

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**

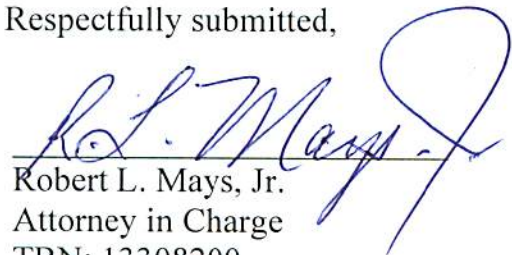
**THE HONORABLE FREDERICK E.** §  
**EDWARDS; BARBARA GLADDEN** §  
**ADAMICK, DISTRICT CLERK;** §  
**MONTGOMERY COUNTY, TEXAS, and** §  
**REED ELSEVIER, INC. d/b/a LexisNexis** §  
Defendants §

**PLAINTIFF'S HEARING No. 5 -**  
**ORDERS ENTERED WITHOUT JURISDICTION ARE VOID**

Plaintiff Karen McPeters submits the attached brief as the law and evidence  
in support of her request that Defendants' Rule 12(b)(6) motions be denied.

Date: December 9, 2010

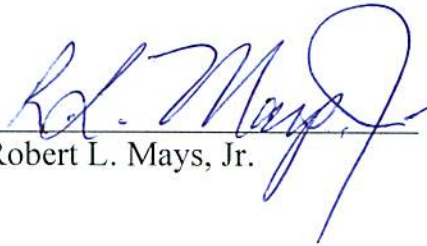
Respectfully submitted,



Robert L. Mays, Jr.  
Attorney in Charge  
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So. Dist. ID: 11606  
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San Antonio, Texas 78217  
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CERTIFICATE OF SERVICE

I certify that I hand delivered a copy of this "Plaintiff's Hearing Brief No. 5 – Orders Entered Without Jurisdiction Are Void" on December 9, 2010 to each counsel for Defendant present at the hearing.

  
Robert L. Mays, Jr.

## **Orders Entered Without Jurisdiction Are Void**

“Jurisdiction” refers to a court's authority to adjudicate a case. *Dubai Petroleum Co. v. Kazi*, 12 S.W.3d 71, 75 (Tex.2000)

A court must have jurisdiction of the parties in order to enter a valid order as to those parties. An order or judgment entered without jurisdiction of the parties is void. *Mapco, Inc. v. Forrest*, 795 S.W.2d 700, 703 (Tex. 1990) “A judgment is void only when it is apparent that the court rendering the judgment had no jurisdiction of the parties, no jurisdiction of the subject matter, no jurisdiction to enter the judgment, or no capacity to act as a court.” *Id.* at 703, citations omitted.

A court receiving a case by transfer of venue has no jurisdiction of the parties and no authority to act in the case until it is transferred. *Bigham v. Dempster*, 901 S.W.2d 424 (Tex. 1995); *HCA Health Services of Texas, Inc. v. Salinas*, 838 S.W.2d 246 (Tex. 1992) (per curiam).

## **The 2003 Order Is Void In Numerous Cases and In This Case**

The Order was signed in 2003, long before the 9<sup>th</sup> District Court acquired jurisdiction of numerous parties. In *McPeters*, a minutes entry on one version of the Order provides that the order was entered six months prior to suit being filed in Travis County and thus ten months prior to transfer of the case to Montgomery County.

## **Violation of Procedural Due Process**

The Order, on information and belief, is *not* entered in most of the cases in which the Order is enforced. In *McPeters*, no notice of the Order can be found in the case docket sheet, District Clerk website or 9<sup>th</sup> District Court website. The Order is not a standing order or a local rule. Parties have no notice of an unfiled order.

Failure to give notice violates “the most rudimentary demands of due process of law.” *Peralta v. Heights Medical Center, Inc.*, 485 U.S. 80, 84, 108 S.Ct. 896 (1988), citations omitted.

The importance of notice of the 2003 Order is emphasized by the Local Rule, signed by the Justices of the Texas Supreme Court and by the Hon. Fred Edwards, Administrative Judge, Montgomery County, Texas. The procedure required by the Local Rule is not ambiguous. “A District Court in Montgomery County...may, from time to time, by written order, select and designate those cases which shall be assigned to the electronic filing system...”, and “[u]pon receipt of **any such Order**, parties not then having access to the EFILE system shall promptly take steps...”, emphasis added.

The Local Rule says that the Order is operational as to a particular party “upon receipt.” McPeters did not receive a copy of the Order until approximately six months after a copy was requested. The request was sent on December 4, 2009. The Order still does not appear on the docket sheet and is still not accessible through the E-file system.

