

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 §**

THIRD AMENDED COMPLAINT

TO THE HONORABLE KEITH P. ELLISON, U.S. DISTRICT JUDGE:

Now comes Karen McPeters (“McPeters”), individually and on behalf of those individuals, persons and entities similarly situated, and files her Third Amended 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 **LexisNexis, a division of Reed Elsevier, Inc.**

OVERVIEW

1. Defendants, jointly and severally, have violated Karen McPeters' rights concerning:
 - (a) separation of powers,
 - (b) equal rights and due process protectionsof the United States Constitution and the Bill of Rights, Amend. XIV.
2. Defendants, jointly and severally, have violated Karen McPeters'
 - (a) separation of powers,
 - (b) equal rights,
 - (c) open courts and due course of law protectionsof the Bill of Rights, Art. 1, §§§§ 3, 13, 19 and 29, and Art. II, §1 of the Texas Constitution.
3. Defendant LexisNexis has 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 18 United State Code §1983, 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.
4. Karen McPeters brings suit on her behalf and on behalf of those individuals, persons and entities similarly situated.

JURISDICTION

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

PARTIES

6. **Plaintiff, Karen McPeters**, is an individual involved in litigation in Montgomery County, Texas, in which Montgomery County, Texas is the Defendant.
7. **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 has been served with process by serving his attorney, Allison Miller.
8. **Defendant 2 is Barbara Gladden Adamick**, individually and as the District Court Clerk of Montgomery County, Texas, who has been served with process at the Montgomery County Courthouse, 301 North Main, Conroe, Texas 77301.
9. **Defendant 3 is Montgomery County, Texas**, a political subdivision of the State of Texas, which has been served with process by serving its agents, County Judge, Alan B. Sadler, 301 N. Thompson Street, Ste. 210, Conroe, Texas, and David K. Walker, Montgomery County Attorney, 207 West Phillips, Ste. 100, Conroe, Texas 77301.
10. **Defendant 4 is LexisNexis, a division of Reed Elsevier, Inc.**, a foreign corporation with offices in Newton, Massachusetts, registered to do business in Texas, which accepted service through its registered agent, C T Corporation System, 350 North St. Paul St., Dallas, Texas 75201.

FACTS
McPeters I

11. Karen McPeters is the plaintiff in Cause No. 07-09-09142-CV, styled “Karen McPeters v. Montgomery County, Texas,” a civil employment discrimination lawsuit in the 9th District Court of Montgomery County, Texas. (“McPeters I”)
12. Judge Frederick E. Edwards (“Judge Edwards”) presides over the 9th District Court of Montgomery County, Texas.

The 2003 Order

13. On February 10, 2003 Judge Edwards signed an order concerning electronic filing (“E-filing”), an administrative task, in Montgomery County. *See* Exhibit “A,” sometimes referred to herein as the “2003 Order.”
14. The 2003 Order was signed with two blanks appearing on the first page of the order.
15. Judge Frederick Edwards and Barbara Gladden Adamick, the Montgomery County District Clerk, 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.
16. LexisNexis is a division of Reed Elsevier, Inc.
17. Montgomery County has an agreement with LexisNexis to provide E- filing services. *See* Exhibit “B.”
18. LexisNexis charges and collects filing “fees,” service charges, taxes and other charges (hence “fees and charges”) to a litigant for each document filed on-line. They also charge for paper invoices. *See* Exhibits “K,” and “L.”

19. LexisNexis is personally and independently responsible for the determining the amount billed to litigants and collecting charges for use of E-filing services.
20. Barbara Gladden Adamick, the District Court Clerk of Montgomery County, directed many civil litigants, including Karen McPeters, that **each is required to exclusively use LexisNexis for on-line E-filing**. Barbara Gladden Adamick is sometimes referred to herein as the District Clerk.
21. Barbara Gladden Adamick's direction to civil litigants is based on Judge Edward's 2003 E-filing order.
22. For each new civil lawsuit selected by the District Clerk, purportedly qualifying under the provisions of the 2003 Order, the District Clerk or her deputy apparently enters the new cause number in the blanks on a copy of Judge Edward's 2003 E-filing order, without review by Judge Edwards.
23. 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. There is a local rule, Exhibit "J," pp. 3-5.
24. Judge Edwards unlawfully misrepresented his authority to issue the 2003 Order on E-filing and was part of a scheme to defraud Karen McPeters and other similarly situated litigants, because the 2003 Order was, in effect, an invalid legislative act increasing filing fees already specified by the Legislature of the State of Texas.
25. Judge Edwards thus had no authority to issue his 2003 E-filing order, the effect of which was to mandate payment by litigants of the charges billed by E-service providers.

26. Barbara Gladden Adamick stated that the E-filing order existed, and that Karen McPeters was mandated to use E-filing and pay the E-filing charges as statutory filing fees. She did.
27. Karen McPeters objected, but relied upon that misrepresentation in paying, through her agent and attorney, the illegal fees and charges of LexisNexis. *See* Document 13-9, p. 1, date 1/27/09, and Exhibit “L.”
28. The misrepresentation was both a factual and proximate cause of Karen McPeters paying the bills from LexisNexis.
29. The Montgomery County District Clerk did not E-file a copy of Judge Edward’s 2003 E-filing order in Cause Number 07-09-09142 (“McPeters I”). McPeters I was filed May 18, **2007**; Karen McPeters did not receive or see a copy of the 2003 Order in McPeters I until May 5, **2010**. *See* document 13-2 filed herein. On information and belief, the 2003 Order is routinely concealed (unfiled) in each case.
30. Barbara Gladden Adamick, the District Clerk of Montgomery County, 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 to, and filed by, the District Clerk**, with a purported cancellation of the District Clerk file mark, and a letter directing the preparer of the document to file the document through LexisNexis.

See Exhibits “C” and “D.”

31. Karen McPeters, through her agent, paid LexisNexis \$444.71 as of April 4, 2010. *See* Exhibit “L.” Karen McPeters paid \$217.00 on Sept. 27, 2007 to file McPeters I and \$237.00 on Nov. 20, 2009 to file McPeters II in Montgomery County.
32. LexisNexis’ current charges are \$7.00 for filing fees, \$8.00 for service charges for *any* document filed on-line (**\$15.98 with tax**), and an inadequately disclosed \$10.00 charge *for providing a paper invoice to a litigant*. LexisNexis has financially benefitted from its agreement with the Co-Defendants. *See* Exhibits “K” and “L.” **Each motion, response, change of address or vacation letter costs \$15.98.**
33. LexisNexis delivered more than two (2) bills to Karen McPeters through the U.S. Mail and, through her agent, she paid them. *See* Exhibit “L,” pp. 7, 11, 14.
34. LexisNexis delivered more than two (2) bills to Karen McPeters electronically by email through the Internet and, through her agent, she paid them. *See* Exhibit “L,” pp. 16, 19, 22, 24, 27, 29.
35. On information and belief, LexisNexis has charged the fees and charges to more than ten thousand individuals, persons and entities in litigation in Montgomery County, Texas since 1997.
36. On information and belief, Montgomery County has financially benefitted from its agreement with LexisNexis, and its previous providers of on-line electronic filing, since 1997. LexisNexis agreed to pay, and upon information and belief, owes or has paid and continues to pay, Montgomery County \$1.00 for each filing, and \$1.00 for each service charge of each document by each E-filing litigant. *See* Exhibit “B,” p. 7.

McPeters II

37. 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. The petition was filed to seek court approval to investigate and determine the administrative remedies for refund of the LexisNexis fees and charges. *See* Exhibit “D.”
38. Karen McPeters’ *Rule 202* Petition was assigned to Judge Edwards.
39. 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.”
40. Judge Edwards did not set the *Rule 202* hearing on his January 8, 2010 docket.
41. The Montgomery County District Clerk prepared and provided, a copy of the 2003 E-filing order to Plaintiff McPeters in McPeters II. *See* Exhibit “A”.
42. The Montgomery County District Clerk did not file a copy of Exhibit “A” on-line with LexisNexis in McPeters II – **not then, not now**.
43. Pursuant to *Rule 202.3*, Karen McPeters served Defendant Barbara Gladden Adamick with the petition and a notice of the hearing in accordance with *Tex. R. Civ. P. 21a*.
44. The Montgomery County District Clerk returned the filed copy of the *Rule 202* Petition with the word “VOID” stamped in blue over the original District Clerk file stamp. *See* Exhibit “D.” Presumably she intended for Plaintiff to E-file the document. Under Texas law, the filing date is the date that the document is first tendered to the Clerk (even if no filing fee is paid).

