BEFORE THE UNITED STATES DEPARTMEN OF JUSTICE

VOGEL DENISE NEWSOME — PETITIONER/PLAINTIFF

VS. — CASE NO. _____

ENTERGY SERVICES, INC. — RESPONDENT/DEFENDANT

PETITIONER'S PETITION SEEKING INTERVENTION/PARTICIPATION OF THE UNITED STATES DEPARTMENT OF JUSTICE

TO: Office of the Solicitor General
c/o Paul D. Clement
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Telephone: 202/514-2203

COPY: Office of the Assistant Attorney General
Civil Rights Division
c/o R. Alexander Acosta
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Telephone: 202/514-2151

COME NOW Vogel D. Newsome ("Newsome") before the United States Department of Justice ("DOJ") to file Petition Seeking Intervention/Participation of the United States Department of Justice to:

(a) seek DOJ's intervention and participation in a private litigation styled *Vogel Denise Newsome v. Entergy Services, Inc.*; in the United States District Court, Eastern District of Louisiana ("EDC-LA"); Civil Action No. 99-3109; assigned to Judge G. Thomas Porteous, Jr. ("Judge Porteous" or "Porteous") and Magistrate Judge Sally Shushan ("Shushan");

(b) seek the DOJ's intervention and participation in private litigation in preparing the appropriate Petition/Pleading required to present this matter to the United States Congress;

(c) prepare and present a Petition to the United States Congress ("Congress) on behalf of Newsome, requesting Congress exercise its jurisdiction over the pending Court action and issue order instructing the EDC-LA to resume/proceed with this matter to trial and/or enter an Order and Reasons in compliance with Federal Rules of Civil Procedure ("FRCP") Rule 52, its Local Rule 62(c) and a Final Judgment on post motion(s) pursuant to FRCP 58 and

Newsome v. USDO

EXHIBIT 34

other applicable laws governing rulings on said motions addressing all issues: (i) separately stating each issue raised in the post motions filed by Newsome and rule expressly on each issue stating the reason for each ruling made, and (ii) separately stating each issue raised in Newsome's Amended Complaint and rule expressly on each issue stating the reason for each ruling made;

(d) seek the DOJ's intervention/participation in bringing *criminal* and *civil* actions against Defendant, Entergy Services, Inc. ("Entergy"), its in-house counsel – Renee Williams Masinter ("Masinter") and Allyson K. Howie ("Howie"); outside counsel – Locke, Liddell & Sapp, L.L.P ("LLS"), *Amelia Williams Koch ("Koch"), *Steven F. Griffith, Jr. ("Griffith") and *Phyllis Cancienne ("Cancienne"); and outside counsel – Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P ("JWW") and Jennifer A. Faroldi, for any and all unlawful actions resulting in an obstruction of the administration of justice and deprivation of Newsome's Constitutional Rights and Civil Rights;

NOTE: *According to information Newsome received on September 11, 2004, after checking the website at "www.martindale.com Lawyer Locator," Koch, Griffith and Cancienne are no longer with the law firm of Locke, Liddell & Sapp, L.L.P, but are presently at the law firm of Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C. ("Baker Donelson") in New Orleans, Louisiana.

It is important to note that although Newsome is proceeding *pro se* in the action *sub judice,*[1] to date, she has not been provided with any documentation and/or pleading advising of changes to Entergy's counsel's information. However, when Newsome checked the docket sheet of the EDC-LA, sure enough the change to Koch's information had been updated; but nothing showing an entry on the docket of the Court for said change (none other than at the top where parties are listed). Thus, it is important to Newsome to find out how the EDC-LA received said information and when said information was received. Moreover, why Koch failed to notify *pro se* Newsome of said

[1] Action presently pending before the Eastern District Court of Lousiana – New Orleans.

changes. **Moreover, it supports awareness by Entergy that the issues are still alive and pending before the EDC-LA.**

(e) seek the DOJ's intervention and participation in bringing *criminal* and *civil* actions against Newsome's attorney, Michelle Ebony Scott-Bennett ("Bennett"), in the action *sub judice* for knowingly submitting a Motion to Withdraw in representation of Newsome, with knowledge that said Motion to Withdraw contained false and misleading information, and that such false and misleading information was done for the purposes of obstructing the administration of justice in the EDC-LA, and, to obtain granting of Motion to Withdraw and deprive Newsome Constitutional Rights and Civil Rights. As a direct and proximate result of Bennett's actions, Newsome has been deprived equal protection of the laws and due process of laws. Furthermore, Bennett's actions supports and constitute fraud not only upon the EDC-LA, but upon Newsome - taking of Newsome's money, etc. with no intentions by Bennett to represent her throughout Court proceedings and unto the conclusion of the action;

(f) seek the DOJ's intervention and participation in filing the applicable pleadings/complaints for appointment of counsel for Newsome or that the DOJ provide Newsome with legal representation throughout the lawsuit in the action *sub judice*.

(g) seek the DOJ's intervention and participation in bringing *criminal* and *civil* actions against Judges/Magistrates under the applicable laws governing their unlawful conduct/practices - if after an investigation into the handling of the action *sub judice* warrants such to correct the wrongs rendered Newsome as governed by the laws of the United States.

Newsome seeks the DOJ's intervention and participation in the action before the EDC-LA – **Q: How does the Division decide whether to participate in a case as amicus curiae or to intervene in private litigation?** A: *Attorneys in the Appellate Section make a preliminary assessment of a case's suitability for amicus participation or intervention. Recommendations to participate or to intervene must be approved by the Assistant Attorney General for Civil Rights and by the Solicitor General* (obtained

information from Appellate Section FAQs at DOJ's website at http://www.usdoj.gov/crt/app/faq.htm) (italics added).[2] See **Exhibit 10** attached hereto. *It is important to note that in this Petition, Newsome uses underlining, boldfacing and italics for special emphasis*. This Petition is submitted in good faith and is by no means being provided to hinder, impede or obstruct the administration of justice. In support of this Petition for intervention/participation by the DOJ in the action *sub judice*, Newsome submits the following request(s), reason(s) and/or statement(s):

1. Newsome through filing this Petition, request written findings – on each numbered issue and the government's position on the matters addressed herein, and on the EDC-LA's handling of the matter presently pending before said Court.

2. Newsome request the intervention/participation of the DOJ in this matter requestng it prepare the appropriate petition(s)/pleading(s)/document(s) required by law to bring this matter before the United States Congress, seeking Congress's intervention in the action *sub judice*. Thus, requesting Congress to enter the appropriate pleading(s) which will allow the Court action (Case No. 99-3109) to proceed to trial as required by law.

3. The EDC-LA in its handling of the action *sub judice* has violated Newsome's United States Constitutional Rights and Civil Rights. Newsome because of the unlawful practices occurring in said action. Newsome has been deprived equal protection of the laws and due process of laws. Newsome is a citizen of the United States. Thus, such violation supports and warrants the DOJ's jurisdiction over said matter under the applicable laws governing said matters.

4. The EDC-LA matter, Civil Action No. 99-3109, is still an active matter and pending before said Court pursuant to FRCP Rule 54(b):

> ***In the absence** of such determination and direction*, any order or other form of decision, however designated which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties ***shall not** terminate the action as to any of the claims or parties*, and the order or other form of decision is subject to revision at any time

[2] The submittal of this Petition to the DOJ will also support and show to Congress (if need be), that Newsome has exhausted administrative remedy prior to bringing matter directly to it for intervention.

before the entry of the judgment adjudicating all the claims and the rights and liabilities of all the parties.

Because the EDC-LA's Order and Reasons entered on post motions fail to adjudicate all of the claims or the rights and liabilities of all of the parties, and because there **has never** been a *Final* Judgment entered on the timely raised, and filed, post motions brought by Newsome pursuant to Rule 54(b) and any and all applicable laws governing said matters, the Order and Reasons entered the action *sub judice* is amendable. Newsome demands that the Order and Reasons be amended to comply with federal laws governing said matters and a *Final* Judgment be entered in the action *sub judice* in compliance with FRCP Rule 52, Rule 58 and any other applicable laws. Moreover, *Newsome demands that the EDC-LA in the requested amended Order and Reasons and Final Judgment address **all** issues raised within the Amended Complaint and its findings on **each** issue raised.* Said findings by the Court is to be supported by "factual/substantial" evidence and legal conclusions to support its findings as required by laws pursuant to FRCP Rule 52 and other applicable laws governing said matter. Newsome is also demanding that EDC-LA, as a matter of law, address ***all*** issues raised in post motions.

FEDERAL STATUTE – FRCP RULE 52

Rule 52. Findings by the Court; Judgment on Partial Findings

(a) Effect.

In all actions tried upon the facts without a jury or with an advisory jury, *the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58*; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses. The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the court. It will be sufficient if the findings of fact and

conclusions of law are stated orally and recorded in open court following the close of the evidence or appear in an opinion or memorandum of decision filed by the court. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rule 12 or 56 or any other motion except as provided in subdivision (c) of this rule.

(italics added).

(b) Amendment.

On a party's motion filed no later than 10 days after entry of judgment, the court may amend its findings -- or make additional findings -- and may amend the judgment accordingly. The motion may accompany a motion for a new trial under Rule 59. When findings of fact are made in actions tried without a jury, the sufficiency of the evidence supporting the findings may be later questioned whether or not in the district court the party raising the question objected to the findings, moved to amend them, or moved for partial findings.

(c) Judgment on Partial Findings

If during a trial without a jury a party has been fully heard on an issue and the court finds against the party on that issue, the court may enter judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue, or the court may decline to render any judgment until the close of all the evidence. Such a judgment shall be supported by findings of fact and conclusions of law as required by subdivision (a) of this rule.

5. On or about **April 1, 2002,** Newsome entered post motion entitled, Plaintiffs [sic] Motion to Stay Proceedings to Enforce a Judgment; Motion to Amend Judgment; and Motion to Set Aside Judgment ("Combined Motions"), pursuant to FRCP Rule 62(a)(b), Rule 59(a) and Rule52. Pleading attached hereto as **Exhibit 3** – Brief only.

6. Newsome filed Combined Motions in a timely manner as required and/or governed by law after Judge Porteous entered an Order and Reasons along

with Judgment on March 20, 2002, granting Defendant's Motion for Summary Judgment. Within 10 days, Newsome on March 30, 2002, submitted for filing her Combined Motions. EDC-LA filed Combined Motions on April 1, 2002. See Record Document Nos. ("Rec. Doc. No.") 91 and 92. – Docket Sheet at **Exhibit 1**. Thus, supporting that Newsome did not waive the right to contest ruling by the EDC-LA.

7. If litigant desires to preserve argument for appeal, litigant must press and not merely intimate the argument during proceedings before district court; if argument is not raised in such a degree that district court has opportunity to rule on it, Court of Appeals will not address it on Appeal. *FDIC v. Mijalis*, 15 F.3d 1314, 1327 rehearing denied (5th Cir. 1994); citing *Butler Aviation Int'l Inc. v. Whyle (In Re Fairchild Aircraft Corp.)*, 6 F.3d 1119, 1128 (5th Cir. 1993).

8. There is no "bright line rule" which exist to determine whether a matter has been properly raised below. However, "a workable standard, is that the argument must be raised sufficiently for the EDC-LA to rule on it." *In Re E.R. Fegert, Inc.*, 887 F.2d 955, 957 (9th Cir. 1989). This principle accords the EDC-LA the opportunity to reconsider its ruling and correct its errors. *Morrow v. Greyhound Lines, Inc.*, 541 F.2d 713, 724 (8th Cir. 1976).

9. On or about **May 6, 2002,** EDC-LA simply entered an Order and Reasons only (with no Final Judgment). Said Order and Reasons is not in compliance with the federal rules pursuant to FRCP Rule 52(d). Moreover, Order and Reasons entered by Porteous, *was certain to omit and not address the Rule 52 Motion* filed by Newsome. See **Exhibit 7** attached hereto.

10. On or about **May 13, 2002,** Newsome timely, properly and adequately notified the EDC-LA of the error in its handling of the matter *sub judice*, to no avail. Moreover, Newsome addresses Court's failure to address Rule 52 Motion, and its failure to address ***all*** issues raised in Combined Motions and Amended Complaint. Nevertheless, to date, there has not been a ***Final*** Judgment on the post motions filed in the action *sub judice*. See **Exhibit 6** – Brief only, attached hereto.

11. As a direct and proximate result of Newsome bring the errors in Porteous' Order and Reasons to his attention, Porteous became upset and knowingly ill-advised Newsome to take the matter to the Fifth Circuit. Such instructions, which are clearly erroneous, because EDC-LA had never entered an Order and Reasons and a Final Judgment in compliance with federal rules on the post motions. See **Exhibit 8** attached hereto. Said filing by Judge Porteous will support his hostility towards Newsome for her bringing errors in his ruling to the Court's attention. Moreover,

through said instructions issued by Porteous, it is evidenced that he does not want to address the post motions issues in the action *sub judice*. Thus, supporting the need for his disqualification in the action *sub judice* and this lawsuit be reassigned to another Judge other than Judge Morey L. Judge A. J. McNamara and Judge Ivan L. R. Lemelle.