DISTRICT CLERK OF MONTGOMERY COUNTY

CLERK  
NOTES

CLERK  
NOTES

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Cause No. 07-09-09142  
KAREN MCPETERS

Page: 1

vs.

MONTGOMERY COUNTY TEXAS

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- 09.10.07 ORDER ON MOTION TO TRANSFER VENUE FROM TRAVIS CO. PF
- 09.10.07 THIS IS NOW AN ELECTRONIC FILE
- 09.11.07 RET'D RECEIPT OF TRANSFER TO TRAVIS CO DIST CLERK PF
- 09.14.07 LETTER REQUESTING COST DEPOSIT - TRANSFER  
PATSY FLETCHER
- 09.14.07 COPY OF LTR OF COST TO ASST CO ATTY RAYBORN JOHNSON JR PF
- 09.14.07 \*\*\*\*\* FILE PLACED IN NEW SUITS HOLDING FOR FEE DUE  
OF \$217 \*\*\*\*\* PF
- 10.05.07 REC'D CK#123 IN THE AMT OF \$217 FROM ATTY ROBERT MAYS JR PF
- 10.08.07 \*\*\*\*\* FILE TO IMP PF
- 10.15.07 FILE TO RRP NW
- 05.12.08 PLAINTIFF'S SECOND AMENDED PETITION  
FILED BY ATTY ROBERT MAYS JR EB
- 07.17.08 RULE 11 AGREEMENT RE DISCOVERY  
FILED BY ATTYS ROBERT MAYS JR & RAYBORN JOHNSON JR EB
- 01.27.09 COURTESY PHONE CALL TO ATTY ROBERT L. MAYS IN RE: EFILING  
MR. MAYS INSISTS HE DOES NOT HAVE TO EFILE AND THAT THE  
COURT DOES NOT HAVE THE AUTHORITY TO ORDER HIM TO DO SO  
RETURNED HARD COPY DISCOVERY TO HIM W/ COPY OF EFILE ORDER  
.....SH
- 02.04.09 VACATION LETTER  
FILED BY ATTY ROBERT MAYS JR EB
- 06.01.09 \*\*\* FILE TO IMP \*\*\* MM
- 06.08.09 (IM) FILE TO RRP DS
- 06.09.09 VACATION LETTER FOR ATTY ROBERT MAYS JR EB
- 07.31.09 \*\*\* FILE TO RRP \*\* MM
- 08.18.09 \*\*\*\*\* FILE TO IMP \*\*\*\*\*SH
- 08.20.09 (IM) FILE TO RRP DS
- 08.28.09 JUDGEMENT SIGNED 08.11.2009 DISP TYPE CASES DISMISSED FOR WANT OF PR  
JUD CODE 412 By sherman
- ~~09.04.09 \*\*\*\*\* FILE TO IMP \*\*\*\*\*SH~~
- 09.21.09 \*\*\*\*\*FILE TO IMP\*\*\*\*\*KK
- 09.22.09 \*\* IM \*\* FILE TO RRP DS
- 09.29.09 RET CLERK'S LETTER TO ROBERT MAYS JR RE DWOP - RTS:  
NOT DELIVERABLE AS ADDRESSED EB
- 10.01.09 \*\*\*\*\* FILE TO RRP \*\*\*\*\*SH
- 10.05.09 REC'D APPEAL BY HARD COPY - CALLED ATTY ROBERT MAYS/LEFT  
MESSAGE THAT IT NEEDS TO BE E-FILED EB  
ACCEPTED BY HARD COPY IN ERROR BY OUR OFFICE EB
- 10.07.09 SPOKE W/ ATTY MAYS - HE WILL E-FILE THE APPEAL ON LEX NEX EB
- 10.07.09 \*\*\*\*APPEAL\*\*\*\*  
PLAINTIFF KAREN MCPETERS' NOTICE OF APPEAL  
FILED BY ATTY ROBERT MAYS JR EB
- 10.08.09 \*\*\*\*FILE TO CPJ1\*\*\*\*\*EB
- 10.08.09 REC'D REQ FOR CLERK'S RECORDS BY HARD COPY - CALLED ATTY  
MAYS - HE WILL E-FILE THIS REQUEST EB
- 10.08.09 \*\*APPEAL\*\*  
CLERK'S NOTICE OF APPEAL FORWARDED TO 9TH COA

Certified as to certification  
on signature page



DISTRICT CLERK OF MONTGOMERY COUNTY

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C L E R K  
N O T E S

Cause No. 07-09-09142

Page: 2

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10.13.09 DUE DATE: NOVEMBER 13, 2009  
(LETTER W/COPY TO ATTY MAYS AND ATTY JOHNSON) LT