45. In Exhibit “D,” Karen McPeters understood the blue “VOID,” stamped over the District Clerk file stamp, to mean what it said. Her *Rule 202* Petition was rejected, marked VOID. Defendant Adamick kept the filing fee.
46. Defendant Adamick contends that Karen McPeters should not have taken the returned petition at face value. Karen McPeters cannot guess the procedural meaning of the “VOID” stamp over the District Clerk’s file-mark on a pleading.
47. Defendant Barbara Gladden Adamick, the Montgomery County District Clerk, violated the Texas Rules of Civil Procedure by voiding Karen McPeters’ filing in McPeters II.
48. Barbara Gladden Adamick, the District Clerk, has disregarded the known and obvious consequences of her actions, as stated in the previous paragraphs.
49. The action of Defendant Barbara Gladden Adamick, Montgomery County District Clerk, was objectively unreasonable in light of clearly established law and the Texas Rules of Civil Procedure at the time of her action, to wit: voiding Karen McPeters’ filing in McPeters II and violating her ministerial duty.
50. Karen McPeters assumed the VOID document sent by the District Clerk accurately represented true and correct information in the clerk’s office. Apparently, again, it did not.
51. Judge Bob Wortham, Jefferson County, Texas was assigned in place of Judge Edwards and held a hearing in McPeters II on March 26, 2010.

Unequal Treatment

52. Based on provisions in the 2003 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.

Objectively Unreasonable

53. 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 financially 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. One may not impede access to the courts.

54. The actions of District Clerk Barbara Gladden Adamick, 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 assigned to the 9th District Court and ordered the respective cases to E-filing, to wit: one may not discriminate financially against certain classes of civil litigants in deciding who must use on-line E-filing. One may not financially discriminate against randomly selected classes of civil litigants, e.g. those assigned to the 9th District Court.

55. On information and belief, Montgomery County, as a civil litigant, does not pay the same fees and charges to LexisNexis that Karen McPeters has been forced to pay.
56. 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 Defendant LexisNexis violated 18 U.S.C. §§ 1961-1968 (“RICO”), and that each Defendant contributed to an enterprise through which LexisNexis profited from racketeering activity. Plaintiff McPeters incorporates all paragraphs herein.

Plan

57. Defendants, jointly and severally, have engaged in actions with a common purpose (“Plan”). The Plan constitutes an enterprise with a common purpose –mandating that Karen McPeters, similarly situated litigants, and their attorneys participate in E-filing in Montgomery County. E-filing causes additional and unlawful costs for litigants.

Association-in-Fact

58. The Plan, which is mandatory, enforced E-Filing, has as its participants:
- (a) Judge Edwards (purportedly issuing a 2003 Order, Exhibit “A,” for each qualifying civil litigant) and (coercively enforcing the 2003 Order – see Exhibit “O,” p. 2.),
 - (b) Barbara Gladden Adamick (rejecting paper filings and voiding prior filed pleadings to force E-filing),

(c) Montgomery County (through its Nov. 5, 2007 agreement, Exhibit “B,” with LexisNexis to mandate attorney compliance through Barbara Gladden Adamick), and

(d) LexisNexis (providing E-filing services, with a mandatory cost, to Montgomery County civil litigants in furtherance of the Plan).

This Plan is the “E-file Enterprise.”

59. The Defendants, jointly and severally, concealed and continue to actively conceal LexisNexis’ charges. *See* Exhibit “R.”

60. The E-File Enterprise is an ongoing organization and activity that occurs continually. The members function as a continuing unit as is shown by the hierarchical and/or consensual decision-making structure, with Judge Edwards as its head and enforcer, Barbara Gladden Adamick and Montgomery County as enforcers, and LexisNexis as its collector. Defendants are an association-in fact with LexisNexis using money derived from a pattern of racketeering activity to conduct the enterprise.

61. On information and belief, LexisNexis uses the funds from its 11/5/2007 sole source contract with Montgomery County to prevent competition from lower cost providers, such as Texas On-Line. Karen McPeters has suffered direct injury: higher filing costs. *See* Exhibit “L” for specific invoices from and charges by LexisNexis.

62. LexisNexis sent its first five bills to McPeters by U.S. mail and the remainder by wire over the internet. Karen McPeters relied on defendants’ misrepresentations about required payments to LexisNexis in order to pursue her employment claims against Montgomery County. LexisNexis billed Karen McPeters; the date and time and amount

were determined by LexisNexis, and each payment it required was unlawful. Each payment was unlawful because each is contrary to statute.

63. The Defendants conduct business separate and apart from the E-file Enterprise.

LexisNexis is a private corporation that provides continuing legal education and books for sale, such as tax planning for retirees. Montgomery County is a subdivision of the State of Texas, and provides law enforcement services and collects taxes from its residents. Barbara Adamick, the District Clerk, issues citations, abstracts of judgment and writs of execution. Judge Edwards conducts hearings and trials.

Pattern of Racketeering

64. The pattern of racketeering is LexisNexis' submission of bills to civil litigants and attorneys, because the mandatory "filing fees and service charges" are not authorized by statute and because the charges are not statutory fees as represented by Defendants. Collections by LexisNexis, Exhibit "L," complete the pattern of racketeering. Congress wanted RICO to reach both "legitimate" and "illegitimate" enterprises. See the Third Cause of Action herein at p. 34.

Continuity

65. The Plan is an ongoing enterprise because it has operated for more than 10 years and since 2007 with Lexisnexis. According to Montgomery County's Rule 12(b)(6) motions, the participants plan to continue the enterprise. There have been twenty-five predicate acts as to Karen McPeters (*see* Exhibit "L," p.1), and, upon information and belief, have been more than two predicate acts each for the more than 6,600 civil cases, and the (at least) 13,200 civil litigants who have had their cases assigned to Judge

Edwards. The ongoing enterprise conclusion is appropriate because Defendants maintain they are not doing anything wrong. *See also* Exhibit “O,” for continuing implementation of the Plan as of July 26, 2010, and Exhibit “R” (for continuing concealment of LexisNexis charges).

Legal Injury

66. The Plan results in the factual and proximate cause of litigants being forced to pay unlawful “filing fees,” service charges and taxes, not authorized by statute, and exceeding the amounts set by statute. Filing fees are statutorily required when one files a lawsuit. *Tex. Gov’t Code* § 51.317. Unauthorized charges cannot be statutory filing fees, as a matter of law, when the charges purport to be “fees” already set by the Legislature.

Scope of Injury

67. Both Montgomery and Jefferson counties use LexisNexis. A limited number of other Texas counties apparently mandate on-line filing fees for motions and other civil filings, also apparently violating the rights of litigants.

68. The “Statewide Rules Concerning the Electronic Filing and Service of Documents in Participating Justice of the Peace Courts” provides:

Rule 1.2 Electronic Filing Optional – In a participating justice of the peace court, a party **may** electronically file any documents that are permitted to be electronically filed under Rule 3.1. (emphasis added).

Ultra Vires Acts

69. Judge Edwards’ stated objective has been to force certain civil litigants, but not all, into exclusively utilizing on-line E-filing in Montgomery County.

70. Judge Edwards' act of forcing on-line E-filing through a 2003 Order, for cases filed after Feb. 10, 2003, is an "ultra vires" act, performed in the clear absence of all jurisdiction. An "ultra vires" act is an illegal or unauthorized act by a governmental official or agency.
71. Defendants, jointly and severally, have required Karen McPeters to pay fees and charges when identical civil litigants in almost all other Texas counties have not been required to pay those fees and charges.
72. Judge Edwards has publically explained his perception of his authority to engage in *ultra vires* acts as a district judge, though his actions could only be administrative under the law. In August 2001, he wrote:

The judge has to be the one to herd, cajole or even **threaten** the ensemble of participants [litigants and their attorneys] into the 21st century. (emphasis and ellipsis added)

"A Judge's Perspective of E-filing," Seventh National Court Technology Conference, Baltimore, Maryland, Aug. 2001.