12. The EDC-LA misapplied the law when addressing Newsome's Combined Motions addressing the errors of the EDC-LA. However, the Combined Motions is an acceptable legal recourse to address errors in the Court's Order and Reasons. For instance, the Fifth Circuit Court of Appeals found in *McCrea v. Harris County Houston Ship Channel Nav. Dist.,* 423 F.2d 605, 610 (n. 19)(5th Cir. 1970) cert. Denied, 1970, 400 U.S. 927, 91 S.Ct. 189, 27 L.Ed.2d 186[3]:

> It does not appear that appellant objected to this failure in the court below. ***She made no motion to amend the judgment under Rule 52(b) Fed.R.Civ.Proc.,*** no motion for new trial, and approved the judgment as to form.

13. Even assuming that the remarks stated the law incorrectly . . . attorney made no objection to them at that point nor at any other point prior to his appeal. ***It is important that the parties make known to the trial court what omissions or commissions are objected to and why so that the trial court can act to correct errors if they are present*** . . . Moreover, since the trial court corrected himself *sua sponte* in his final instructions, we are unconvinced that a miscarriage of justice results from our refusal to consider the issue now. *Delesdernier v. Porterie,* 666 F.2d 116 (n. 6), 124, 125. *Thus, supporting a miscarriage of justice by the EDC-LA in its failure and refusal to consider issues raised and correct errors brought to its attention by Newsome.*

14. Given the fact that it has been over two years that this issue has been before the EDC-LA, it is unlikely that Judge Porteous is going to move and correct his errors on his own. Thus, the intervention/participation of the United States Department of Justice and Congress is needed to aid Judge Porteous and insure that the laws are enforced and upheld. Moreover, the Department of Justice is needed by Newsome to investigate Judge Porteous' behavior and conduct in this matter to determine whether or not he has also engaged with Defendant to conspire to deprive Newsome rights secured under the Constitution of the United States. ***Moreover, whether Porteous' behavior and/or conduct, towards Newsome, is arbitrary and individious – prejudicial/discriminative.***

[3] This case provides an example of the wisdom of that rule. *McCrea* at 658 (n. 47).

15. Since the EDC-LA is adamant and insist on ignoring and passing over the issues without comments and thus insist, through its actions, on rendering Newsome a clear injustice and depriving her equal protection of the laws and due process of laws - which are secured under the United States Constitution, and the Fifth Circuit refuses to hear the appeal - Newsome brings this matter before the United States Department of Justice to address and bring the unlawful handling of this lawsuit to the attention of Congress on her behalf or bring the applicable legal action it knows to bring to correct wrong complained of.

16. EDC-LA **LOCAL RULE 62(c)** states:

> *This court's opinion in any such action shall **separately state each** issue raised in the petition and rule expressly **on each** issue stating the reason for each ruling made.*

17. There are approximately 13 numbered issues raised in the Combined Motions filed by Newsome on April 1, 2002 in the action *sub judice.* To date, the EDC-LA has not entered an opinion or ***final*** judgment on the Combined Motions separately stating each issue raised, and has failed to rule expressly on each issue and provide its reason for each ruling made as required by law. See **Exhibit 3** – Brief only, pp. 2-3, (Rec. Doc. 93).

18. There are approximately 12 numbered issues raised in Reconsideration of Denial of Combined Motions filed by Newsome on May 13, 2002, in the action *sub judice.* To date, the EDC-LA has not entered an opinion or ***final*** judgment on the Reconsideration of Denial of Combined Motions separately stating each issue raised, and has failed to rule expressly on each issue and provide its reason for each ruling made as required by law. See **Exhibit 4** – Brief only, pp. 2-3, (Rec. Doc. 98).

19. There are approximately 36 numbered issues raised in the Amended Complaint filed by Newsome on February 9, 2000, in the action *sub judice.* To date, there has not been a trial on this matter; neither has the EDC-LA entered an opinion or ***final*** judgment separately stating each issue raised, and has failed to rule expressly on each issue and provide its reason for each ruling made as required by law. See **Exhibit 2** – Brief only, (Rec. Doc. 21).

20. The Order and Reasons entered by the EDC-LA on the post motions under the controlling laws can be defeated by a more favorable finding; and, Order and Reasons cannot be maintained under controlling laws governing said matters.

21. There are no legal findings of facts and conclusion of law to support Order and Reasons entered by the EDC-LA on Newsome's post motions.

22. There is no evidence to support the findings of the Order and Reasons entered by the EDC-LA on the post motions filed.

23. The record evidence will support that the EDC-LA took a far departure from it Local Rules and federal statutes/laws governing said matter and ill-advised Newsome to take this matter before the Fifth Circuit with full knowledge that Order and Reasons entered was not in compliance with laws, and a ***Final*** Judgment had not been entered in this action.

24. Newsome has exhausted the judicial process on the EDC-LA's failure to enter Order and Reasons in compliance with the laws and the EDC-LA's failure to enter a ***Final*** Judgment on the Combined Motions – as required by law. Therefore, Newsome may now proceed to bring this matter before Congress, and request that Congress exercise it's jurisdictional authority and instruct the EDC-LA to comply with laws governing said matters.

UNITED STATES CONSTITUTION
AMENDMENT XIV
AMENDMENT VII –CIVIL TRIALS

14th Amendment to United States Constitution – *Citizenship; Privilege and Immunities; Due Process; Equal Protection; Apportionment of Representation; Disqualification of Officers; Public Debt; Enforcement:*

> Section 1 – All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and the state wherein they reside. *No State shall make or enforce any law which abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person, life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*

> **CASE LAW:**
> The due process clause of the Fourteenth Amendment was intended to prevent the government from abusing its power, or employing it as an instrument of oppression. *Collins v. City of Harker Heights,* 112 S.Ct. 1061 (1992).

Due process expresses requirement of fundamental fairness. *Lassiter v. Department of Social Services of Durham County, N.C.,* 101 S.Ct. 2153 (1981).

There are pure questions of law involved in this action and refusal to consider them would result in a manifest/miscarriage of justice. *Guerra v. Manchester Terminal Corporation,* 498 F.2d 641, 658 (n.47) citing *Triple R. Welding & Oil Field Maintenance Corp.,* 472 F.2d 713, 716 (5th Cir. 1973).

Amendment VII – Civil Trials:

In suits at common law, where the value in controversy shall exceed twenty dollars, the right to trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of common law.

CASE LAW:

Without waiver of the right of trial by jury, by consent of parties, the court errs if it substitutes itself for the jury, and, passing upon the effect of the evidence, finds the facts involved in the issue and renders judgment thereon. *Baylis v. Travelers' Ins. Co.*, 5 S.Ct. 494, 113 U.S. 316, 28 L.Ed. 989.

A defendant has no right under this amendment to a trial by court without a jury. *Hurwitz v. Hurwitz,* 136 F.2d 796, 78 U.S. App. D.C. 66.

When evidence against a defendant affords a rational choice for competing inferences, this amendment requires that the claim be submitted to a jury. *Moore v. Guthrie Hospital, Inc.*, 403 F.2d 366.

An exception to the scope of review applicable only in cases where the defendant availed himself of his right to trial by jury, but not when he agreed to a bench trial, moreover, might be held to offend . . . fourteenth amendments' protection of the right to trial by jury. *See* Comment, Removal of Supreme Court Appellate Jurisdiction: A Weapon Against Obscenity?, 1969

Duke L. J. 291, cf. *United States v. Jackson,* 390 U.S. 570 (1968).

25. This is a civil litigation matter wherein Newsome sought to have her case tried before a jury pursuant to the Seventh Amendment of the United States Constitution. *Newsome **did not** waive said right.* Newsome never agreed, in the action *sub judice* to have her lawsuit decided by one Judge, but clearly requested a jury in this action. The Amended Complaint/Complaint (original) filed in the action *sub judice* clearly states:

> **JURY DEMAND:**
> Plaintiff demands a jury on all issues so triable.
> *The purpose of the prima facie case consist of sufficient evidence in the type of case to get Plaintiff past a motion for directed verdict in a jury case or a motion to dismiss in a nonjury case, **it is the evidence necessary to require defendant to proceed with his case.*** White v. Abrams, 495 F.2d 724, 729 (9th Cir. 1974); FRCP Rule 41(b).

See **Exhibit 2** – Brief only, p. 16.

26. Newsome's Amended Complaint (and the original Complaint filed in the action *sub judice*) *clearly* and *distinctly* sets forth *prima facie cases* and is accompanied by factual statements and/or substantial evidence for **(a)** Hostile Work Environment at pp. 4-9; **(b)** Retaliation at p. 9; **(c)** Pretext at pp. 9-11; **(d)** Conspiracy at p. 12; and **(e)** Punitive Damages at pp.12-13. See **Exhibit 2** – Brief only (documents referenced as exhibits are in the records of the lower court(s)) - attached hereto.

27. Judge Porteous, in the action *sub judice* did not have the consent of parties to pass on a jury trial and to decide the issues presented in this action himself (*self-appointed judge & jury*). Neither is there any documentation in the record to support that Newsome consented to a nonjury action. Thus, Porteous has erred for substituting himself for the jury, failing to produce any evidence to support his ruling, and entering Order and Reasons which is not in compliance with laws governing said matters.

28. **Under the Seventh Amendment of the United States Constitution, Defendant Entergy, in the action *sub judice*, has no right to a trial without a jury, nor to have the pending lawsuit decided on its motion for summary motion.**

29. Because of the competing inferences and Newsome's challenges (a) to Entergy's proffered reasons for her unlawful discharge; (b) to the ***perjured*** testimony of Entergy's key witness, Jerald Bailey; and (c) to other

arguments presented or raised by Entergy in the action *sub judice*, the law and the Constitution supports that Newsome's claims are to be submitted to a jury.

30. In granting Entergy's Motion for Summary Judgment the EDC denied Appellant her right to a jury trial. There are contested issues and evidence in the record to support that the proffered reasons provided by Entergy for Newsome's termination are false and unsubstantiated by any evidence. Thus, it is not the purpose of FRCP relating to summary judgment to deny litigants right to trial if they really have issues to try. *United States v. Burket,* 402 F.2d 426, 427 [n. 10] (5th Cir. 1968) citing *National Screen Service Corporation v. Poster Exchange, Inc.,* 305 F.2d 647 (5th Cir. 1962).

31. In order to assure that Newsome's Seventh Amendment rights are not violated, the federal courts are to take great care not to deny Newsome a full trial once she has provided/produced "substantial evidence" to prove that the proffered reasons provided by Entergy is false and that genuine issues of fact exists. *Devex Corp. v. Houdaille Indus., Inc.,* 382 F.2d 17 (7th Cir. 1967) and/or judgment might depend on the credibility of the witnesses. . . . where the credibility is, or may be crucial, summary judgment becomes improper and **a trial is indispensable**. *Cales v. Chesapeak & Ohio Ry. Co.,* 46 F.R.D. 36, 40 (D.C. VA 1969).

32. The intervention/participation of the DOJ and the United States Congress is needed to aid Newsome in correcting the wrongs rendered her, in that plain error when examined in the context of entire case, is so obvious and substantial that failure to correct it would affect fairness, integrity, or public reputation of judicial proceedings. *Peaches Entertainment Corp. v. Entertainment Repertoire Associates, Inc.,* 62 F.3d 690 (5th Cir. 1995).

APPPOINTMENT OF COUNSEL ISSUE AND WITHDRAWAL OF NEWSOME'S COUNSEL MICHELLE E. SCOTT-BENNETT

Newsome submits the instant Petition requesting the intervention and participation of the United States Department of Justice to submit to the United States Congress and/or that the DOJ file the applicable pleadings/complaints to correct the wrongs rendered her in the EDC-LA's refusal to appoint counsel, and then once Newsome retained counsel on her own, its granting/allowing her attorney to withdraw in

the action *sub judice.* Moreover, Newsome seeks the DOJ to file the applicable pleadings/complaints with the appropriate agency for the disbarment of her attorney, Michelle Ebony Scott-Bennett, if it is found that her Motion to Withdraw in the action *sub judice* was unlawful under rules/laws governing attorney practices/conduct and said withdrawal infringed upon Newsome's Constitutional Rights. In support of said request(s), Newsome states the following:

Congress's View:

Although there is no constitutional right to an appointment of counsel in civil cases, federal courts are empowered by statute to appoint counsel when circumstances justify it. *Armstrong v. Snyder,* 103 F.R.D. 96 (D.C. Wis. 1984).