10.15.09 PLTF KAREN MCPETERS' AMENDED NOTICE OF APPEAL EB  
FILED BY ATTY ROBERT MAYS JR (E-FILE 27518152)

11.10.09 RET CLERK'S LETTER CONFIRMING RECEIPT OF NOTICE OF APPEAL EB  
BY NINTH COURT OF APPEALS ON 10.14.09

11.16.09 BOC OF COST IN THE AMT\$ 410.00 FORWARDED TO ATTY BY LT  
FAX AND BY MAIL

11.18.09 SPOKE WITH ATTY MAYS PLACED CHECK IN MAIL FOR RECORD LT

11.20.09 REC'D CK# 5865 IN THE AMT \$ 414.00 FOR CLERK'S RECORD LT  
FROM ATTY ROBERT L. MAYES

11.20.09 \*\*APPEAL\*\*  
CLERK'S RECORD FORWARDED TO THE 9TH COA BY CCRM  
#7009 0960 0000 1376 9607 (2 VOLUME)  
(LETTER W/INDEX TO ATTY MAYS JR. AND ATTY JOHNSON JR.) LT

11.30.09 \*\*FILE TO IMD\*\* LT

11.30.09 REC'D RETURN FILE COPY OF LETTER TO 9TH COA  
INDICATING RECEIPT OF CLERK'S RECORD, VOLUMES I AND II...SH

12.03.09 RET'D GREEN CARD CMRRR 7009 - 9607 TO: 9TH COA  
STAMPED REC'D ON 11.24.09.....SH

12.04.09 \*\*\*\*\* FILE TO ROSIE \*\*\*\*\*SH

12.04.09 \*FILE TO IMP. SFW

12.08.09 RECEIVED REQ FROM ROBERT L MAYS JR ATTY AT LAW FOR  
COPIES OF THE APRIL 21, 1997 SERVICE AGREEMENT BETWEEN  
LAWPLUS AND MONT COUNTY AND THE CURRENT AGREEMENT BETWEEN  
LEXIS NEXIS AND MONT COUNTY. ALSO COPY OF THE STANDING  
E-FILE ORDER ASSIGNING THIS CASE TO ELECTRONIC FILING PP

12.16.09 REQ FROM ROBERT MAYS FORWARDED TO PAM ROBICHAUX. ORIG REQ  
IN PPAYNE'S OFFICE PP

12.21.09 COPY OF REQ SENT TO RAY JOHNSON FOR REVIEW . WILL FOLLOW UP  
WITH RAY TODAY. PR

12.21.09 \*\*APPEAL\*\* SUPPLEMENTAL CLERK'S RECORD SENT TO 9TH COA BY  
CRRM# 7009 0960 0000 1377 5134 (1 VOLUME)  
(LETTER W/INDEX TO ATTY MAYS AND ATTY JOHNSON) LT

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12.21.09 FILE TO IMD LT

12.28.09 RET CLERK'S LETTER CONFIRMING RECEIPT OF CLERK'S  
SUPPLEMENTAL RECORD VOL 1 OF 1 BY NINTH COURT OF APPEALS  
ON 12.23.09 EB

02.01.10 REQ FOR SUPPLEMENTAL CLERK'S RECORD  
FILED BY ATTY ROBERT MAYS JR EB

02.02.10 \*\*\*\*\*FILE TO CPJ1\*\*\*\*\* EB

02.03.10 \*\*APPEAL\*\*  
CLERK'S SECOND SUPPLEMENTAL RECORD FORWARDED TO THE 9TH  
COA BY CRM# 7009 0960 0000 1377 5295 (1 VOL.)

02.03.10 (LETTER W/INDEX TO ATTY JOHNSON AND ATTY MAYS) LT

02.08.10 FILE TO IMD LT

02.08.10 RET GREEN CARD TO NINTH COURT OF APPEALS (7009 5295)

Certified as to certification  
on signature page

C L E R K  
N O T E S

C L E R K  
N O T E S

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Cause No. 07-09-09142  
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Page: 3

02.10.10 STAMPED REC'D 02.05.10 EB  
RET CLERK'S LETTER TO NINTH COURT OF APPEALS CONFIRMING  
RECEIPT OF CLERK'S SECOND SUPPLEMENTAL RECORD VOL 1 OF 1  
ON 02.05.10 EB  
04.27.10 FILE TO IMD PR

:

I, Barbara Gladden Adamick, do hereby  
Certify 3 pages in Cause # 070909142  
as being a true and correct copy of the  
Original Record now on file in the District  
Clerk's Office of Montgomery County, Texas.  
Witness My Official Seal of Office in Conroe, Texas  
On This the 1 Day of June 2010  
By: [Signature], Deputy