73. LexisNexis' apparent justification for its participation is the unconstitutional delegation to it of legislative authority by Judge Edwards, which authority Judge Edwards does not possess.

The Texas Supreme Court Order

74. Defendants cite the Supreme Court Miscellaneous Order 97-9155 concerning E-filing as their justification for their actions. *See* Exhibit J.
75. The Supreme Court Order does **not** address additional charges, collection of charges, the effect of the order on the Texas Government Code, or authorize charges in addition to those provided for in the Government Code.

76. Montgomery County appears to financially benefit from the Plan and the “ultra vires” acts of Defendants Edwards and Adamick. Montgomery County has deprived Karen McPeters and similarly situated civil litigants of her constitutional rights to her property, her money, by mandating filing fees and numerous charges in an amount not authorized by statute.

77. Montgomery County signed an agreement with LexisNexis on November 5, 2007. *See* Exhibit “B.” In the agreement, Montgomery County agreed as follows:

7. Law Firm Participation

Address the requirement of attorneys to electronically file within all case types noted in the Implementation Plan. Under this requirement the attorneys will be mandated to participate in the electronic submittal of documents through the File & Serve System as a subscriber.

and

9. Electronic Filing Court Order or Court Rules

Address the court/judicial order that will mandate complete participation by attorneys in electronic filing and service in all designated case class and case types listed under case identification. *See* Exhibit “B,” p. 15.

78. The Montgomery County agreement was adopted and affirmed on November 5, 2007, by the four Precinct Commissioners and the County Judge of Montgomery County. Thus, Montgomery County executed an official policy and was an active and willing participant in the *ultra vires* acts set forth herein. *See* Exhibit “B,” p. 22.

79. The unconstitutional order of Judge Edwards, the refusal of the District Clerk to file the 2003 Order in Cause No. 07-09-09142-CV, the refusal to file the 2003 Order in Cause No. 09-11-11474-CV, and the repeated assurances of the deputies in the District Clerk’s office as to the “fees” to be paid directly to LexisNexis served to

mislead the Plaintiff as to the character of the charges, postpone inquiry or complaint, and lessen the suspect appearance of the unlawful activities of the Defendants. *See* Exhibit “C.”

80. As an example, on October 2, 2009, Karen McPeters filed her Notice of Appeal *in person* in the litigation described in paragraph 11 above (“McPeters I”).
81. The District 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. *See* Docket 13-9, p. 1, entry on 10/5/09.
82. On or about February 8, 2010, the District Clerk failed to perform a purely ministerial act by refusing to file (and returning) plaintiff’s counsel’s vacation letter in McPeters II. *See* Docket 13-9, p. 1, entry on 10/8/09.
83. The District Clerk then refused to file a letter designation of the record for the Ninth Court of Appeals.
84. The Montgomery County District Clerk has disregarded the known and obvious consequences of her actions. She and Judge Edwards have denied Karen McPeters’ rights as are set forth in the Texas and the United States Constitutions.
85. The petition in McPeters II clearly provided Barbara Gladden Adamick, the Montgomery County District Clerk, with notice of Plaintiff’s complaints and an opportunity to respond; the District Clerk’s response was to cancel Karen McPeters’ filing by marking it “VOID” and returning it.

86. Defendants' *ultra vires* acts extend to thousands of individuals, persons and entities that have engaged in civil litigation in Montgomery County, a violation of 18 U.S.C. § 1962(d).
87. The majority of Montgomery County civil litigants assigned to Judge Edwards are ensnared by the secret 2003 Order. Each must file documents through or with LexisNexis; there are thousands of filings by qualifying litigants over the approximately 13 years since the Plan has been in place, and since 2007 with LexisNexis. Litigants have no other reasonable choice. Discovery will uncover the date of the Plan's inception, and charges of E-providers prior to LexisNexis.

Direct Injury

88. Karen McPeters has suffered direct injury, and Defendant Lexis Nexis injured Karen McPeters, using the U.S. Mail and wires to bill her. Each billing and required payment violated RICO by unlawfully forcing Karen McPeters to pay LexisNexis. The communication violated federal law, because the 2003 Order (a) violated her equal protection rights compared to other litigants, (b) was void with respect to violating the separation of powers doctrine, and (c) open courts as stated by the Texas Supreme Court.
89. The charges by LexisNexis were not authorized by the statute, *Texas Gov't Code* § 51.801-51.807, or the *Local Government Code*. The charges violate Karen McPeters civil rights under the United States Constitution, 42 U.S.C. § 1983.
90. The E-filing requirement in the 2003 Order included required payments (obligations) to LexisNexis after 2007 and was a scheme to defraud by furnishing for unlawful use

a spurious obligation of litigants to pay undisclosed fees for the purpose of executing the scheme. The actions violated 18 U.S.C. § 1341. In fact, collection notices from LexisNexis actually refer to statutory filing fees. *See* Exhibit “L.” They sent Exhibit “A” by mail. They transmitted document 13-2 by wire to this Court. Both are deceptive and fraudulent.

91. The E-filing requirement in the 2003 Order included required payments to LexisNexis; it sent monthly invoices. The scheme to defraud was the transmittal by wire in interstate commerce of writings for the purpose of executing the scheme. Defendants, jointly and severally, violated 18 U.S.C. § 1343. *See* Exhibit “L,” pp. 16, 19, 22, 24, 27, 29.
92. 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, violating 18 U.S.C. § 1951. Each billing and required payment violated RICO by forcing Karen McPeters to pay LexisNexis. LexisNexis obtained Karen McPeters’ property with her consent induced by wrongful use of threatened force, or fear, under color of official right. *See* para. 72.
93. Karen McPeters did not know of any judicial remedy available to her from Judge Edwards. Events have shown that any remedy by Judge Edwards is unlikely. By way of example, Judge Edwards wrongfully dismissed McPeters I for want of prosecution. That dismissal order was reversed and the case remanded in *Karen McPeters v. Montgomery County, Texas*, 2010 WL 2171664 (Tex. App.-Beaumont 2010, rehearing den’d, pet. for review filed).

94. Judge Edwards again threatened Karen McPeters, to enforce E-filing requirement, in his Order on July 26, 2010. *See* Exhibit “O,” p. 2.
95. Defendants, jointly and severally, violated 18 U.S.C. § 1349. Each billing and required payment violated RICO by forcing Karen McPeters to pay LexisNexis. The conspiracy violated federal law because the 2003 Order (a) violated her rights to equal protection, and (b) was void as violating the separation of powers doctrine, and (c) violated open courts under the 14th Amendment.
96. The charges were not authorized by statute. The statutes set fees for litigants. LexisNexis and its Co-Defendants unlawfully implied that they could increase those fees. The E-filing requirement in the 2003 Order included required payments to LexisNexis, which sends collection invoices stating its charges are statutory filing fees. They are not and Montgomery County agrees. *See* Exhibit “P.” The unreasonable charges are not authorized by any statute.
97. Each of the Precinct Commissioners and the County Judge of Montgomery County affirmed and ratified Judge Edwards’ actions on November 5, 2007, in their agreement with LexisNexis. *See* Exhibit “B,” p. 22. That official act and policy clearly makes Montgomery County a party to each RICO violation alleged herein.
98. No reasonable public official, under the same or similar circumstances, would have taken the actions that caused the violations enumerated herein.
99. Karen McPeters incorporates her fraud and conspiracy claims (below) in this RICO cause of action.

SECOND CAUSE OF ACTION

VIOLATION OF PROCEDURAL AND SUBSTANTIVE DUE PROCESS RIGHTS UNDER 42 U.S.C. §1983 AND THE UNITED STATES CONSTITUTION

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

100. 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.

101. The United States Constitution, Amendment XIV, 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.

Equal Protection

102. *Monnell v. Dept. of Social Services*, 436 U.S. 658, 691, 98 S. Ct. 2018 (1978) states the requirements for §1983 liability: (1) the execution of a government's policy or

custom, (2) that is made by the government's lawmakers or those whose edicts or acts may fairly be said to represent official policy, (3) that inflicts constitutional injury.