> In *Castner v. Colorado Springs Cablevision,* 979 F.2d 1417, 1421 (10th Cir. 1992), the decision whether to appoint counsel requires accommodation of two competing considerations. **First, the court must consider Congress's "special . . . concern with legal representation with Title VII actions."** *Jenkins v. Chemical Bank,* 721 F.2d 876, 879 (2d Cir. 1983). In enacting the attorney appointment provision of the Civil Rights Act of 1964 and later reaffirming the importance of that provision in the legislative history of the Equal Employment Opportunity Act of 1972, Congress demonstrated its awareness that Title VII claimants might not be able to take advantage of the federal remedy without appointment of counsel. As explained in House Report No. 92-238:
>
> > By including this provision in the bill, the ***committee emphasizes*** *that the nature of Title VII actions more often than not pits parties of unequal strength and resources against each other. The complainant, who is usually a member of the disadvantaged class, is opposed by an employer who infrequently is one of the nations major producers, and who has at his disposal a vast of resources and legal talent.*

H.R. Rep. No. 238, 92nd Cong., 2d Sess., reprinted in 1972 U.S.C.C.A.N. 2137, 2148. The Court, therefore, must give "serious consideration" to a plaintiff's request for counsel in a Title VII action. *Jenkins* at 880 and *Castner* at 1421.

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

[W]hen a litigant unable to afford counsel and unable to present his case is forced to proceed *pro se*, there is little guarantee that a civil rights action will be successfully prosecuted to appeal so that the denial of counsel may be reviewed. *Robbins v. Maggio,* 413 (5th Cir. 1985).

33. Despite supporting Congressional and federal laws/decisions addressing such matters, the EDC-LA elected to pit ***indigent pro se*** Newsome against a giant corporation – Entergy and its vast legal *dream team*. See Nos. 46 and 47 of this instant Petition.

34. On or about **April 3, 2002**, Counsel for Newsome, Michelle E. Scott-Bennett ("Bennett") filed a Motion to Withdraw as counsel in the action *sub judice*. Bennett submitted said motion with full knowledge that Newsome contested the withdrawal. Bennett submitted said motion with full knowledge that the information contained in Motion to Withdraw was false and misleading. See **Exhibit 5** attached hereto.

35. **Michelle Ebony Scott-Bennett** (Attorney for Newsome in the action *sub judice*); **Louisiana Bar No. 25342**; Admitted 1998 (approximately **6 yrs.** of experience in the legal profession as an attorney); Undergraduate education: Louisiana State University, B.A.; Law School: Loyola University- New Orleans, LA, J.D. See **Exhibit 12,** p. 7 – from martindale.com Lawyer Locator information – attached hereto.

36. The unlawful actions of Bennett resulting approximately **two** days ***after*** Newsome had submitted her Combined Motions (Plaintiffs [sic] Motion to Stay Proceedings to Enforce a Judgment; Motion to Amend Judgment; and Motion to Set Aside Judgment). Combined Motions was filed on or about April 1, 2002. *Had Newsome not moved when she did to file the applicable post motions, this lawsuit and the issues contained in her*

Amended Complaint and post motions would not have been preserved for addressment by the DOJ or the United States Congress.

37. Amongst all the drama surrounding the unlawful actions of Bennett, Newsome immediately contacted the EDC-LA (via telephone) and advised said Court that she would be filing a rebuttal to the Motion to Withdraw. An Administrator of the Court advised Newsome she had 10 days to file her response.

38. On or about **April 8, 2004** – only ***five*** days since filing of Motion to Withdraw - the EDC-LA with knowledge that Newsome would be filing a rebuttal to Motion to Withdraw, moved *swiftly* (before 10 days to file response had expired) to enter an Order granting Bennett's Motion to Withdraw. Said actions by the EDC-LA is unlawful and was done to deprive Newsome protected rights secured under the United States Constitution and the Civil Rights Act.

39. EDC-LA unlawfully allowed the withdrawal of Newsome's attorney, Michelle Ebony Scott-Bennett. EDC-LA erred in the granting of said withdrawal. Prior to entering ruling granting withdrawal, the EDC failed to afford Newsome the appropriate time required by law to respond to the motion. The EDC moved *swiftly/quickly to grant dismissal with knowledge that Ms. Newsome had notified the Court she would be filing her objections*. Furthermore, the record evidence will support there was never an agreed Order between the parties agreeing to withdrawal. Thus, the law requires that party(s) be afforded the opportunity to object within the time frame allotted by law.

40. On or about **April 10, 2004**, despite the injustice rendered by the EDC-LA granting Bennett's Motion to Withdraw, Newsome promptly submitted a timely pleading entitled – Plaintiff's Response to Motion to Withdraw Filed by Attorney Michelle E. Scott-Bennett. See **Exhibit 6** – Brief only. Said pleading addresses unlawful practices of Bennett. *Thus, by said filing, Newsome **has preserved this issue** for review by the DOJ and the United States Congress*. An issue still alive and pending in the action *sub judice*. A Final Judgment on the Motion has not been entered.

41. It is important to note, that after the Courts refused to appoint Newsome counsel, after timely submittal of motion for such and exhaustion of appeal on the matter, Ms. Newsome retained legal representation on her own. Newsome retained the legal services of Attorney Michelle Ebony Scott-Bennett/Justice For All Law Center, LLC.

42. Bennett did not have the consent of Newsome to withdraw as counsel. The law requires said consent. Bennett failed to abide by the laws governing withdrawal when such request was contested. There is a valid

and legal contract between Newsome and Bennett/Justice for All Law Center, LLC for legal representation. *Thus, Bennett is now subject to the punishment allotted for such unlawful practices.*

43. It may be inferred (and a reasonable mind/person on the street may conclude) from the EDC-LA's granting of unlawful withdrawal, said actions were done in the furtherance of aiding Entergy and it's counsel in this lawsuit. *A reasonable mind/person on the street* may conclude from the Court's unlawful conduct in granting Bennett's unlawful withdrawal, said actions were done to ***intentionally throw*** the case or ***intentionally tip-the-scale*** in favor of Entergy. **CONGRESS** calls it, pitting parties of unequal strengths and resources against each other – House Report No. 92-238.

44. The record evidence will support that Bennett was offered legal assistance in Newsome's lawsuit via *pro bono* services by the Owens Law Firm, PLLC, in Justice For All Law Center's representation of Newsome. However, Bennett turned down the generous offer of the Owens Law Firm. See the Affidavit of Rajita Iyer Moss, staff attorney (now a Partner in the firm) at the Owens Law Firm attached hereto as **Exhibit 9**.

45. The reasons offered by Owens Law Firm, PLLC for not being able to represent Newsome, yet offering their services as stated:

> We could not represent Ms. Newsome because our firm does not specialize in employment discrimination cases. However, we informed Ms. Newsome that we were willing to provide her attorney, Michelle Bennett, with any assistance, pro bono, discovery or research, that she might need with regard to the litigation that she was handling for Ms. Newsome.

See **Exhibit 9** attached hereto.

46. Further support of timely exhaustion of this issue through the courts is evidenced in the Courts' records, see **Exhibit 1** - Notice of Appeal. EDC Record Doc. No. 29, pp 10-1; Rec. Doc. 85; and 10/15/01 EDC-LA Docket Entry. Fifth Circuit Court of Appeals, Case No. 00-31299. Supreme Court Writ of Certiorari Brief in Case No. 01-5882.

47. *Pro Se* Newsome came under scrutiny and attacks by the EDC-LA because she prepared her own pleadings. The EDC-LA subjecting Newsome to such attacks in efforts of justifying denial of counsel. However, said reasons – Newsome preparing own pleadings – is unacceptable as a matter of law:

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

48. In the action *sub judice*, the record evidence will support that EDC-LA's reasons for depriving Newsome legal counsel ***in 2000***, was because she (a) is college educated; (b) prepared 16-page Complaint; (c) is single, (d) has no dependents; and (e) drives a new car. Supporting clear and blatant prejudice by the EDC-LA towards Newsome. Reasons presented by the EDC-LA to deprive Newsome counsel are baseless and holds no merits to support its denial of counsel. Further supporting the bias/prejudice of the EDC-LA towards Newsome.

Congress has made explicit findings that Title VII litigants are presumptively incapable of handling properly the complexities involved in Title VII cases . . . Title VII plaintiffs are usually members of a disadvantaged class and face opponents who command vastly superior resources. *Wilborn v. Escalderon,* 789 F.2d 1328, 1330 (fn. 2)(9th Cir. 1986).

49. The evidence attached as Exhibits hereto will support that Entergy's outside legal counsel combined consist of the following:

    a. Approximately **296 years** combined of practice in the law;

    b. Approximately **970 attorneys** combined; and

    c. Approximately **73 years** of experience combined for attorneys assigned in this lawsuit. Areas of practice is in employment law.

***Thus, supporting a clear disadvantage for pro se Newsome*, yet the EDC-LA refused to allow her legal representation in this lawsuit. Then as soon as Newsome did retain counsel to represent her, the**

EDC-LA sought to aid Bennett's unethical practices and grant the Motion to Withdraw filed by Bennett – without Newsome's consent.

50. The record evidence clearly supports that Newsome in good faith sought to obtain counsel on her own before exhausting original request for appointment of counsel to represent her. Then when she did retain counsel after exhausting said appeal on appoint of attorney issue, the EDC-LA moved quickly to grant an *unlawful* withdrawal of her attorney from the action *sub judice*.

51. *Pro Se* Newsome is an African-American female suing Entergy, an opponent who commands vastly superior resources. Newsome holds a B.S. degree from Florida A&M University. Newsome holds no degree in the legal profession.

52. **Entergy** Corporation is an integrated energy company engaged primarily in electric power production, retail distribution operations, energy marketing and trading, and gas transportation.

Entergy owns and operates power plants with approximately 30,000 megawatts of electric generating capacity, and it **is the second-largest nuclear generator in the United States.**

Entergy delivers electricity to 2.6 million utility customers in Arkansas, Louisiana, Mississippi and Texas.

Entergy **has annual revenues of over $9 billion** and approximately 14,000 employees.

See **Exhibit 11** – information retrieved from Entergy's website - attached hereto.

53. In the action *sub judice* before the EDC-LA, the record evidence will support that Newsome has been pitted against a corporation/opponent with vast legal and financial resources – Entergy Services, Inc. and its legal counsel. Furthermore, the following facts will shed additional light on such disadvantage, yet Newsome (until another attorney is appointed her) has been able to weather the discriminatory/prejudicial treatment in the handling of the action *sub judice* and keep the matter alive so that it could be addressed by the United States Department of Justice and Congress:

Entergy's **In-house** Counsel:

a. Renee Williams Masinter, **Louisiana Bar No. 19831**, Admitted 1989 (approximately **15 yrs.** of experience in the legal profession

as an attorney). See **Exhibit 12,** p. 2 – from martindale.com Lawyer Locator information – attached hereto.

b. Allyson K. Howie, **Louisiana Bar No. 20574,** Admitted 1991 (approximately **13 yrs.** of experience in the legal profession as an attorney). See **Exhibit 12,** p. 3 – from martindale.com Lawyer Locator information– attached hereto.

Entergy's **Outside** Counsel:

c. **Locke, Liddell & Sapp, LLP** ("LLS") – formed on January 1, 1999, from Dallas-based Locke Purnell Rain Harrell which was formed founded in 1891 and Houston-based Liddell, Sapp, Zivley, Hill & LaBoon which was founded in 1916. Approximately **113 yrs.** of practice in the legal profession/field. The combination results in a firm of **over 400 lawyers**. See **Exhibit 13,** pp. 1-3– attached hereto.

i. **Amelia Williams Koch** ("Koch") (Lead Attorney in action *sub judice*); **Louisiana Bar No. 2186**; Admitted 1983 (approximately **21 yrs.** of experience in the legal profession as an attorney); Undergraduate education: University of Georgia, B.A.; Law School: University of Virginia, J.D. See **Exhibit 12,** p. 1 – from martindale.com Lawyer Locator information– attached hereto.

ii. **Phyllis Cancienne** ("Cancienne"); **Louisiana Bar No. (not known at this time)**; Admitted 1989 (approximately **15 yrs.** of experience in the legal profession as an attorney); Undergraduate education: Louisiana State University, B.A.; Law School: Louisiana State University, J.D. See **Exhibit 12,** p. 6 – from martindale.com Lawyer Locator information– attached hereto.

iii. **Steven F. Griffith, Jr.** ("Griffith"); **Louisiana Bar No. 27232**; Admitted 2001 (approximately **3 yrs.** of experience in the legal profession as an attorney); Undergraduate education: Rhodes College, B.A., *cum laude*; Law School: Loyola University, New Orleans, LA, J.D., *magna cum laude*. See **Exhibit 12,** p. 5 – from martindale.com Lawyer Locator information – attached hereto.

d. **Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.** ("Baker Donelson")– Year established: 1888. Approximately **116 yrs.** of practice in the legal profession/field. Was ranked in 2003

as the fastest growing law firm in the United States by The National Law Journal and is one of the 200 largest law firms in the country. Through strategic acquisitions and mergers over the past century, the firm has grown to include **over 370** attorneys and public policy advisors in 10 offices across the southeastern United States. See **Exhibit 13**, pp. 4-13 – attached hereto.

i. Koch, who is presently a shareholder in Baker Donelson. See **Exhibit 12** attached hereto.

ii. Cancienne, who is presently a shareholder in Baker Donelson. See **Exhibit 12** attached hereto.

iii. Griffith, who is presently a member in Baker Donelson. See **Exhibit 12** attached hereto.

