil litigants in Montgomery County, Texas. The actions have been intentional and without just cause or excuse.
118. Plaintiff McPeters is entitled to actual and statutory damages.

119. All actions complained of herein have been ratified by the Defendants, jointly and severally, including Montgomery County, Texas and its commissioners, through acceptance of the benefits and the failure to repudiate the violations described herein.
120. All conditions precedent herein required of Plaintiff, have been performed or complied with or has occurred, or in the alternative, and only if necessary, any such condition precedent which has not been performed, complied with, or has not occurred, was dispensed with, waived, or wrongfully prevented by one or more actions, omissions and/or representations by Defendants or its or their agents.
121. Plaintiff McPeters hired Robert L. Mays, Jr. as her attorney and agreed to pay his reasonable and necessary attorney's fees, costs and expenses.
122. Plaintiff McPeters requests the court to grant her a permanent injunction, and award damages, equitable relief, attorney's fees, expert witness fees, costs and expenses, pursuant to statutory provisions, including without limitation 18 U.S.C. § 1964 (c), and 42 U.S.C. § 1988, and Fed. R. Civ. P. 23 and 54.
123. Plaintiff is further entitled to prejudgment and post- judgment interest as, when and at the rates allowed by law or equity. Plaintiff's damages are within the jurisdictional limits of this Court.

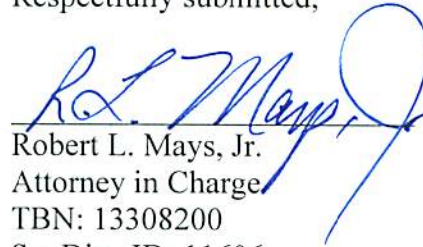
WHEREFORE, PREMISES CONSIDERED, Plaintiff Karen McPeters requests the court to award judgment to Plaintiff McPeters against Defendants, jointly and severally, and to grant her permanent injunctions as are requested above. She further requests recovery of the herein described damages, for herself, and on behalf of all other similarly situated individuals, persons and entities, including, without limitation:

- (i) actual damages;

- (ii) statutory damages;
- (iii) exemplary damages;
- (iv) prejudgment interest;
- (v) reasonable attorney's fees, and expenses;
- (vi) expert witness fees;
- (vii) costs of court;
- (viii) post-judgment interest, and
- (ix) for such other relief, whether in whole or in part, whether general or special, at law or in equity, to which Plaintiff Karen McPeters may, by this pleading or proper amendment hereto, show herself entitled.

A TRIAL BY JURY IS RESPECTFULLY DEMANDED.

Respectfully submitted,



Robert L. Mays, Jr.
Attorney in Charge

TBN: 13308200

So. Dist. ID: 11606

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