103. The Nov. 5, 2007 agreement between Montgomery County and LexisNexis was endorsed by all four commissioners and the county judge of Montgomery County. It was official policy. Montgomery County, Edwards and Adamick executed that policy, together with LexisNexis. *See* Exhibit "B," p. 22.
104. The agreement inflicted constitutional injury on Karen McPeters and all similarly situated persons by imposing unconstitutional fees and charges on them. LexisNexis' non-statutory charges violate the Texas Constitution's open courts provision. Montgomery County, Edwards, Adamick and LexisNexis are liable under Section 1983, and Karen McPeters is entitled to injunctive relief.
105. Even if applicable, categories determining a "rational basis" for otherwise unconstitutional governmental acts are set by the legislature. Judge Edwards thus was acting in violation of the separation of powers doctrine under the Texas and United States Constitutions.
106. Montgomery County's 11/5/2007 agreement with Lexis Nexis was and is applied in conjunction with Judge Edwards' void 2003 Order. Defendants violated the open courts provision of the Texas Constitution. No Defendant can set or enforce financial penalties for "categories of litigants." Defendants' actions violated Karen McPeters' equal protection, and substantive and procedural due process rights.

107. Injunctive relief is available because neither Judge Edwards nor Barbara Gladden Adamick was acting as a judicial officer. The tasks were administrative, not judicial; there is no judicial immunity.

Judge Edwards' 2003 Order Violates the Doctrine of Separation of Powers Under Article II, §1 of the Texas Constitution

108. If the court holds that Judge Edwards' 2003 Order does not violate the doctrine of separation of powers, then Judge Edwards' order simply violates the open courts provision of the Texas Constitution. It is still impermissible. The job of the judiciary is to balance the cost of mandatory filing fees versus the requirement for open courts. Its job is not to set the filing fees, or, as in this case, to delegate that authority to an unaccountable, non-governmental entity.

Equal Protection and Due Process

109. 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.

110. The Defendants, jointly and severally, violated Plaintiff McPeters' procedural and substantive due process rights under the United States Constitution. 42 U.S.C. § 1983 does not confer the rights; it just makes the violations actionable.

111. Defendants denied Plaintiff McPeters her equal protection rights by failing to treat her and all similarly situated civil litigants the same, by erecting financial barriers and violating open court constitutional guarantees, and by preventing them from

filing paper pleadings in person or by mail. Defendants' actions are an intentional violation of Karen McPeters' procedural and substantive due process rights.

112. Further, Judge Edwards, and the other Defendants, may not attempt to enforce a 2003 Order against Karen McPeters that is not filed or entered of record in Cause No. 07-09-09142-CV or Cause No. 09-11-11474-CV.
113. Further, Judge Edwards is not the legislature and may not establish categories of litigants to financially penalize them through LexisNexis without violating the litigants' equal protection and due process rights.
114. The Montgomery County District 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 and the 2003 Order of Judge Edwards.
115. Barbara Gladden Adamick had actual knowledge of the policy both due to her implementation of Judge Edwards' 2003 Order and the McPeters II petition.
116. The policy caused the constitutional violation, the denial of Karen McPeters' rights to equal protection, open courts, and due process under the 14th Amendment to the United States Constitution.
117. Further, the 2003 Order of Judge Edwards is a constitutional violation. The order violates the separation of powers doctrine, both federal and state and violates the open courts provision of the Texas Constitution, actionable in this case under the 14th Amendment.
118. Karen McPeters first objected to E-filing with Judge Edwards on 1/27/09. *See* Docket 13-9, p. 1, entry 1-27-09. Afterwards, until document 13-2 herein was filed

on May 4, 2010, Karen McPeters had not seen the order purportedly requiring her to E-file in Montgomery County in Cause No. 07-09-09142-CV.

119. Defendants aver that Karen McPeters had the opportunity request permission from Judge Edwards to conventionally file documents. One cannot avail oneself of the “remedy” in an unseen order. Karen McPeters has finally seen the order -- after three years. Secret orders are not part of American jurisprudence. Further, the 2003 Order says, “In short ...” What was Karen McPeters to think if she had seen the order?
120. Second, the 2003 Order is **still not E-filed** with LexisNexis in 07-09-09142. One cannot appeal an unfiled order. *See* Exhibit “H,” the docket sheet in that case. **No administrative remedy exists for an unfiled order.**
121. Likewise, one cannot be controlled by an unfiled order. The May 2, 1997 document, “Approval of Local Rule for Electronic Filing and Service of Pleadings in the District Courts and County Courts at Law, Montgomery County, Texas,” states in Exhibit “J,” p. 5, para. 1:

The Court intends to issue, file and serve orders, rulings and other documents in the assigned cases electronically, rather on paper. (sic)
122. Karen McPeters was entitled to rely on the representation that all orders, and rulings applying to her case were on-line.
123. Third, Karen McPeters is entitled to her constitutional rights, with or without the approval of Judge Edwards. Judge Edwards is not able to make the determination that she **must** E-file and pay. Only the legislature can do that. LexisNexis now unlawfully decides how much each litigant must pay for each document submitted in

a civil case in the 9th District Court. Most of the other Montgomery County district courts permit conventional and much less expensive filing.

124. All reasonable officials similarly situated to Judge Edwards, District Clerk Adamick and Montgomery County 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.
125. Any reasonable official, including Judge Edwards, would have known that his actions violated the separation of powers doctrine under the Texas Constitution and under the United States Constitution.
126. That is, Judge Edwards may not directly or indirectly usurp the Legislative power to set court filing fees, as set forth in Texas Government Code, Chapter 51. Montgomery County then delegated this usurped power to a private entity, LexisNexis.
127. Likewise, Montgomery County may not promote and ratify Judge Edwards' unconstitutional usurpation of Legislative power by entering into an agreement with LexisNexis under which agreement no charge is specified. Access to civil courts in Montgomery County is financially controlled by an unaccountable private corporation seeking to maximize its profits.

Violation of Equal Rights Under Article 1, Section 3 of the Texas Constitution

128. The Texas Constitution, 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.

129. Judge Edwards is not the legislature. Judge Edwards' different financial treatment of similarly situated individuals is actionable because the judiciary [Judge Edwards] may not classify any persons for disparate financial treatment as a condition for accessing open courts. The judiciary may not determine the classification (legislation) and then rule on its validity (judicial). The District Clerk apparently randomly assigns cases to this disparate treatment.

Violation of Open Courts Under Article 1, Section 13 of the Texas Constitution

130. The Texas Constitution, 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.

131. 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 to open courts. *See* para. 31.

132. The charges demanded by LexisNexis as "fees" impose an unreasonable financial barrier. Judge Edwards has unlawfully made use of LexisNexis mandatory because (1) any "fee" is unlawful if it is higher than the same fee as set by the legislature; (2) there is no review of the "fee" by any branch of government; and (3) under separation of powers, Judge Edwards cannot mandate the fee and then allow LexisNexis to charge whatever it desires. The "fees" have no limit.

133. As an example, LexisNexis currently charges \$10.00 to mail each LexisNexis subscriber a paper invoice to pay filing fees and service costs. That charge is *prima facie* financially unreasonable. *See* Exhibit "K," p. 4.

134. LexisNexis charges \$15.98 for anything, and this is in addition to statutory filing fees.
135. Montgomery County acting through its commissioners and county judge in its November 5, 2007 contract with LexisNexis has approved, ratified and adopted as official policy the conduct of Barbara Gladden Adamick and Judge Edwards.

Violation of Due Course of Law Under Article 1, Section 19 of the Texas Constitution

136. The Texas Constitution, 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.

137. Defendants 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 Gladden Adamick voided her petition in McPeters II and returned documents as "unfiled" in McPeters I and II. *See Exhibits "C," and "D," p. 1.*
138. Furthermore, because the 2003 Order affects Karen McPeters' property rights by requiring her to pay money to LexisNexis, she is entitled to notice. She still has not received that notice in Cause Nos. 07-09-09142 or 09-11-11474; the 2003 Orders **still** have not been filed with LexisNexis. Coupled with notice, she is entitled to a hearing. Karen McPeters has never been offered a hearing on the mandated requirement for her to pay LexisNexis as a condition for access to the courts.