NOTE: At this time, it is not known to Newsome when Koch, Cancienne and Griffith joined the law firm of Baker Donelson. However, it is apparent that said change occurred ***only after*** the filing of Newsome's legal briefs exposing the unethical practices of Koch. All three, Koch, Cancienne and Griffith are closely associated in the action *sub judice* and familiar with Newsome's most recent exhaustion of the appeal process. Thus, such actions by attorneys, may lead one to believe the LLS was aware of the unethical practices of Koch, Cancienne and Griffith and elected to terminate its relationships with them. Even if this were the case, LLS did nothing to come forward to address such practices. Now, Koch, Cancienne and Griffith have moved on to Baker Donelson and taken their client, Entergy's business and its financial support, with them. The record evidence will show however, Koch and Cancienne are now ***shareholders*** at Baker Donelson (**Exhibit 12**) – leaving Newsome with concerns as to how Koch and Cancienne went about establishing and obtaining the money to finance such an endeavor. Moreover, whether or not Baker Donelson were made aware of Koch's and Cancienne's unethical/unlawful practices in federal proceedings while employed by LLS. Or, whether

Koch and Cancienne (and perhaps LLS) purposely, knowingly and intentionally withheld/concealed such pertinent information, regarding the allegations in the action *sub judice* relating to their obstructing justice in federal proceedings, from their new employer (Baker Donelson) in order to obtain employment at Baker Donelson and become shareholders in the firm of their new employer. Thus, said actions by Koch and Cancienne, may be taken as their buying their position for job/financial security in light of the allegations that have been raised by Newsome of possible criminal actions on Koch, Cancienne, their client(s) and co-counsels part in the action *sub judice*. **A move by Koch and Cancienne coming in less than a year and/or a few months after Newsome addressed allegations of unethical and unlawful practices in pleadings.**

e. **Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P.** ("Jones Walker")- Year established: 1937. Approximately **67 yrs.** of practice in the legal profession/field. Is a full-service law firm with **over 200** lawyers. See **Exhibit 13** attached hereto.

i. **Jennifer A. Faroldi** ("Faroldi"); **Louisiana Bar No. 25668**; Admitted 1998 (approximately **6 yrs.** of experience in the legal profession as an attorney); Undergraduate education: Louisiana State University, B.A.; Law School: Loyola University, J.D., *cum laude*. See **Exhibit 12,** p. 4 – from martindale.com Lawyer Locator information – attached hereto.

NOTE: However, despite the prejudicial treatment and discriminatory practices by the EDC-LA, Newsome was able to file required pleadings in the action *sub judice* and keep this lawsuit alive and pending before the EDC-LA. It is important to note that the arguments presented here, as to Congress's stance on such issues, are not new and have also been properly preserved as required by law. In fact, the record evidence will support that Newsome timely, properly and adequately raised the appointment of counsel issue and exhausted said issue through the appeal process. It was after the EDC-LA's

testimony of its client's key witness. Neither did any of the other attorneys associated in the action *sub judice*.

56. There is evidence to support Koch has a history and/or has begun a pattern-of-abuse in obstructing the administration of justice. Koch has knowingly provided false and/or frivolous responses/information to federal entities during Entergy's handling of Newsome's legal actions.

57. A reasonable mind may conclude, from information in the lower Courts' records, that Koch has an obsession with Newsome. Koch's obsession is fueled by her bias and prejudice towards Newsome. Moreover, from the evidence in the record, it appears Koch has a one-sided-vendetta (on her behalf) against Newsome.

58. Because of the unethical and unlawful practices of Koch, the record evidence now supports that Koch has an independent personal stake and with the financial assistance of Entergy and/or other client(s) being sued by Newsome - her past/present employer law firms, and co-counsel - Koch knowingly conspired to obstruct the administration of justice in achievement of her goal to deprive Newsome rights secured under the United States Constitution and Civil Rights Act.

59. At no given time in the action *sub judice*, has Entergy, Koch's former and/or present employer, or attorneys come forward to bring to the attention of the Court(s) or governmental agency(s) pursuant to the applicable laws, the unethical and unlawful practices of Koch or themselves. Therefore, it may be concluded that Koch's clients, employer(s) and co-counsel were aware of the unethical and unlawful practices of Koch. Yet, elected to do nothing to correct and/or deter Koch's unlawful behavior. Moreover, through said failure, it may be implied that attorneys and others aided Koch in her advancing the endeavors of Entergy.

60. Koch in legal actions involving Newsome, invited herself into all actions. Neither Koch nor the law firm wherein she is employed was ever counsel for Newsome's former employer(s). However, the record will reflect in legal actions brought by Newsome, Koch voluntarily brings herself, and the law firm wherein she is employed, and any other willing participants into the legal actions involving Newsome. Said participants provide Koch with either the financial means or other support to further enhance her mission in obstructing justice and depriving Newsome rights secured under the Civil Rights Act and the United States Constitution. Actions by Koch may lead a reasonable mind/person to conclude that Koch has a need and/or addiction to compete with Newsome. It is unclear why Koch has taken it upon herself to pursue cases filed by Newsome and obtain permission from Newsome's former employers allowing Koch to enter an

appearance as Counsel on their behalf. [For instance, in the action *sub judice*, Entergy had its own in-house counsel. Nevertheless, about **June 13, 2000**, Koch felt a need to enter herself in this lawsuit. See **Exhibit 1**, Docket Sheet, EDC-LA Rec. Doc. 48. This request coming about the same time she was providing the Equal Employment Opportunity Commission ("EEOC") with false and misleading information in a federal investigation brought by Newsome against Christian Health Ministries ("CHM"). See letter dated **June 16, 2000**, attached hereto as **Exhibit 14**. It is important to note that neither Koch nor her employing law firm are listed as counsel for CHM in documents provided the Internal Revenue Service. CHM shows through documentation that Emmett, Cobb, Waits & Kessenich is counsel. See **Exhibits 15, 16,** and **17** - Schedule A, Part II of this Petition. CHM's IRS documents are for the years 1998, 1999 and 2000.

§1985. - Conspiracy to interfere with civil rights

(2) **Obstructing** justice; intimidating party, witness, or juror

> *. . . or if two or more persons conspire for the purpose of impeding, hindering,* ***obstructing****, or defeating, in any manner, the due course of justice in any State* or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property ***for lawfully enforcing, or attempting to enforce, the right of any person***, or class of persons, **to the equal protection of the laws**;

(3) **Depriving persons of rights or privileges**

> If two or more persons in any State or Territory conspire . . . *or for the* **purpose of preventing or hindering the** ***constituted authorities*** *of any State or Territory* from giving or securing to all persons within such State or Territory the equal protection of the laws; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived **of having and exercising any right or privilege of a citizen of the United States,** *the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.*

§241. - Conspiracy against rights

> If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, . . . in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or . .
>
> They shall be fined under this title or imprisoned not more than ten years, or both; . . .

61. Thus, for the purposes of said statute and record evidence, case law supports Entergy, its attorneys and others conspired for the purposes of impeding, hindering, obstructing and defeating, in any manner, the due course of justice in Louisiana and/or the United States, with the intent to deny Newsome, who is a citizen of the United States, for lawfully enforcing, or attempting to enforce, her right to the equal protection of the laws.

62. Thus, for the purposes of said statute and record evidence, case law supports Entergy, its attorneys and others conspired for the purposes of preventing or hindering the constituted authorities of Louisiana and/or the United States from giving or securing to Newsome within Louisiana and/or the United States the equal protection of the laws; as set forth in § 1985. Entergy, its attorneys and others engaged therein to do, or cause to be done, any act in furtherance of the object of said conspiracy, whereby Newsome has been injured in her person or deprived of having and exercising any right or privilege of as a citizen of the United States. Therefore, Newsome may have an action for recovery of damages occasioned by such injury or deprivation, against conspirators - Entergy, its attorneys and others.

63. Thus, for the purposes of said statute and record evidence, case law supports Entergy, its attorneys and others conspired to injure, oppress, threaten or intimidate Newsome in Louisiana and/or the United States . . . in the free exercise or enjoyment of any right or privilege secured to Newsome by the Constitution or laws of the United States, or because of Newsome having so exercised the same. Therefore, for the purposes of said statute, the record evidence and case law supports, Entergy, its attorneys and others, shall be fined under this title and other applicable laws governing said matters, or imprisoned not more than 10 years, or both. . .

64. Through the unlawful actions of Entergy, its attorneys and others involved in said conspiracy, Newsome has been deprived rights secured under the Civil Rights Act and the United States Constitution.

65. The United States Supreme Court defines deprivation of rights in *Griffin v. Breckenridge,* 403 U.S. 88, 101-102, 91 S.Ct. 1790, 1798, 29 L.Ed.2d 338 (1971) - The language requiring intent to deprive of equal protection, or equal privileges and immunities, mean that there must be some . . . individously discriminatory animus behind the conspirators' actions. *The record evidence in the action sub judice supports same.*

66. Black's Law Dictionary (Sixth Edition) defines "*individious discrimination.*" Term "individious" in context of claim that difference in treatment amounts to "individious" discrimination in violation of the Fourteenth Amendment, means *arbitrary*, irrational and not reasonably related to a legitimate purpose. *The record evidence in the action sub judice supports same.*

67. *Arbitrary* defined - Without fair, solid, and substantial cause; that is without cause based upon the law, *U.S. v. Lotempio*, 58 F.2d 358, 359 (D.C. NY); not governed by any fixed rules or standard. Willful and unreasoning action, without consideration and regard for facts and circumstances presented. *In re West Laramie*, 457 P.2d 498, 502 (WY). Ordinarily "*arbitrary*" **is synonymous** *with bad faith* or *failure to exercise honest judgment* and an arbitrary act would be performed without adequate determination of principle and one not founded in nature of things. *Huey v. Davis,* 556 S.W.2d 860, 865 (Tex. Civ. App. 1977). *The record evidence in the action sub judice supports same.*

68. Under the *Louisiana Rules of Professional Conduct*, Rule 8.4 addresses **Misconduct:**

> It is professional misconduct for a lawyer to:
>
> (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
>
> (b) Commit a criminal act especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
>
> (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
>
> (d) Engage in conduct that is prejudicial in the administration of justice;

(e) State or imply an ability to influence improperly a judge, judicial officer, governmental agency or official . . .

69. From the action/conduct of Koch, it may be inferred and/or implied from said behavior, that Koch has knowingly breached/violated the Rules of Professional Conduct, and has: (a) herself or induced another to do so; (b) committed a federal criminal act that reflects adversely on her honesty, trustworthiness or fitness as a lawyer; (c) engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation; (d) engaged in conduct that is prejudicial in the administration of justice; (e) through her legal skills and/or ties to the legal arena, has displayed and ability to influence and/or manipulate improperly a judge, judicial officer, governmental agency or official. . .

NOTE: For instance, how was Koch able to get the EDC-LA in the action *sub judice* to update her current employment/firm information and not be required to file the appropriate pleading so that such change is in the record of the EDC as a docket entry. Why was Koch not required to notify all parties to this action of the firm/address change information through the filing of the appropriate pleading. Moreover, how has Entergy/Koch and others been able get rulings, contrary to law on the subject matter, from the EDC-LA which clearly goes against the Constitution and other laws governing this lawsuit.

70. Under the Louisiana Rules of Professional Conduct, Rule 3.3 - **Candor Toward the Tribunal:**

(a) A lawyer shall not knowingly;

(1) Make a false statement of material fact or law to a tribunal;

(2) Conceal or knowingly fail to disclose that which he is required by law to reveal; however, if a lawyer discovers that his client has perpetrated a fraud on a tribunal, he shall promptly call on his client to rectify same and, if the

client shall refuse to do so or be unable to do so, the lawyer shall reveal the fraud to the affected person or tribunal;

(3) Fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or

(4) Offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take reasonable remedial measures.

(b) The duties stated in Paragraph (a)(1) and (3) continue to the end of the hearing or proceeding. The duties stated in Paragraph (a)(2) and (4) are unlimited in time and apply, even if compliance requires disclosure of information otherwise protected by Rule 1.6.

(c) A lawyer may refuse to offer evidence that the lawyer reasonably believes is false.

