

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-01103

JURY

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

**REPLY TO JOINT RESPONSE TO PLAINTIFF'S MOTION FOR
RECONSIDERATION**

TO THE HONORABLE KEITH ELLISON, UNITED STATES DISTRICT JUDGE:

Karen McPeters files her "Reply to the Joint Response to Plaintiff's Motion for Reconsideration," and would show:

1. The Defendants urge reliance upon *Johnson v. Atkins*, 999 F.2d 99 (5th Cir. 1993), and Plaintiff urges the same.

Meaningful access to the courts is a fundamental constitutional right, grounded in the First Amendment right to petition and the Fifth and Fourteenth Amendment due process clauses. *Chrissy F. v. Mississippi Dept. of Public Welfare*, 925 F.2d 844, 851 (5th Cir.1991) (footnotes omitted). The issue is whether the fee schedule or refusal to refund fees constitutes an impermissible interference with Johnson's meaningful access to the courts.

Id. at 100.

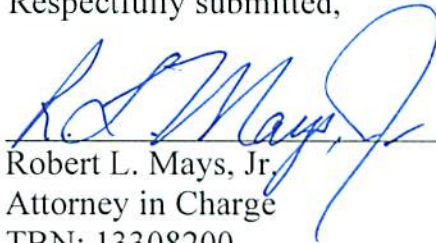
2. *Johnson* involved a challenge to reasonable statutory filing fees that had been approved by the Legislature and equally applied. Karen McPeters challenges LexisNexis' filing charges that are not statutory, are not approved by the Legislature, are not reasonable in amount, and are not applied equally to all litigants in Montgomery County.
3. The Defendants do not dispute the validity of the law established by the Supreme Court opinions in *Bounds*, *Bill Johnson's Restaurants, Inc.*, *Lewis*, or *Lyng*. See *Docket No. 101*, pp. 2-3. Instead, Defendants announce that the opinions are not persuasive and that one particular citation is to a dissent. The majority in each of these cases have told us that access to courts is a fundamental right. Whether or not one is persuaded is not an effective test in determining statements of law.
4. Defendants dispute that Plaintiff's state court claims also invoke a fundamental right. The Defendants object to a citation to a dissent in *Barrentine*. The statements of Mr. Chief Justice Warren E. Burger were not published for a majority, as *Barrentine* was decided on other grounds, but are reasonably persuasive.
5. Some legal principles are sufficiently clear as not to require citation to authority, even for the Fifth Circuit. "It is unnecessary to support with citations the observation that where a **fundamental** right is involved, slight discrimination is considered invidious." *Goforth v. Poythress*, 638 F.2d 27, 29 (5th Cir. 1981), emphasis added. This has been the case with the fundamental right to be free from employment discrimination. See *Garcia v. Gloor*, 618 F.2d 264, 272, n. 5 (5th Cir. 1980).

Relief Requested

6. Plaintiff Karen McPeters respectfully requests that the January 27, 2011 *Memorandum and Order* be withdrawn, that her §1983 claims, her motion to certify a class, motion for extension of time to join other class members and her claims for injunctive relief be reinstated, that her RICO claims be severed, and that she be permitted to pursue her state court claims, or, in the alternative, that the other grounds be addressed, with leave to amend granted for any matter that might be cured by pleading additional facts.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that the foregoing requested relief be granted.

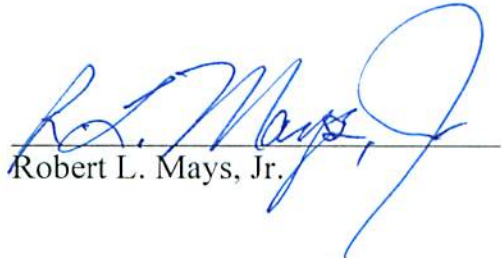
Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that on March 8, 2011, after filing this Reply, each counsel for Defendants will be served via the court's ECF system.


Robert L. Mays, Jr.