139. Karen McPeters is not obligated to ask for leave of court to file paper pleadings. When the choice is to file paper pleadings, or to pay fees to LexisNexis that are outside the Government Code so that she can file on-line, Karen McPeters is entitled under the Texas Constitution to select the no-cost option. The Open Courts provision of the Texas Constitution guarantees her right to file paper pleadings. If E-filing were without additional cost, or, if the legislature passed a bill and the governor signed it, the result would be different and Karen McPeters could not object.
140. In reality, Judge Edwards now argues that **he** orders E-filing, coupled with “fees” charged and retained by a large private corporation, and then **he** decides whether or not one has to pay. Separation of powers prohibits his participation in both decisions. The legislature decides one. The judiciary decides the other. *See* Exhibit “O,” p. 2.

Violation of Bill of Rights Under Article 1, Section 29 of the Texas Constitution

141. The Texas Constitution, 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.

142. Defendants Judge Frederick Edwards, District Clerk Barbara Gladden Adamick and Montgomery County, violated Karen McPeters’ rights guaranteed by the Texas Bill of Rights. They have no sovereign immunity. The drafters of the constitution never foresaw that a member of the judiciary would purport to give away legislative rights (to set court filing fees and other charges – still set by statute for all in Montgomery County) to a privately held entity – LexisNexis.

THIRD CAUSE OF ACTION

VIOLATION OF TEXAS THEFT LIABILITY ACT

As her third cause of action, if necessary, Karen McPeters complains that Defendants, jointly and severally, violated Tex. Civ. Prac. & Rem. Code § 134.001, *et. seq.*, and seeks the statutory penalties against them, as is provided therein, and incorporates all paragraphs herein. Relief is sought from LexisNexis because it states that it is entitled to keep all of the unlawful fees and charges.

THE UNLAWFUL THREAT

143. ***Texas Civil Practice & Remedies Code, § 134.002. Definitions***

In this chapter: (1) "Person" means an individual, partnership, corporation, association, or other group, however organized.

(2) "Theft" means unlawfully appropriating property or unlawfully obtaining services as described by Section 31.03, 31.04, 31.05, 31.06, 31.07, 31.11, 31.12, 31.13, or 31.14, Penal Code.

§ 134.003. Liability - (a) A person who commits theft is liable for the damages resulting from the theft.

§ 134.005. Recovery (a) In a suit under this chapter, a person who has sustained damages resulting from theft may recover:

(1) under Section 134.003(a) , from a person who commits theft, the amount of actual damages found by the trier of fact and, in addition to actual damages, damages awarded by the trier of fact in a sum not to exceed \$1,000; or

(2) from a parent or other person who has the duty of control and reasonable discipline of a child, for an action brought under Section 134.003(b) , the amount of actual damages found by the trier of fact, not to exceed \$5,000.

(b) Each person who prevails in a suit under this chapter shall be awarded court costs and reasonable and necessary attorney's fees.

144. The Theft Liability Act specifically adopts the tests for theft set forth in the Texas Penal Code. A person commits the offense of theft “if he unlawfully appropriates property with intent to deprive the owner of property.” [TEX. PENAL CODE ANN. § 31.03\(a\)](#) (Vernon 2003). “Appropriation of property is unlawful if ... it is without the owner's effective consent....” [Id. § 31.03\(b\)\(1\)](#). “ ‘Effective consent’ includes consent by a person legally authorized to act for the owner. Consent is not effective if ... induced by deception or coercion....” [Id. § 31.01\(3\)\(A\)](#). “ ‘Deception’ means: (A) creating or confirming by words or conduct a false impression of law or fact that is likely to affect the judgment of another in the transaction, and that the actor does not believe to be true; [or] (B) failing to correct a false impression of law or fact that is likely to affect the judgment of another in the transaction, that the actor previously created or confirmed by words or conduct, and that the actor does not now believe to be true....” [Id. § 31.01\(1\)\(A\), \(B\)](#).

(9) "Coercion" means a threat, however communicated: ... (D) to expose a person to hatred, contempt, or ridicule; (E) to harm the credit or business repute of any person; or (F) to take or withhold action as a public servant, or to cause a public servant to take or withhold action. § 1.07(9)(D), (E),(F).

Under Texas law, extortion is subsumed under the theft statute. *Id.* §31.02.

145. Karen McPeters was deceived, coerced and forced to enroll with LexisNexis by actual or threatened force of law. Document 13-2 filed herein (the 2003 Order in Cause No. 07-09-09142-CV), paragraph 72 above, and Exhibit “O, p. 2 represent that threat; it implicitly includes the mandated requirement to pay LexisNexis. Karen McPeters paid the charges without force but by deception by concealment. *See* Exhibit “R.”
146. One aspect of the coercion was that documents in her case would not be filed properly, and would not be filed in a timely manner. Karen McPeters tendered documents in person to District Clerk Barbara Gladden Adamick, a public servant; they were rejected. Documents mailed in were returned unfiled.
147. The threat was enforced, and was based on Edwards and Adamick creating, by words and conduct, false impressions of law and fact regarding E-Filing that affected Karen McPeters’ judgment in document filing, and that neither Edwards nor Adamick believed to be true, or failing to correct the false impressions concerning E-filing and concealing charges from Karen McPeters, that neither now believes to be true, and that affected Karen McPeters’ judgment concerning document filing.
148. The judicial sanctions threat included dismissal, contempt and incarceration as the next step for non-compliant, recalcitrant litigants, or their counsel. LexisNexis threatened to report non-paying subscribers to the state bar and the court. *See* Exhibit “L,” p. 30A. All believed the threat. Judge Edwards issued a “show cause threat” on July 26, 2010. *See* Exhibit “O,” p. 2.

149. Bolstering Judge Edwards' threat was the statutory requirement that any suit against the county had to be filed in that county. *Tex. Civ. Prac. & Rem. Code* § 15.015.
150. The Montgomery County trap was complete. Just like any civil litigant unwary enough to venture into its District Courts, Karen McPeters had no alternative except to pay. Other hapless, similarly situated litigants in Montgomery County have met a similar fate. *See* Exhibit "M." Since 1997, more than 10,000 litigants have been forced to pay the unlawful charges by LexisNexis in Montgomery County.
151. Document 13-2 requires E-filing in 07-09-09142-CV. (McPeters I). The Texas Supreme Court's Miscellaneous Order states:

The Court intends to issue, file and serve orders, rulings, and other documents in the assigned cases electronically, rather on paper. (sic)

Montgomery County Local Rules are identical. *See* Exhibit "J," p. 5.

152. Miscellaneous Order 97-9155 by the Texas Supreme Court did not approve rejection of paper filings by Barbara Gladden Adamick. The **order did not approve** increased mandatory filing fees and service charges. *See* Exhibit "J."
153. Despite the electronic filing "requirement," Barbara Gladden Adamick did not file or serve document 13-2 in McPeters I, and failed to provide document 13-2 to Karen McPeters.
154. Document 13-2 dated May 5, 2010 was the first time that Karen McPeters had seen this order in case 07-09-09142-CV, even though the District Clerk represents to this Court that the document is part of the records in her office. *See* stamped certificate on Document 13-2, lower right corner of p. 2, dated April 28, 2010.