71. The evidence in this instant motion and the lower Courts' records will support that Koch has knowingly: (a) made false statements of material fact or law to tribunal(s); (b) has concealed or knowingly failed to disclose that which she was required by law to reveal; (c) was aware that Entergy has perpetrated a fraud and/or has been deceptive in the action *sub judice*, yet, Koch failed to promptly call on Entergy to rectify same, but instead proceeded to further enhance the unlawful actions of Entergy of her own free will/choice, and in fact, took the initiative to proceed further in the action *sub judice* providing legal advice to Entergy condoning the unlawful and illegal practices before the tribunal(s); failed to disclose to the tribunal(s) legal authority and evidence she knew was available in the controlling jurisdiction to be directly adverse to the positions she was taking on behalf of Entergy and not disclosed by Newsome; and (d) has repeatedly and knowingly relied upon evidence and perjured testimony she knew was falsified for the sole purpose of misleading the tribunal(s), but took no reasonable remedial measures to correct said errors or advise the tribunal(s) of such.

72. Employer(s) of Koch, and co-counsels – Masinter, Howie, Faroldi, Griffith and Cancienne – knew or should have known of the unethical and unlawful practices of Koch and client Entergy. However, to date, has done nothing in the action *sub judice* to deter such practices of Koch; but, according to the law, may have joined in such conspiracy with Koch to obstruct the administration of justice. From said failure of Koch's employer(s) and co-counsel to abide and uphold the Louisiana Rules of Professional Conduct – wherein, as attorneys, they are governed - Newsome has been injured and deprived rights secured under the United States Constitution and Civil Rights Act.

73. Failure of Koch's employer(s) and co-counsel to deter or take the applicable actions to prevent such unethical and unlawful practices by Koch resulted in obstructing the administration of justice known to be committed by Koch, Entergy or oneself. Thus, said failure, may constitute an agreement to engage in the unethical and unlawful conduct to obstruct the administration of justice and involves dishonesty, fraud, deceit and/or misrepresentations upon the tribunal(s)/court(s).

74. Koch's employer(s) and co-counsel engaged in conduct that is prejudicial and discriminative in nature for the purposes of obstructing the administration of justice.

75. A conspiracy under civil rights conspiracy statute [42 U.S.C. §1985] may be implied from the circumstances; a plaintiff need not show that agreement between two or more persons to commit an illegal act was express.

76. Under statutes prohibiting conspiracy to deprive persons of rights or privileges, a corporate entity and its employees constitute a single entity which is incapable of conspiracy with itself; ***however, a possible exception*** *to such doctrine exist where corporate employees act for their own personal purposes.* – 42 U.S.C. § 1985. *Benningfield v. The City of Houston,* 157 F.3d 369 (5th Cir. 1998). **The record evidence will support that parties involved in the action *sub judice* acted for their own personal purposes. Moreover, what began with unlawful employment discrimination and conspiracy between two of Entergy's employees, has turned into a massive conspiracy involving many co-conspirators in the enhancement of Entergy's endeavors.**

77. The one arguable exception to the general rule that a corporation cannot conspire with its own employee in violation . . . occurs in the rare instances in which employees have an independent personal stake in achieving the object of the conspiracy. *Domed Stadium Hotel, Inc. v. Holiday Inns, Inc.,* 732 F.2d 480, 486 (n.5)(5th Cir. 1984) citing, *Poller v. Columbia Broadcasting System, Inc.,* 368 U.S. 464, 470, 82 S.Ct. 486,

489, 7 L.Ed.2d 458 (1962). **The record evidence in the action *sub judice* and other legal actions involving Newsome, will support an independent personal stake of conspirators in achieving the object of the conspiracy.**

78. The "Hartman" court concluded that a conspiracy could only be established if the employees' actions were solely the result of personal bias. *Hartman v. Board of Trustees of Community College Dist. No. 508, Cook County, Ill.*, 4 F.3d 465, 470 (7th Cir. 1993). **The record evidence supports that actions by Entergy's employees and co-conspirators were solely the result of personal bias and prejudice towards Newsome.**

79. Conspiracy in the realm of "Civil" law (not Criminal) pursuant to 42 US.C. §1985 when addressing civil rights violations, "means that co-conspirators must have agreed at least tacitly, to commit acts which will deprive plaintiff of equal protection of laws. *Santiago v. City of Philadelphia,* 435 F.Supp. 136 (E.D. PA 1971). **The record evidence in the action *sub judice* supports a *tacit* agreement amongst the conspirators.**

80. ***Tacitly*** under federal civil law means, "that two person pursue by their acts the same object by the same means, one performing one part of act and the other another, so as to complete it with a view to the attaining of the object they are pursuing, is sufficient to constitute a conspiracy regardless of whether each conspirator know of the details of the conspiracy or of the exact part to be performed by the conspirators, or whether the details were completely worked out in advance. *Picking v. Pennsylvania R. Co.,* 5 F.R.D. 76, 79 (M.D. PA 1946).

LIABILITY/ACCOUNTABILITY:

81. Federal officials can be sued under civil rights conspiracy statute. *Baird v. Haith,* 724 F.Supp. 367 (D.C. Miss. 1988)

82. **§ 1985 – Action For Neglect to Prevent:** *Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured,* or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; *and any number of persons guilty of such* ***wrongful neglect or refusal*** *may be joined* ***as defendants*** *in the action;*

PATTERN-OF-ABUSE (VIOLATION OF RULES OF PROFESSIONAL CONDUCT):

It is important to note that after leaving Entergy, Newsome was approached by Hibernia National Bank to see whether or not she was interested in a position at the bank. A job wherein there was a vacancy and Newsome did apply. However, at the last minute, Hibernia decided to go with another candidate. Who is Hibernia's legal counsel? Locke, Liddell & Sapp, LLP and Jones Walker - based on information on their websites:

> LLS' website information:
> REPRESENTATIVE CLIENTS: A.H. Belo Corporation; Amoco; AT&T; Baxter Healthcare; Caremark, Inc.; Chase Bank of Texas, N.A.; CIGNA Companies; Crescent Real Estate Equities Trust; Crow Family Holdings; El Paso Energy Corporation; Friedkin Companies; Garden Ridge Corporation; **Hibernia Corporation**; . . .

See **Exhibit 13**, p. 2 - information retrieved from martindale.com Lawyer Locator website – attached hereto.

> Walker Jones website information:
> BANKING AND FINANCE: Bank One NA; Enhanced Capital Partners, LLC; First Bank and Trust; **Hibernia National Bank**; Johnson Rice & Company L.L.C.; Legg Mason, Inc.; Whitney National Bank.
>
> REPRESENTATIVE CLIENTS: A.H. Belo Corporation; Amoco; AT&T; Baxter Healthcare; Caremark, Inc.; Chase Bank of Texas, N.A.; CIGNA Companies; Crescent Real Estate Equities Trust; Crow Family Holdings; El Paso Energy Corporation; Friedkin Companies; Garden Ridge Corporation; **Hibernia Corporation**; Houston Chronicle; John Hancock Mutual Life Insurance; Kimberly-Clark Corporation; King Ranch; Lowe's Companies, Inc.; Lumbermen's Investment Corporation; Merrill Lynch; Metropolitan Life Insurance Co.; New York Life Insurance; North Texas Tollway Authority; Phillip Morris; Phillips Petroleum Company; Prudential Life Insurance; SCI/Provident Services; Seton Healthcare Network; Software Spectrum, Inc.; Trammell Crow Company; Wyndham Hotels & Resorts.

See **Exhibit 13**, p. 15 and 16 - information retrieved from martindale.com Lawyer Locator website – attached hereto.

Shortly after, the Hibernia incident, Newsome was contacted by Christian Health Ministries to see if she was interested in a job position there. Newsome had worked for Baptist Community Ministries, an affiliate of Christian Health Ministries, earlier that year. Newsome was later offer full-time employment at Christian Health Ministries. However, like at Entergy, she was also deprived employment with Christian Health Ministries due to Title VII violations. Christian Health Ministries discriminated against Newsome. Based upon the information contained within this Petition, and upon thinking upon circumstances surrounding Newsome's unlawful discharge and Christian Health Ministries relationship with Koch, it is possible that Newsome's employment may have been affected, as well, based upon Entergy's and/or Koch's relationship and the and/or influence upon Christian Health Ministries. In light of the conspiracy allegations and the record evidence supporting same, Newsome believes this is pertinent information thus warranting and/or requiring the United States Department of Justice to intervene/participate in the action *sub judice* as well as investigate the circumstances surrounding the unlawful discharge of Newsome from the employment of Christian Health Ministries ("CHM") and Koch's/LLS's providing of false information to obstruct, hinder and impede the EEOC's investigation to determine whether there exists violations under the laws. In support of such arguments, Newsome states the following:

83. There are common links between Entergy, Jones Walker, Baker Donelson, Hibernia, and Christian Health Ministries – Koch/Locke Liddell & Sapp, LLP. Of two, the record evidence supports Entergy's and Christian Health

Ministries' counsel, Koch/Locke Liddell & Sapp, LLP, is closely associated as legal counsel for these former employers of Newsome.

84. The record evidence will support that Entergy and Christian Health Ministries share the same counsel Locke, Liddell & Sapp, LLP/Koch.

85. The record evidence will support that Newsome filed a lawsuit against Entergy on November 3, 1999.

86. Newsome was offered employment with CHM on or about November, 1999. Newsome began job opportunity with CHM on or about November 22, 1999.

87. On or about **December 3, 1999**, Newsome complained to Supervisor, Dr. Valeria Granger ("Granger) regarding concerns of being required to attend Granger's mandatory devotional services and how it was affecting her job. Granger's mandatory devotional services were not a policy of CHM.

88. On or about **December 6, 1999**, Granger sought to have Newsome terminated.

89. On or about **December 8, 1999**, Newsome discussed Granger's retaliatory actions with Executive, Eugene Huffstatler, and Human Resources Coordinator, Jo Laxton.

90. On or about **December 21, 1999**, CHM advised Newsome that **December 24, 1999**, would be her last day of employment.

91. Newsome filed a Charge of Discrimination based on Religion against CHM with the EEOC on or about **January 11, 2000**.

92. On or about **June 13, 2000**, Entergy filed Motion to substitute Koch as counsel in the action *sub judice*. See **Exhibit 1** – Rec. Doc. No. 48.

93. On or about **June 16, 2000**, *approximately three (3) days later*, on behalf of CHM, Koch/Locke Liddell & Sapp, LLP provided a response to the EEOC regarding Newsome's Charge. See **Exhibit 14** attached hereto. **Koch having full knowledge that information contained in her response, on behalf of CHM, to the EEOC was false and misleading. Thus, supporting a *conspiracy to interfere with protected rights of Newsome through the obstruction of justice.***

94. It is indisputable, based on the evidence provided in this Petition and lower Courts' record, that Christian Health Ministries (CHM) is not a church. CHM is not exempt from Title VII actions. However, Koch ***(on***

***behalf* of herself, employer law firm, BCM[4], CHM, etc.)** knowingly provided false and misleading information during a federal investigation to the EEOC. In another action brought by Newsome (*Newsome v. Christian Health Ministries*) before the EEOC, Koch knowingly provides a false statement noting, *"Title VII's prohibition against discrimination in employment does not apply to employees of religious organizations, and such, CHM is exempt from liability pursuant to Title VII of the Civil Rights Act of 1964, as amended."* See **Exhibit 14** attached hereto.

95. Koch **(*on behalf* of herself, employer law firm, BCM, CHM, etc.)** falsified information provided the EEOC denying her client, CHM, discriminated against Newsome with knowledge that her client indeed discriminated against Newsome. In aiding her client she states, "CHM emphatically denies that it discriminated against Ms. Newsome on the basis of her religion, or in any way. Even if, however, there were merit to Ms. Newsome's Charge of Discrimination, she could not recover against a religious organization, such as CHM, under Title VII. Additionally, *because CHM is a religious organization*, the Equal Employment Opportunity Commission (EEOC) and the Louisiana Commission on Human Rights (LPRH) are deprived of jurisdiction to investigate Ms. Newsome's Charge of Discrimination." **Exhibit 14** – attached hereto. Koch was fully aware and/or having access to information/documentation to support that CHM was not a religious organization immuned from Title VII actions. See **Exhibits 15, 16** and **17** - Schedule A, Part IV – Reasons for Non-Private Foundation Status.

96. The jurisdiction argument used by Koch is a *commonly used* frivolous argument entered by her on behalf of her client(s). Although the Fifth Circuit was properly, timely and adequately notified of Koch's pattern-of-abuse of the judicial process, it did nothing to assure that Newsome's rights would be protected from such unlawful practices of Koch. For instance:

> **About September 16, 2002,** Newsome placed the Fifth Circuit on notice and requested that sanctions be issued against Entergy for frivolous pleadings presented the Court during appeal. To no avail. The Fifth Circuit as the EDC-LA allowed the Entergy (through counsel) to come before it and practice in a manner unbecoming to a member of the bar. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official.*
>
> **About September 19, 2002,** Entergy through its attorney, filed a frivolous Motion to Dismiss the appeal alleging that Newsome's Notice of Appeal was untimely. Such

[4] Baptist Community Ministries.

assertion is unsubstantiated by the evidence in the record in the action *sub judice*. See EDC Docket Sheet **Exhibit 1** of this Petition. Moreover, Entergy's pleadings ***did not*** *have any legal conclusions to support it that could not be defeated by a more favorable ruling on the subject matter. Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official.*

About September 27, 2002, Newsome timely filed Appellant Brief. Newsome believes the Entergy's frivolous September 19, 2002, filing was done to throw her off and prevent her from submitting a timely brief. However, such efforts by Entergy also failed.