155. Furthermore, **as of May 15, 2010**, Barbara Gladden Adamick **still had not filed** document 13-2 in the LexisNexis case filing system in Cause Number 07-09-09142-CV. *See* Exhibit “H.” This is despite its supposed mandate in Local Rules. *See* Exhibit “J,” p.5. The 2003 Order was not included in the transmission of the record to the 9th Court of Appeals in 2009 after Judge Edwards’ dismissed Karen McPeters’ first case (“McPeters I”). One cannot appeal a secret order.
156. Additional proof of the ongoing deception is shown by comparing document 13-10, p. 23, on file herein, with Exhibit “I.” The 2003 Order was not filed on LexisNexis.
157. The “Clerk’s Check List” shows that the 2003 Order in 09-11-11474-CV was mailed on Nov. 25, 2009 to counsel for Karen McPeters. She did receive Exhibit “A.”
158. The “Clerk’s Check List” does not show the 2003 Order was filed on LexisNexis, and **IT WAS NEVER FILED**. *See* Exhibit “G” for the Motion with 2003 Order, and Exhibit “I,” the Docket Sheet for 09-11-11474 as of 5-15-2010 showing that the 2003 Order was never entered.
159. The “Clerk’s Check List” also shows that apparently the 410th District Court, Judge K. Michael Mayes presiding, was also involved in the ongoing E-file Enterprise by its December 12, 2006 order. That order has not been produced. LexisNexis showed 2,057 cases in that court as of May 17, 2010. Apparently, the 221st, 284th, 359th, 418th, and 435th district courts do not participate in the E-filing Enterprise.
160. The aggregate amount of the LexisNexis charges to Plaintiff McPeters, and similarly situated persons, constitute a first degree felony under Texas law. *See Tex. Pen. Code Ann. §§ 31.09, 31.03 (e)(7)* (Vernon 2003).

161. Damages awarded for conduct chargeable as felony theft in the third degree or higher under the *Texas Penal Code, chapter 31*, are exempt from the cap on exemplary damages. *Tex. Civ. Prac. & Rem. Code § 41.008(b), (c)(13)*.
162. Karen McPeters pleads that Defendants' actions, jointly and severally, constitute theft. Judge Edwards threatened the use of force generally in 2001 and specifically on July 26, 2010. Like his 2003 Order which is alleged to apply to her and her claims, Karen McPeters has no reason to disbelieve Judge Edwards' threat.

FOURTH CAUSE OF ACTION

FRAUD

As her fourth cause of action, if necessary, Karen McPeters complains that Defendants, jointly and severally, committed fraud against her and against similarly situated litigants, and seeks damages, and incorporates all paragraphs herein.

163. Karen McPeters seeks a determination of responsibility as to all Defendants, but Karen McPeters seeks to recover state law fraud damages only against LexisNexis. She seeks RICO damages against LexisNexis based upon contribution to an enterprise by all Defendants.
164. The Defendants individually, and collectively, made (1) a material representation; (2) that was false; (3) that, when the speaker made it, he knew it was false or made it recklessly without any knowledge of its truth and as a positive assertion; (4) that he made it with the intention that it should be acted upon by Karen McPeters; (5) that Karen McPeters acted in reliance upon it; and (6) that she thereby suffered injury.

165. Defendants told Karen McPeters that E-filing was mandatory, that payment of \$444.71 to LexisNexis was mandatory, to induce Karen McPeters to use LexisNexis, and upon which inducement she relied and acted by paying LexisNexis.
166. The Defendants, jointly and severally, concealed and continue to actively conceal LexisNexis' charges from Montgomery County litigants. *See* Exhibit "R." Defendants had a duty to disclose the charges by LexisNexis.
167. Karen McPeters did not know that defendants' representations were false and she could not reasonably discover the misrepresentations. The misrepresentations were made knowing that the statements were false, or with reckless disregard for the truth. Plaintiff McPeters she suffered \$444.71 in damages to-date, and the damages are continuing.

Badges of Fraud

168. Exhibit "A" and pp. 4-5 of Exhibit "G" purport to be the same document – the same 2003 Order. A cursory inspection proves the falsity of that conclusion. Exhibit "A" was provided by mail to Karen McPeters in 2009. The second hand written case number on p. 1 contains "-CV" after the number. In Exhibit "G," pp. 4-5 (filed by Montgomery County in LexisNexis), the second hand written case number omits the "-CV." Careful inspection of the hand written number in both exhibits, compared with the typed wording above and below, reveals each "order" to be a different document.
169. In addition, Defendants base their defense on the 2003 Order of Judge Edwards. That order is not filed in either case for Karen McPeters -- McPeters I or McPeters II. Barbara Gladden Adamick treats Judge Edwards' 2003 order as a secret.

170. LexisNexis does not disclose its charges on its web site, until one spends significant time searching for them – after one has become a subscriber. Both the charges and the alleged “remedy” are concealed. Judge Edwards does not disclose the charges. *See* Exhibit “N.” Barbara Gladden Adamick does not provide litigants with LexisNexis’ charges, nor does she correctly explain where to find them on LexisNexis’ web site. *See* Exhibit “R.”

Reliance

171. Karen McPeters relied upon the material representations of the Montgomery County District Clerk and her deputies that (a) E-filing was required, and (b) Judge Edwards had the authority to mandate E-filing. *See* Exhibit “C.” The problem is with the mandated blank check drawn on Montgomery County litigants’ accounts to LexisNexis.

172. Neither was true. First, in an E-filing system documents and orders are E-filed. Document 13-2 was not E-filed. An order that is not filed cannot apply to litigants.

173. To be effective, all orders must be made on the record, either in writing or in open court.

174. Second, a 2003 “order” cannot order actions by a litigant filing a lawsuit in 2007. Judge Edwards had no jurisdiction over a non-existent case, because a court has no jurisdiction over the parties in a case until a case has been filed.

175. More importantly, Judge Edwards cannot mandate E-filing that requires litigants to pay exorbitant fees not set forth in the Texas Government Code, Chapter 51. Judge Edwards had no jurisdiction to perform the act. He falsely represented that he could require E-filing and payment of LexisNexis’ unlawful charges by litigants in his court.

176. The Texas legislature sets court filing fees. The legislature has not attempted to delegate filing fee setting authority to Judge Edwards and certainly not to a large private corporation. Judge Edwards has simply usurped that authority.
177. Judge Edwards has enabled LexisNexis to set filing fees through its contract with Montgomery County and his web site. *See* Exhibit “N.” On information and belief, there is no limit to, and no oversight of, the amounts that LexisNexis can and does charge. On information and belief, the LexisNexis “mandatory” charges to litigants are not reviewed by Montgomery County or Judge Edwards, or any state actor.
178. The Montgomery County District Clerk, or one of her deputies, does not sign bills from LexisNexis, as is required by statute. *Tex. Gov’t Code* § 51.320.
179. LexisNexis is the **agent** of the Montgomery County District Clerk, Barbara Gladden Adamick. *See* Exhibit “J,” p. 4, para. 7. The bills must be signed, and they are not.
180. The Texas Supreme Court agreed that Montgomery County could establish an electronic filing system, pursuant to its Miscellaneous Order No. 97-9155. This Order does not authorize either the charging of fees, the violation of equal rights, or usurpation of legislative power. *See* Exhibit “J.”
181. The District 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, 74 and 75.
182. Judge Edwards may not order the District Clerk to ignore her statutory duties or the Rules of Civil Procedure. The 2003 order, as interpreted by Montgomery County, does so. There is no Supreme Court approval of this administrative supplement to the 1997 local rules. The Texas Rules of Civil Procedure prevail over local rules. The statutes of

Texas prevail over the Texas Rules of Civil Procedure. Defendants, jointly and severally, have misrepresented the law and the facts to litigants.

183. LexisNexis' fees and charges are not authorized by law, *Tex. Gov't Code* §101.061, and *Tex. Gov't Code* §§51.317 and 51.318.
184. The Texas legislature considered electronic filing in 1987 in *Tex. Gov't Code* §51.801-51.807. It made no provision for additional mandatory filing fees.
185. The "public access terminal" in the Montgomery County District Clerk's office, offered in lieu of E-filing (in the secret 2003 Order not produced for three years to Karen McPeters), unconstitutionally restricts each litigant's access to the courts. If Judge Edwards has 1,161 active E-filing cases, then **each litigant would be entitled to 10 minutes of time every two months**. This assumes a 10-minute session per litigant, 9 hours per day, times 43 business days in two months. In 2001 Judge Edwards had 1,500 E-File cases. LexisNexis shows 6,617 cases in the 9th District Court on May 17, 2010.
186. The "public access terminal" requires knowledge of computers and access to diskettes, which unreasonably discriminates against the uneducated, the poor and the elderly.
187. The "public access terminal" merely links the user to the internet, and LexisNexis' web site. The user must still pay LexisNexis' illegal charges in order to file documents. *See* David Person affidavit, Exhibit "M."

188. Parties have a duty to monitor the progress of the case that they may want to appeal. Montgomery County's public access terminal denies litigants access to the courts, because of both costs and the unreasonable time constraints.

Judge Edwards

189. Judge Edwards knew that his material representations about the 2003 Order, its concealment, and the requirement to pay LexisNexis were false when made or made them recklessly and as a positive assertion without any knowledge of the truth. He issued the 2003 Order, as well as the July 26, 2010 Order. *See* Exhibits "A," and "O," p. 2. *See also* Exhibit "R."

190. Judge Edwards intended that Karen McPeters and any civil litigant rely on his misrepresentations. Karen McPeters did rely on his misrepresentations. She acted by paying the fees and charges, and justifiably relied on his misrepresentation about the validity and content of the 2003 Order and the requirement to pay. She suffered injury, as did all similarly situated litigants. *See* Exhibit "L."

Barbara Gladden Adamick

191. Barbara Gladden Adamick knew that the material representations about the 2003 Order, its concealment, and the requirement to pay LexisNexis were false when made or made them recklessly and as a positive assertion without any knowledge of the truth. She refused filings. *See* Exhibit "C." Barbara Gladden Adamick intended that Karen McPeters rely on her misrepresentations. Karen McPeters did rely on her misrepresentations.

192. She acted by paying the fees and charges, and justifiably relied on Ms. Adamick's misrepresentations about the validity and content of the 2003 Order and the requirement to pay. Barbara Gladden Adamick never E-filed the 2003 Order on LexisNexis. *See* Exhibits "H" and "I." Karen McPeters suffered injury, as did all similarly situated litigants. *See* Exhibit "L."

Montgomery County

193. Montgomery County knew that the material representations about the 2003 Order, its concealment, and the requirement to pay LexisNexis were false when made or made them recklessly and as a positive assertion without any knowledge of the truth. It signed the 2007 Agreement as its official policy. *See* Exhibit "B," p.22. Montgomery County intended that Karen McPeters rely on its misrepresentations. Karen McPeters did rely on them.

194. She acted by paying the fees and charges, and justifiably relied on its misrepresentations about the validity and content of the 2003 Order. Montgomery County never required Barbara Gladden Adamick to fulfill her statutory duties.

195. Karen McPeters suffered injury, as did all similarly situated litigants. *See* Exhibit "L."

LexisNexis

196. LexisNexis knew that the material representations about the 2003 Order, its concealment, and the requirement to pay LexisNexis were false when made or made them recklessly and as a positive assertion without any knowledge of the truth. It included the requirement for the substance of the 2003 Order in its contract with Montgomery County. *See* Exhibit "B," p. 15.

197. LexisNexis intended that Karen McPeters rely on its misrepresentations. Karen McPeters did rely on its misrepresentations. She acted by paying the fees and charges, and justifiably relied on its misrepresentations about the validity and content of the 2003 Order and the requirement to pay. Further, LexisNexis represented that its charges were “fees” owed under the authority of statute.
198. She suffered injury, as did all similarly situated litigants. *See* Exhibit “L.”

All Defendants

199. The 2003 Order by Judge Edwards was fraudulent because he did not have the authority to enter the order. He did not have the authority to enter the order because he knew that LexisNexis would charge fees; Montgomery County was to receive part of those fees; and the order forced litigants to use E-filing with LexisNexis. Mandatory fees are set by the legislature. Judge Edwards’ order violates open courts and the separation of powers doctrine. Judge Edwards knew that litigants and their counsel would have to pay the charges of LexisNexis. Judge Edwards usurped legislative power and required E-filing by all qualifying litigants.
200. The mandatory requirement to use LexisNexis was a false material representation by Judge Edwards, Barbara Gladden Adamick, Montgomery County and LexisNexis. Other, less expensive, on-line providers exist. Defendants concealed the LexisNexis’ charges. *See* Exhibit “R.” Each had a duty to disclose the order, and LexisNexis’ charges, to Karen McPeters.

201. Judge Edwards issued the order. Barbara Gladden Adamick repeated the substance of the order to litigants and enforced the order by rejecting paper filings. *See* Exhibit “D,” p.1.
202. Barbara Gladden Adamick knew that by rejecting the paper filings of litigants that each litigant would be forced to file on LexisNexis and to pay its charges. Barbara Gladden Adamick obtained less work for her staff and more revenues for Montgomery County, her employer.
203. She fraudulently misrepresented her purported right to force litigants to pay for services that are legally required to be rendered free by the District Clerk – filing documents. She fraudulently misrepresented her duties under the law to litigants in Montgomery County, a material false representation.
204. The statements about mandatory E-filing were made to all similarly situated Montgomery County litigants. Judge Edwards repeated the statements at the Seventh National Court Technology Conference in Baltimore, Maryland, in August 2001.
205. Judge Edwards’ July 26, 2010 Order, Exhibit O,” p. 2, repeats a threat, a new threat, directed specifically to Karen McPeters.
206. LexisNexis benefitted from the scheme by ensuring that it would be paid on every filing by every qualifying litigant in Montgomery County. The requirement is in its contract with Montgomery County, Nov. 5, 2007. *See* Exhibit “B,” p.15.
207. Each bill from LexisNexis is an overt act in furtherance of the scheme to defraud. *See* Exhibit “L.” Barbara Gladden Adamick enforced the scheme by refusing to file documents and pleadings, thereby violating her statutory duties.

FIFTH CAUSE OF ACTION

VIOLATION OF STATUTORY DUTIES

As her fifth cause of action, if necessary, Karen McPeters complains that Barbara Gladden Adamick, Montgomery County District 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.

208. The Texas Rules of Civil Procedure Rules 21, 74 and 75 require the District Clerk to accept paper filings. Karen McPeters has a claim because, among other acts, Barbara Gladden Adamick cancelled her Notice of Appeal, a paper filing on October 2, 2009. That cancellation interfered with Karen McPeters appeal in McPeters I, and Karen McPeters had to refile the Notice on LexisNexis on October 7, 2009.

209. Karen McPeters had to refile the “Notice of Appeal” on LexisNexis, and pay LexisNexis, before Barbara Gladden Adamick would recognize the filing and transmit it to the Fourth Court of Appeals as part of the Clerk’s Record.

CONSPIRACY

Karen McPeters complains that Defendants, jointly and severally, engaged in an actionable conspiracy, and seeks damages, and incorporates all paragraphs herein.

210. An actionable civil conspiracy requires (1) two or more persons; (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; (5) specific intent to agree to accomplish an unlawful purpose or a lawful purpose by unlawful means, and (6) damages as the proximate result of the conspiracy.

211. Defendants jointly have engaged in a conspiracy to force litigants, including Karen McPeters, to pay illegal charges, had a meeting of their minds on the course of action, have had tens of thousands of unlawful overt acts, with the specific intent to accomplish an unlawful purpose, or to accomplish a lawful purpose by unlawful means, and thereby financially damaged Karen McPeters and all similarly situated litigants as the proximate result of the conspiracy.

CLASS ACTION

212. 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 10,000**) 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 Exhibit “L”); and
- (4) Karen McPeters will fairly and adequately protect the interests of the class.

A separate motion to certify the class will be filed by Plaintiff McPeters.

213. The parties opposing 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

214. Equitable relief may be granted under the Texas Constitution, art. 1, §29 for violations of the Texas Bill of Rights, and under 42 U.S.C. §1983.

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

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

217. She has suffered immediate and irreparable injury, and has no adequate remedy at law. Karen McPeters continues to be charged unconstitutional fees and charges.

218. Karen McPeters has no administrative remedy, because (a) no mechanism exists for a refund from Lexis Nexis, (b) she is allegedly violating an unfiled order (the 2003 Order) for which no appellate remedy exists, (c) she was denied a deposition to determine if any other remedy existed, (d) 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, and (e) no administrative remedy will correct Judge Edwards' unconstitutional order.

219. 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.

The statutes fixing official fees are strictly construed against allowing a fee by implication, as regards both the fixing of the fee and the officer entitled thereto.