About September 30, 2002, Newsome timely filed her rebuttal to Entergy's frivolous Motion to Dismiss. About the same time, Newsome submitted her Motion to Strike Entergy's Motion to Dismiss. To no avail.

About January 15, 2003, Fifth Circuit entered order granting Entergy's frivolous and unsubstantiated Motion to Dismiss. Fifth Circuit alleging it lacked jurisdiction in this action/appeal. The ruling by the Fifth Circuit contained **no** legal conclusions, evidence, etc. to support its findings as the law requires. *The Fifth Circuit ruling is not in compliance with the Federal Rules governing said actions and is contrary to law. Said ruling can be defeated by a more favorable ruling on the subject matter. Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official.*

About January 28, 2003, Newsome timely filed a Petition for Rehearing.

About February 25, 2003, Fifth Circuit denied Newsome's Petition for Rehearing. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official.*

97. Koch **(*on behalf* of herself, employer law firm, BCM, CHM, etc.)** states, "Title VII reads in pertinent part, 'This subchapter shall not apply . . . to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.' Additionally, the United States Supreme Court acknowledged that

'[s]ection 702 of the Civil Rights Act of 1964, 78 Stat. 255, as amended, 42 U.S.C. §2000e-1, exempts religious organizations from Title VII's prohibition against discrimination in employment on the basis of religion." Knowingly misapplying the United States Supreme Court's decision in *Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. Amos.* Evidence further supporting Koch's skills in twisting and misapplying the laws to mislead and/or obstruct justice in a federal matter. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official.* ***Koch being an attorney with many years of practice in the legal profession and having knowledge that her actions were unethical and unlawful.*** **Exhibit 14** attached hereto.

98. Koch **(*on behalf* of herself, employer law firm, BCM, CHM, etc.)** knowingly provides false information in misapplying the decision of the Fifth Circuit Court of Appeals in *Equal Employment Opportunity Commission v. Mississippi College,* stating, "Furthermore, the Fifth Circuit instructs that when 'a religious institution of the kind described in §702 presents convincing evidence that the challenged employment practice resulted from discrimination on the basis of religion, §702 deprives the EEOC of jurisdiction to investigate further . . '" **Exhibit 14** attached hereto. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official. Koch being an attorney with many years of practice in the legal profession* ***(employment law)*** *and having knowledge that her actions were unethical and unlawful.*

99. Koch **(*on behalf* of herself, employer law firm, BCM, CHM, etc.)** states, "Thus, in order to be exempt, the complaint must be 1) religious discrimination and 2) brought against a religious organization, as provided by section 2000e-1 of Title VII. In her Charge of Discrimination, Ms. Newsome alleges that she was discriminated against because of her religion, non-denominational. Thus, Ms. Newsome's complaint if one of religious discrimination." **Exhibit 14** attached hereto. Information Koch knew to be false and is not applicable to CHM. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official. Koch being an attorney with many years of practice in the legal profession* ***(employment law)*** *and having knowledge that her actions were unethical and unlawful.*

100. Koch **(*on behalf* of herself, employer law firm, BCM, CHM, etc.)** states, "Additionally, CHM qualifies as a 'religious corporation, association, educational institution, or society' exempt from liability under Title VII for religious discrimination. CHM is a Louisiana not-for-profit corporation, exempt from Federal income tax under sectin 501(c)(3) of the Internal Revenue Code." **Exhibit 14** attached hereto. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental*

agency or official. Koch being an attorney with many years of practice in the legal profession ***(employment law)*** *and having knowledge that her actions were unethical and unlawful.*

101. See **Exhibit 18** (dated 7/2/96). Information clearly in the possession of Koch, employer law firm, BCM and CHM, and/or she having access to her client's file wherein she could have retrieved this information. Newsome is not an attorney and was able to obtain this information.

> It is indisputable that CHM is not a church. CHM was "an organization exempt from federal income tax under section 501(c)(3) of the Code and **is not** a private foundation because it is an organization described in section 509(a)(1) of the Code and 170(b)(1)(A)(iii) of the Income Tax Regulations" which states:
>
> > 170(b)(1)(A)(iii) - "an organization the ***principal purpose or functions*** of which are the providing of *medical* or *hospital care* or *medical research* . . .
>
> It is indisputable that the 990 Tax Returns of CHM received by the Internal Revenue Service on or about **May 11, 1999** shows under Part IV - "Reason for Non-Private Status," Box No. 6 "X'ed" - indicating "**A school.** Section 170(b)(1)(A(ii). (Also complete Part V, page 4)" which states:
>
> > Advertisement of the nondiscriminatory policy is published in local newspaper. Also nondiscriminatory policy tagline printed on brochures, applications and appears on Webpage."
>
> It is indisputable that the 990 Tax Returns of CHM received by the Internal Revenue Service on or about **May 22, 2000**, shows under Part IV - "Reason for Non-Private Status," Box No. 6 "X'ed" - indicating "**A school.** Section 170(b)(1)(A(ii). (Also complete Part V, page 4)" which states:
>
> > Advertisement of the nondiscriminatory policy is published in local

> newspaper. Also nondiscriminatory policy tagline printed on brochures, applications and appears on Webpage."

It is indisputable that the 990 Tax Returns of CHM received by the Internal Revenue Service on or about **August 20, 2001**, shows under Part IV - "Reason for Non-Private Status," Box No. 6 "X'ed" - indicating "**A school**. Section 170(b)(1)(A(ii). (Also complete Part V, page 4)" which states:

> Advertisement of the nondiscriminatory policy is published in local newspaper. Also nondiscriminatory policy tagline printed on brochures, applications and appears on Webpage."

It is indisputable that the 990 Tax Returns of CHM received by the Internal Revenue Service on or about **July 18, 2002**, shows under Part IV - "Reason for Non-Private Status," Box No. 6 "X'ed" - indicating "**A school.** Section 170(b)(1)(A(ii). (Also complete Part V, page 4)" which states:

> Advertisement of the nondiscriminatory policy is published in local newspaper. Also nondiscriminatory policy tagline printed on brochures, applications and appears on Webpage."

102. It is indisputable from evidenced provided in **Exhibits 15, 16** and **17**, that CHM does not claim exemption reason for Non-Private Foundation status as a Church, Convention of Churches or Association of Churches under Section 170(b)(1)(A)(i).

103. It is indisputable, like Entergy had its own counsel (in-house), CHM also has its own counsel, Emmett, Cobb, Waits & Kessenich. See Exhibits **Exhibits 15, 16** and **17**, Part II of Schedule A. Nevertheless, evidence in the record of the federal entities handling matter(s) will find that Koch voluntarily appearing as counsel or requesting entry to appear as counsel.

104. ***Pattern-of-abuse and breach of the Rules of Professional Conduct*** in the federal sector is evidenced in Koch's 3/17/00 letter to the EEOC wherein she ask for extra time to respond to Newsome's Charge of Discrimination noting, "***My firm*** represents Baptist Community Ministries ("BCM") in connection with the above-referenced Charge of Discrimination brought by Ms. Vogel Newsome. While BCM has received notice of Ms. Newsome's charge, it has not yet received a signed charge of employment discrimination. As a result, BCM has been unable to furnish your office with a comprehensive position statement. . . . So that BCM may respond fully and properly to Ms. Newsome's complaint, we request that you extend the deadline for our response until two weeks following our receipt of her signed charge. If we do not hear otherwise, we will assume that your office has agreed to this extension. Meanwhile, because my firm represents BCM in this matter, please direct all future materials pertaining to Ms. Vogel's charge to me at the above address." Supporting BCM was brought into this matter with Koch, her employer law firm, and any other willing participant, for the purposes of obstructing justice and depriving Newsome rights secured under the Civil Rights Act and United States Constitution. Under federal law, said actions constitutes a ***civil conspiracy***. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official.*

105. Koch is not a rookie in the legal profession. Koch has been in the legal profession for approximately 21 years, was admitted to the bar in Louisiana in 1983 and thus, is bound by the Rules of Professional Conduct. See **Exhibit 12**.

106. From the evidence Newsome has found, it appears that Koch married into a prominent family ("Koch") perhaps known and very well established in the legal community in the state of Louisiana. See **Exhibit 19**. ***Furthermore, pertinent evidence to support the influence and financial ties Koch has to the community and the legal system.***

107. Koch has held prominent positions as a member of the bar and her legal experience further supports her strength and ties to the legal community (Federal & State). In New Orleans - Treasurer; Louisiana - Chair. In Federal Bar Association - New Orleans Chapter President, etc. See **Exhibit 12**. Moreover, her new employer, Baker Donelson has many ties to present and/or former government officials:

> Current and former Baker Donelson attorneys and public policy advisors include, among many other highly distinguished individuals, people who have served as Chief of Staff to the President of the United States; the U.S. Senate Majority Leader; the U.S. Secretary of State; a member of the United

States Congress; the Federal Aviation Administrator; Chief of Staff at the Supreme Court of the United States and Administrative Assistant to the Chief Justice of the United States; the Deputy Under Secretary for International Trade for the U.S. Department of Commerce; the Ambassador to Turkey; the Ambassador to the Sultanate of Oman; Chief Operating Officer and Commissioner of Finance and Administration for the State of Tennessee; the Deputy Governor and Chief of Staff for the Governor of Tennessee, the Governor of Mississippi, and the Chairman of the Alabama Securities Commission.

See **Exhibit 13**, pp. 4 - 5 - information retrieved from martindale.com Lawyer Locator website – attached hereto.

108. Koch is a white female with a profession in the legal field. She is an attorney. One skilled and schooled in the laws of this country. Specializing in employment law. Thus, familiar with the laws governing conduct of attorneys and ethical practices required of members of the bar.

109. The evidence in the lower Courts' records will support that Newsome has been held to strict and stringent rules of the Courts and laws of this Country, while Koch, her client(s) and co-counsel are held to less stringent rules of the Courts and laws of this Country. Furthermore, the Courts are lenient/lax when dealing with Koch, her client(s) and co-counsel. Moreover, the evidence in the record will support that the Court's are more abrupt and abusive and geared more to unlawfully sanctioning Newsome while allowing Koch, her client(s) and co-counsel to practice before the Court(s) in an unethical and unlawful manner. Yet the Court(s) have repeatedly failed to sanction Koch for such. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official.*

110. Newsome is subjected to bias, prejudicial and discriminatory treatment by the lower Courts because she is an African-American; while Koch is allowed to practice before the Court's in an unlawful manner because she is a white female professional schooled in the law. Moreover, Koch has been extended special privileges and given better treatment in the handling of this lawsuit than Newsome because of her race and because she represents a client who is majority-owned and operated by members of a race other than Newsome. Moreover, a client with vast financial resources and other ties to the community, than that of Newsome.

REQUEST FOR DISQUALIFICATION OF JUDGE/MAGISTRATE
REQUEST FOR REASSIGNMENT OF CASE IN ACTION *SUB JUDICE*

Based on the information contained in the lower courts' record and this instant Petition, Newsome petitions the United States Department of Justice to intervene/participate in the action *sub judice* and file the applicable pleadings in said action, or a separate action, addressing the errors and wrongs rendered her by the Judge(s)/Magistrate(s) assigned her actions. Newsome seeks the disqualification of said Judge(s) and Magistrate(s) if permissible by law. Newsome request that in the action *sub judice*, that it be reassigned to Judge/Magistrate that has not, and will not, exhibit discriminatory, retaliatory and/or prejudicial treatment towards her, but will decide the issues brought before it in Newsome's motions and Amended Complaint based on the applicable laws and the evidence contained therein that governs said lawsuits. **Moreover, it is Newsome's preference, if at all possible, that this matter be taken out of the hands of the EDC-LA and assigned to another Court – if Congress and the law permits such request(s).** Newsome believes given the magnitude of prejudice, hostility and discriminatory treatment exhibited her by the EDC-LA, Entergy and others, such request for removal (*if applicable*) is appropriate – given the facts of this case and the handling thereof. In support thereof, Newsome states:

111. Objections to the Order and Reasons and notification of errors in said ruling in the action *sub judice* was timely, properly and adequately presented to the EDC-LA. Therefore, only if Newsome had failed to call District Court Judge Porteous' attention to any errors in proposed findings of fact and conclusion of law, would preclude Newsome from attempting to object to it on appeal or now before the DOJ or Congress. *Pendleton v. Rumsfeld,* 682 F.2d 102, 202 U.S. App. D.C. 102 (1980).