220. 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.
221. The granting of injunctive relief would not adversely affect public policy or public interest, because litigants would then be afforded their constitutional rights.
222. The relief requested against Judge Edwards concerns acts outside his judicial immunity.
223. Karen McPeters requests a permanent injunction prohibiting **Barbara Gladden Adamick, District Clerk of Montgomery County** 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 Clerk file-stamp designations on pleadings.

See, for example, Fed. R. Civ. P. 79.

224. Karen McPeters requests a permanent injunction prohibiting **Frederick E. Edwards, District Judge of Montgomery County** from

- (a) purporting to order either the District Clerk, or her deputies, to enter a cause number into a order signed prior to the existence of the case without his judicial input;
- (b) requiring the District Clerk to apply that order to any case not in existence as of the date of the order, and
- (c) ordering any action mandating non-statutory charges to litigants.

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

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

- (a) ordering the District Clerk to refuse to accept and file pleadings on paper tendered to the District Clerk, and
- (b) ordering the District Clerk to void any District 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.

226. Karen McPeters further requests that this Court order Barbara Gladden Adamick to send a letter to each civil litigant that she will accept conventional filings (paper) in all cases. Karen McPeters further requests that Judge Edwards, and Judge Mayes (if applicable), be ordered to announce at docket call for a period of two (2) weeks that the District Clerk will accept conventional filings in all cases.

227. 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.
228. 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.
229. The injunction should also recite that the Miscellaneous Order 97-9155 of the Texas Supreme Court sets no illegal charges, and does not unilaterally authorize that the Texas Government Code be disregarded.

No Qualified Immunity

230. The threshold inquiry in a qualified-immunity analysis is whether Karen McPeters' allegations, if true, establish a constitutional violation. The second inquiry is whether the constitutional right was clearly established, that is, whether it would be clear to a reasonable officer that her conduct was unlawful in the situation she confronted.
231. Defendants Edwards, Adamick, and Montgomery County have no qualified immunity.
232. Defendants Edwards, Adamick, Montgomery County and LexisNexis knew, or should have known, that court filing fees are set by the state legislature. *Tex. Gov't Code* §51.317, § 51.318 and *Tex. Gov't Code* §101.061-101.0617.

233. Defendants Edwards, Adamick, Montgomery County and LexisNexis knew, or should have known, that court filing fees are set by the state legislature, because court filing fee information is codified in Vernon's Texas Codes Ann. (2003), and each section contains the legislative history of that provision.
234. Defendants Edwards, Adamick, and Montgomery County knew that LexisNexis would be charging litigants for E-filing and that Montgomery County would receive payments from LexisNexis derived from the charges to litigants.
235. Judge Edwards cannot order litigants to pay more filing fees. He cannot force them into a position [by mandating E-filing], so that some litigants are required to pay more filing fees than are provided for by statute. He cannot use an order, Exhibit "O," p. 2, to enforce the payment of additional non-statutory fees in order to use the courts.
236. Not all acts performed by judges, even those that are essential to the operation of the courts, are protected by judicial immunity. Ministerial or administrative tasks performed by judges are not protected by immunity, because they are not sufficiently judicial in nature. When it appears certain that no one invoked the judicial machinery for any purpose, then the judge's actions are not judicial acts.
237. Defendants Edwards, Adamick, Montgomery County and LexisNexis knew, or should have known, that Judge Edwards' Feb. 2003 Order was an unconstitutional usurpation of legislative power. His order violated the separation of powers doctrine upon which our government at both the state and national level is based.

238. Each Defendant LexisNexis knew, or should have known, that Judge Edwards did not have the authority to mandate litigants to pay filing fees and service charges to LexisNexis, because one may not do indirectly that which he cannot do directly.
239. Judge Edwards knew that his actions were unconstitutional. In August 2001, he wrote:
- “Power has many shapes. It is money; it is information; it is authority. The true definition of power is the authority to control money and information. A Judge or administrator that controls the money and information thus has true power in the justice system.”
- “A Judge’s Perspective of E-filing,” Seventh National Court Technology Conference, Baltimore, Maryland, Aug. 2001.
- The separation of powers doctrine exists to prevent the abuses enumerated herein.
240. Furthermore, Barbara Gladden Adamick, the District Clerk, is required by statute and rule to accept and file documents tendered to her, *Tex. Gov’t Code* § 51.303(a) and *Texas Rules of Civil Procedure* 21, 74 and 75.
241. Persons with derived judicial immunity are only protected by judicial immunity for performing judicial acts. An official can assert judicial immunity for enforcing or executing certain orders of the court. For judicial immunity to apply in this context, the order being enforced or executed must be one for which the judge is absolutely immune from suit. Thus, an official has judicial immunity for complying with a court’s order only if the order was a discretionary act normally performed by a judge and issued within the court’s jurisdiction. This is not the case here, because the District Clerk’s obligation to file pleadings is not discretionary.
242. The purpose of filing documents is to place them in the court’s record of the lawsuit.

243. Therefore, it would be clear to a reasonable officer that her conduct was unlawful in the situation she confronted.

DAMAGES

COMPENSATORY AND STATUTORY DAMAGES

244. 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

245. 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. The Nov. 5, 2007 agreement was the official policy of Montgomery County. Montgomery County is liable for punitive damages.

246. 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 LexisNexis 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.

247. The *Tex. Civ. Prac. & Rem. Code*, Chapter 101 does prohibit punitive damages. It is the Texas Tort Claims Act. Karen McPeters is not asserting a claim under the TTCA against the governmental entities.
248. Evidence of conduct justifying exemplary damages includes the fact that the Defendants *persisted in forcing Karen McPeters and other similarly situated litigants to pay unconstitutional fees and charges. Judge Edwards issued his July 26, 2010 Order to continue the unlawful conduct.*

OTHER DAMAGES

249. Plaintiff McPeters has been damaged by the actions of Montgomery County, by and through its county judge, commissioners, supervisors, agents and employees (throughout this petition “Montgomery County”) and all other Defendants.
250. 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, as sought herein.
251. The herein-described wrongful actions, statements, and/or omissions by Defendants are the producing cause of Plaintiff McPeters’ herein-described damages.
252. 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. The actions have been intentional and without just cause or excuse.
253. Plaintiff McPeters is entitled to actual and statutory damages.

254. All actions complained of herein have been ratified by the Defendants, jointly and severally, including Montgomery County and its commissioners, through acceptance of the benefits and the failure to repudiate the violations described herein.
255. 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.
256. Plaintiff McPeters hired Robert L. Mays, Jr. as her attorney and agreed to pay his reasonable and necessary attorney's fees, costs and expenses.
257. 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.
258. 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.
259. All exhibits and exhibit references are incorporated herein for all purposes.

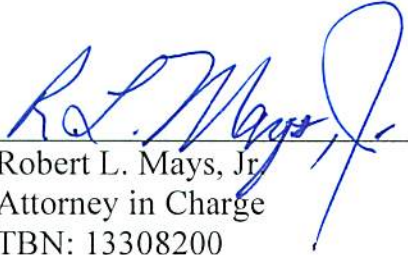
WHEREFORE, PREMISES CONSIDERED, Plaintiff Karen McPeters requests the court to award judgment to Plaintiff McPeters against Defendants, as sought herein, and to grant her permanent injunctions as are requested above. She further requests recovery of the

herein described damages, for herself, and, subject to a Rule 23 motion and order, 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.

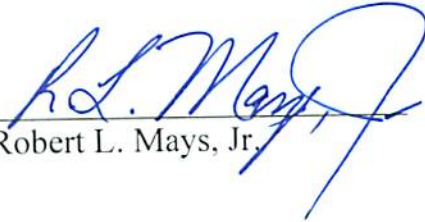
A TRIAL BY JURY IS RESPECTFULLY DEMANDED.

Respectfully submitted,


Robert L. Mays, Jr.
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CERTIFICATE OF SERVICE

I certify that each defendant is to receive a true and correct copy of this Third Amended Complaint, and the attached exhibits, through the U.S. District Clerk's on-line filing system in accordance with Fed. R. Civ. P. 5(b)(2)(E) on this _13th_ day of August, 2010.


Robert L. Mays, Jr.