112. If Newsome felt that Court rulings were objectionable on the ground that they contained allegedly prejudicial comments, Newsome should have

called such matters to the court's attention to give the EDC-LA opportunity to take corrective action. *Albee Homes, Inc. v. Lutman,* 274 F.Supp. 875 (D.C. PA 1967). Thus, the record evidence will support that Newsome, indeed, in post motions addressed the EDC-LA's prejudicial comments and treatment of the action *sub judice*. See **Exhibit 3**, pp. 11 – 20; and **Exhibit 4**, pp. 7 –8.

113. The lower Courts' record will support that it was Entergy's legal counsel, Koch, who provided information about Newsome in other unrelated matters to prejudice the EDC-LA against Newsome. *Supporting Koch's ability to influence improperly a judge, judicial officer, governmental agency or official.* Moreover, what was the reason for Koch providing information regarding other legal actions by Newsome, if it were not for prejudicial reasons.

114. Case law precludes such discriminatory treatment of Newsome because of the EDC-LA's knowledge of past or present lawsuits by Newsome. Each case is to be decided on its own merits.

115. It should never be presumed without considering the facts – as the EDC-LA has done in the action *sub judice* – and the evidence provided by Newsome that she will never bring a meritorious claim – as Newsome has brought a meritorious claim in the action *sub judice*. Nor should the EDC-LA lose site on the important role *in forma pauperis/pro se* claims have played in shaping constitutional doctrine. *Gideon v. Wainwright,* 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963).

116. Justice Brennan warned, "if . . . continue on the course we chart today, we will end by closing the doors to a litigant with a meritorious claim." *In Re McDonald*, supra, 489 U.S. 180, 187, 109 S.Ct. 993, 998:

> It is rare, but it does happen that the Supreme Court grant review and even decide in favor of a litigant who has *previously presented* ***multiple unsuccessful*** *petitions on the same issue.* See, e.g., *Chessman v. Teets*, 354 U.S. 156, 77 S.Ct. 1127, 1 L.Ed.2d 1253 (1957); see *id.*, at 173-177, 77 S.Ct. at 1136-1138.

117. The record evidence will support that Koch's eagerness to come forth and address Newsome's legal matters, clearly blinded her against the many lawsuits that have been brought against her client Entergy for discrimination. Cases in which Entergy settled – ***Walker v. Entergy LA Inc, et al,*** Eastern District, Civil Action No. 97-736; and ***Hassan, et al. v. Entergy Corp. et al.***, Civil Action No. 89-2794. Said discriminatory actions of others against Entergy are in the record the lower Courts.

Moreover, Koch thinking she was opening up a can of worms on Newsome resulted in exposure of other lawsuits against Entergy for discrimination and Entergy's settling thereof, as well as, the conspiracy actions on behalf herself and co-conspirators.

118. The due process clause of the Fourteenth Amendment was intended to prevent the government from abusing its power, or employing it as an instrument of oppression. *Collins v. City of Harker Heights,* 112 S.Ct. 1061 (1992). **Yet the Judge(s)/Magistrate(s)in the action *sub judice*, infringed upon Newsome's Constitutional and Civil Rights and abused their power or employed such power for purpose of oppressing Newsome and depriving her equal protection of the laws and due process of laws.**

119. Court of Appeals has found, party is entitled to a trial before a judge who is not biased against him at any point of the trial. . . *United States v. Thompson,* 483 F.2d 527, 529 (3rd Cir. 1973).The Fifth Circuit Court of Appeals, "held that trial judge displayed such bias and prejudice as to require new trial before different judge." *United States v. Holland*, 655 F.2d 244 (5th Cir. 1981). **The record evidence in the action *sub judice*, will support EDC-LA's bias and prejudice towards Newsome which warrants disqualification of Judge(s)/Magistrate(s) associated with this lawsuit; thus warranting issuance of removal of case to a different court and venue outside the Fifth Circuit Court of Appeals jurisdiction.**

120. The record evidence supports the EDC-LA bias and prejudice towards Newsome because of its knowledge of past and/or pending litigation brought by her, as well as other unlawful underlying factors. The EDC-LA's knowledge of and addressing other lawsuits by Newsome, violates Newsome's Constitutional and Civil Rights, in that the EDC-LA used said information for the purposes of depriving Newsome rights secured under the United States Constitution and Civil Rights Act. Thus, sufficient evidence to support it has rendered the Judges assigned Newsome's lawsuit(s) inability to remain impartial and decide matters brought before it in a fair, just and honest manner and inability to apply and uphold the applicable laws governing her lawsuit(s). Thus, warranting disqualification of Judge(s)/Magistrate(s) that are bias and prejudice against Newsome.

121. The record evidence will support that Newsome repeatedly made it known to the lower Courts concerns of prejudicial/discriminatory treatment in the handling of her lawsuit. Yet the Judges/Justices did nothing to recuse themselves. The record evidence will support when Newsome questioned the unlawful behavior of Magistrate Sally Shushan in the action *sub judice*, she requested information from Shushan. See **Exhibit 1**, Rec.

Doc. 28. Moreover, Newsome filed a Motion to have Shushan disqualified because of belief of bias and prejudice on her part. The EDC-LA set this matter to *be hard before judge at 9:15 7/19/00*. See **Exhibit 1**, Rec. Doc. 55. However, upon review of the record evidence, it will be found that no such hearing or findings on Newsome's Motion was ever held and the action *sub judice*.

122. The EDC-LA frivolous and unlawful efforts to dispose of this lawsuit in the action *sub judice*, is an infringement upon Newsome's Seventh Amendment and Fourteenth Amendment under the United States Constitution.

123. Federal law makes provisions which addresses disqualification in matters pursuant to 28 U.S.C. §455 which states: **(a)** Any justice, judge or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. **(b)** He shall also disqualify himself in the following circumstances: (1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings;[11] . . .

124. A Judge faced with a potential ground for disqualification ought to **consider *how his participation in a given case looks to the average person on the street***; use of the word "might" in this section was intended to indicate that disqualification should follow if reasonable man, were he to know all the circumstances, would harbor, doubts about judges impartiality. §455. *Postashnick v. Port City Const. Co.*, 609 F.2d 1101 (5th Cir. 1980).

> **Fact:** Given the nature of the case, evidence presented in the record of the Courts, an average person on the street may conclude that Judges/Courts are bias and prejudice towards Newsome and have subjected her to discriminatory practices in the handling of her charge. *Moreover, it appears that justice is tainted.*

125. General rule is that bias sufficient to disqualify judge must stem from extrajudicial sources but there is exception where such pervasive bias and prejudice is shown by otherwise judicial conduct as would constitute bias against party. *Whitehurst v. Wright*, 592 F.2d 834 (5th Cir. 1979). **The**

[11]**Fact:** The impartiality of the Judges' handling of this lawsuit, might reasonably be questioned. Such questionability is supported by the unlawful behavior, conduct and unsubstantiated rulings of the Courts. Behavior which is unbecoming for a member of the bench. The Judges that have been assigned the pleadings in Ms. Newsome's lawsuit have developed a personal bias and prejudice towards her resulting in her being subjected to additional discriminatory practices on top of those addressed in the lawsuit before the Courts

record evidence in the action *sub judice* supports disqualification of Judge(s)/Magistrate(s).

126. Negative bias or prejudice that requires disqualification of judge exists only if it is attitude or state of mind that belies aversion of hostility of kind or degree that fair-minded person could not entirely set aside when judging certain persons or causes. §455(b)(1). *U. S. v. Professional Air Traffic Controllers Organization (PATCO)*, 527 F.Supp. 1344 [n.19], 1360 (N.D. IL 1981).[12] **The record evidence and legal conclusion in the action *sub judice* and this instant Petition supports disqualification of Judge(s)/Magistrate(s). In regards to the Judge(s)/Magistrate(s) of the EDC-LA, this case has been dormant for over/approximately two (2) years without an Amended Order and Reasons being entered or a Final Judgment. Furthermore, Newsome believes given the instant Petition, and the requests to correct the wrong contained therein, she finds it highly impossible – given the Judge(s)/Magistrate(s) attitude towards her for exposing their unlawful practices – that with Justices attitude and state of mind, it would be difficult for them to set aside these facts and issues presented here and when judging certain issues, persons or causes, judge it fairly and honestly without bias, prejudice and or discriminatory intent towards her.**

127. Personal bias or prejudice refers to some sort of antagonism or animosity toward party arising from sources or events outside scope of particular proceeding. 28 U.S.C. §144. *U.S. v. Professional Air Traffic.* [n. 14]. **The record evidence will support that Judge(s)/Magistrate(s) in the action *sub judice* have a personal bias and prejudices towards Newsome. Moreover, said bias and prejudices are antagonistic and there is animosity toward Newsome as a result of her filing post motions and the EDC-LA's knowledge of matters involving Newsome that are outside the realm of the action *sub judice*.**

128. **Even if no bias or prejudice of judge may actually exist, it is enough to disqualify that there be mere appearance of partiality.** *Limeco, Inc. v. Division of Lime*, 571 F.Supp. 710 [n. 1] (N.D. MS 1983). To say that one has no present recollection falls short of meeting the acid test required of a judge whose impartiality may be reasonably drawn into question. It is

---

[12]**FACT:** Judges handling of Ms. Newsome's lawsuit have formed a bias and prejudice towards her because of her pursuit of justice in several other lawsuits (past or present) totally unrelated to this matter. Acknowledgment of any other lawsuit are in the record of the Court(s). Therefore, it may be concluded from the behavior and/or conduct of Judges "attitude" and/or "state of mind" belies aversion of hostility towards Ms. Newsome. Information Judges may have obtained (whether true or false) has affected their ability to remain impartial and inability to remain fair and just in deciding this matter. Thus, affecting the outcome of this lawsuit and Appellant being deprived justice. *In further support of this argument, the prejudicial and discriminatory treatment is evidenced by the lack of and/or acknowledgment of any prior lawsuits filed in this Court or any other Court against Entergy for employment discrimination.*

well settled by all legal authorities that even if no bias or prejudice of a judge may actually exist, it is enough to disqualify that there be the mere appearance of partiality. **Judicial ethics "exact more than virtuous behavior; they command impeccable appearance. Purity of heart is not enough. Judges' robes must be as spotless as their actual conduct**." *Limeco* citing *Hall v. Small Business Administration*, 695 F.2d 175, 176 (5th Cir. 1983). Every justice, judge and magistrate is required to disqualify himself in any proceeding in which his impartiality might reasonably be questioned. *Hall.* **The record evidence supports disqualification of Judge(s)/Magistrate(s) in the action *sub judice* because its partiality for Entergy and its co-conspirators. The bias and prejudice exhibited by the Judge(s)/Magistrate(s) in this lawsuit is not merely speculation, but is fact. Said bias and prejudice by Justices are fueled by the fact that Newsome *is an African-American* who is college-educated, single, has no dependents, has typed and prepared the majority of her own pleadings (except that presented by Bennett) in this lawsuit, and drives a nice car. Justices in this lawsuit cannot take the fact that Newsome, an *indigent pro se African-American* – who is not schooled in the law – has managed to maintain the action *sub judice* against a Defendant (Entergy), whose legal defense counsel are the white majority with superior credentials – yet has failed to successfully defend this lawsuit against an *African-American*. The record evidence will support that the reasons for Entergy's success in this lawsuit, thus far, is due to the fact opposing counsel, Koch, and her co-counsel(s) are *white* with vast legal and financial resources. Newsome believes that had she been white, this matter would have long been resolved in her favor based upon the evidence presented in this lawsuit.**

129. Court of Appeals has found, party is entitled to a trial before a judge who is not biased against him at any point of the trial. . . *United States v. Thompson,* 483 F.2d 527, 529 (3rd Cir. 1973). The Fifth Circuit Court of Appeals, "held that trial judge displayed such bias and prejudice as to require **new trial before different judge.**" *United States v. Holland*, 655 F.2d 244 (5th Cir. 1981). **Based upon the record evidence and conduct of Judge(s)/Magistrate in the action *sub judice*, Newsome is entitled to a trial before a Jury and Judge who is not biased against her at any point in the trial. Thus, Newsome does not believe that any EDC-LA Judge or Fifth Circuit Court of Appeals Judge – based on the factual evidence involved in this lawsuit and their relationship with each other and Entergy and its counsel – can remain unbias, fair and just in litigating this lawsuit and/or any in which Newsome is a party.**

130. The EDC-LA's handling of the action *sub judice* is discriminatory, prejudicial. Said unlawful actions by the EDC-LA have adversely affected Newsome.

CONGRESS'S JURISDICTION OVER THE LOWER FEDERAL COURTS

For informational purposes, through the filing of this instant Petition, Newsome provides the United States Department of Justice with statutes and legal conclusions to support the jurisdiction of the United States Congress to intervene in the action *sub judice* because of the Constitutional violations and deprivation of equal protection of the laws and due process of laws rendered Newsome. Because of the EDC-LA's unlawful actions towards Newsome regarding appointment of counsel for Newsome and said Court's unlawful granting of Newsome's attorney, Bennett's, withdrawal and other abuses launched against her, Newsome is requesting that the DOJ intervene/participate in the preparation and submittal of the required pleading/complaint required to bring the matters addressed within this Petition and the action *sub judice* before the United States Congress. In support thereof, Newsome states:

JURISDICTION:

§ 3526 Congressional Control of Lower Federal Court Jurisdiction:[5]

> Congress has considerable discretion in dealing with the jurisdiction of the lower federal courts. It can provide that a particular court hear certain questions and deny all other courts the power to consider the questions referred to that court.[6]
>
> > Simply stated, Congress may impart as much or as little of the judicial power as it deems appropriate and the Judiciary may not thereafter on its own motion recur to the Article III storehouse for additional jurisdiction. When it comes to jurisdiction of the federal courts, truly, to

[5] *Wright, Miller & Cooper, Federal Practice and Procedure:* Jurisdiction 2d § 3526.

[6] Lockerty v. Phillips, 63 S.Ct. 1019, 319 U.S. 182, 87 L.Ed. 1339.

paraphrase the scripture, the Congress giveth, the Congress taketh away.[7]

[8]Finally, however, no more than is true of the commerce power or any other power of Congress, does any of this imply an absence of constitutional limitations lying outside the exceptions clause but still fully applicable to its every use. Without doubt, the Bill of Rights applies as do the several limitations flowing from article I, section 9. . . An exception to the scope of review applicable only in cases where the defendant availed himself of his right to trial by jury, but not when he agreed to a bench trial, moreover, might be held to offend the sixth or fourteenth amendments' protections of the right to trial by jury.[9] Perhaps the simplest illustration would be an "exception" of cases based upon the appellant's race: an exception certain to be held offensive to the fifth amendment's dimension of equal protection.[10] Expanding upon this example, one may plausibly argue that *whatever* basis of classification for excepting certain cases from the Court's appellate jurisdiction Congress may have used, it is necessarily subject to review to determine whether the class thus described is "arbitrary" or "invidious" in the sense condemned by whatever standards of equal protection appropriately applies to the subject matter.[11]

CASE LAW:

Lockerty v. Phillips, 1943, 63 S.Ct. 1019, 319 U.S. 182, 87 L.Ed. 1339 – (n.5) Congress had authority to require that a plaintiff seeking equitable relief against enforcement of . . .Act, or of regulations promulgated under it, resort to the Emergency Court of Appeals only after first pursuing prescribed administrative procedure. *Id.* 1020.

Article III left Congress free to establish inferior federal courts or not as it though appropriate. It could have declined to create any such courts, leaving suitor to the remedies afforded by state courts, with appellate review by this Court as Congress might prescribe. *Kline v. Burke*

---

[7] Judge Sirica – 366 F.Supp. at 55. (D.C.D.C. 1973). Wright, Miller & Cooper, Federal Practice and Procedure: Jurisdiction 2d § 3526, p 241

[8] 15 Ariz. L.Rev. 229, 263 – Van Alstyne, A critical Guide to Ex Parte.

[9] *See* Comment, *Removal of Supreme Court Appellate Jurisdiction: A Weapon Against Obscenity?*, 1969 Duke L.J. 291; cf. *United States v. Jackson*, 390 U.s. 570 (1968).

[10] This intriguing possibility I first heard suggested years ago by Mr. Lawrence Wallace (formerly of the Duke faculty and currently with the Office of Solicitor General).

[11] *See generally* Goodpaster, *The Constitution and Fundamental Rights,* 15 Ariz. L.Rev. 479 (1973).

Construction Co., 260 U.S. 226, 234, 43 S.Ct. 79, 82, 67 L.Ed. 226, 24 A.L.R. 1077, *and cases cited. Lockerty v. Phillips*, 1943, 63 S.Ct. 1019, 319 U.S. 182, 87 L.Ed. 1339 – (n.3) The congressional power to "ordain and establish" inferior courts includes the power of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which Congress may seem proper for public good. U.S.C.A. Const. Art. 3, § 1. *Cary v. Curtis*, 3 How. 236, 245, 11 L.Ed 576; *Lauf v. E. G. Shinner & Co.*, 303 U.S. 323, 330, 58 S.Ct. 578, 582, 82 L.Ed. 872.

Decision with respect to inferior federal courts, as well as task of defining their jurisdiction, was left by Judiciary Article to discretion of Congress. U.S.C.A. Const. Art. 3, § 1 et seq. *Palmore v. U. S.*, 93 S.Ct. 1670, 411 U.S. 389, 36 L.Ed.2d 342.

Federal courts are courts of limited jurisdiction and only Congress may retract or expand the limits of federal judicial power. U.S.C.A. Const. art 3, § 1 et seq., *United Gas Pipe Line Co. v. Whitman,* 595 F.2d 323 (1979)

Congress has power to define jurisdiction of federal courts. *Morgan v. Melchar*, 442 F.2d 1082, vacated 92 S.Ct. 1280, 405 U.S. 1014, 31 L.Ed.2d 477, on remand 467 F.2d 133.

Congress has the power to limit the jurisdiction of the federal courts in whatever extent it deems fit, with the sole possible limitation on that power which may be opposed by the requirements of due process. *Government Emp. Ins. Co. v. Le Bleu*, 272 F.Supp. 421 (1967).

Congress has constitutional authority to define jurisdiction of lower federal courts. *Keene Corp. v. U.S.*, 113 S.Ct. 2035, 508 U.S. 200, 124 L.Ed.2d 118

UNITED STATES CONSTITUTION:

Section 1. *Judicial Power, Tenure and Compensation*

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may form time to time ordain and establish . . .

RELIEF SOUGHT/DESIRED FROM FILING OF PETITION

Newsome prays that upon review of the Eastern District Court's record involving *Vogel Denise Newsome v. Entergy Services, Inc.*; in the United States District Court, Eastern District of Louisiana; Civil Action No. 99-3109; other federal actions brought by Newsome and the evidence contained within this instant Petition - which supports the allegations brought - that the following relief and any other relief that the United States Department of Justice and/or United States Congress has knowledge of to correct the injustice/wrongs complained of, be hereby granted to correct the wrongs/injuries sustained by Newsome – from Entergy and Co-Conspirators - as a direct and proximate result of her exercising rights protected under the United States Constitution and Civil Rights Act:

131. that the United States Department of Justice and/or Congress retain jurisdiction in the action *sub judice* and see that Newsome is provided legal representation/counsel for the duration of this lawsuit;

132. that pursuant to the Seventh Amendment of the United States Constitution, that this lawsuit be allowed to proceed to trial;

133. that this lawsuit be assigned to another Judge, Court and venue that can decide the issues in a legal, lawful, fair and just manner without any bias and prejudice towards Newsome because of its knowledge of other lawsuits by her;

134. that the United States Department of Justice prepare and submit the applicable pleadings for the disqualification of the following Judge(s)/Magistrate(s):

    a. Honorable G. Thomas Porteous, Jr. (District Court Judge)
    b. Honorable Morey L. Sear (District Judge)
    c. Magistrate Judge Sally Shushan

135. that the United States Department of Justice, on behalf of Newsome, file the applicable Criminal lawsuits or actions (if warranted) for Obstructing

Justice, conspiracy, fraud, etc. – *under the applicable laws governing said violations or the likes* - against any or all of the following:

a. Honorable G. Thomas Porteous, Jr. (District Court Judge)
b. Honorable Morey L. Sear (District Judge)
c. Magistrate Judge Sally Shushan

136. that the United States Department of Justice intervene/participate in the action *sub judice* and prepare the appropriate pleading on behalf of Newsome to correct the wrongs/injustice complained and rendered her in her pursuit for justice;

137. Request, if the law permits, that the following corporations, businesses and person(s) release to the United States Department of Justice their financial statements:

a. Entergy Services, Inc.
b. Locke, Liddell & Sapp, LLP
c. Justice For All Law Center, LLC
d. Jones, Walker, Waechter, Poitevent, Carrère & Denègre, LLP
e. Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
f. Christian Health Ministries
g. Baptist Community Ministries
h. Michelle Ebony Scott-Bennett
i. Renee Williams Masinter
j. Allyson K. Howie
k. Amelia Williams Koch
l. Steven F. Griffith, Jr.
m. Phyllis Cancienne
n. Jennifer A. Faroldi

138. That the United States Department of Justice, on behalf of Newsome, file the applicable Criminal lawsuits (if warranted) for Obstructing Justice, conspiracy, fraud, etc. – *under the applicable laws governing said violations or the likes* - against any or all of the following:

a. Entergy Services, Inc.
b. Locke, Liddell & Sapp, LLP
c. Justice For All Law Center, LLC
d. Jones, Walker, Waechter, Poitevent, Carrère & Denègre, LLP
e. Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
f. Christian Health Ministries
g. Baptist Community Ministries
h. Michelle Ebony Scott-Bennett
i. Renee Williams Masinter
j. Allyson K. Howie

k. Amelia Williams Koch
l. Steven F. Griffith, Jr.
m. Phyllis Cancienne
n. Jennifer A. Faroldi

139. That the United States Department of Justice, on behalf of Newsome, file the applicable Civil lawsuit(s) (if warranted) for Obstructing Justice, conspiracy, fraud, etc. – *under the applicable laws governing said violations or the likes* - against any or all of the following:

a. Entergy Services, Inc.
b. Locke, Liddell & Sapp, LLP
c. Justice For All Law Center, LLC
d. Jones, Walker, Waechter, Poitevent, Carrère & Denègre, LLP
e. Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
f. Christian Health Ministries
g. Baptist Community Ministries
h. Michelle Ebony Scott-Bennett
i. Renee Williams Masinter
j. Allyson K. Howie
k. Amelia Williams Koch
l. Steven F. Griffith, Jr.
m. Phyllis Cancienne
n. Jennifer A. Faroldi

140. That the United States Department of Justice, on behalf of Newsome, file the applicable pleadings (if warranted) for sanctions for Obstructing Justice, conspiracy, fraud, etc. – *under the applicable laws governing said violations or the likes* - against any or all of the following:

a. Entergy Services, Inc.
b. Locke, Liddell & Sapp, LLP
c. Justice For All Law Center, LLC
d. Jones, Walker, Waechter, Poitevent, Carrère & Denègre, LLP
e. Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
f. Christian Health Ministries
g. Baptist Community Ministries
h. Michelle Ebony Scott-Bennett
i. Renee Williams Masinter
j. Allyson K. Howie
k. Amelia Williams Koch
l. Steven F. Griffith, Jr.
m. Phyllis Cancienne
n. Jennifer A. Faroldi

141. That the United States Department of Justice, on behalf of Newsome, file the applicable pleadings/documents (if warranted) for disbarment for Obstructing Justice, conspiracy, fraud, etc. – *under the applicable laws governing said violations or the likes* - against any or all of the following:

a. Locke, Liddell & Sapp, LLP
b. Justice For All Law Center, LLC
c. Jones, Walker, Waechter, Poitevent, Carrère & Denègre, LLP
d. Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
e. Michelle Ebony Scott-Bennett - **Louisiana Bar No. 25342**
f. Renee Williams Masinter- **Louisiana Bar No. 19831**
g. Allyson K. Howie - **Louisiana Bar No. 20574**
h. Amelia Williams Koch - **Louisiana Bar No. 2186**
i. Steven F. Griffith, Jr. - **Louisiana Bar No. 27232**
j. Phyllis Cancienne - **Louisiana Bar No. (not known at this time)**
k. Jennifer A. Faroldi - **Louisiana Bar No. 25668**

142. Grant Newsome a permanent injunction enjoining Entergy, its agents, employees, successors, assigns and all persons in concert or participation with it in its conspiracy against Newsome, from conspiring against her in violation of her Constitutional and Civil Rights pursuant to any and all applicable laws governing conspiracy issues.

143. Grant Vogel D. Newsome the relief sought in her Amended Complaint which is as follows:

a. Grant Plaintiff a permanent injunction enjoining Defendant, its agents, employees, successors, assigns and all persons in concert or participation with it, from discriminating against her in violation of the Civil Rights Act of 1991, 42 U.S.C. § 1981, and the Louisiana Commission on Human Rights Act of 1997;

b. Grant plaintiff a declaratory judgment declaring defendant's practices complained of herein to be in violation of 42 U.S.C. § 2000e, et seq., 42 U.S.C. § 1981, and LSA-R.S. 51:2231;

c. Grant plaintiff compensatory and punitive damages and any other necessary equitable and legal relief on account of said violation in an amount exceeding this court's minimum jurisdictional limits;

d. Grant attorney fees appropriately recoverable , and costs of Court.

e. Grant such other and further relief, at law or in equity, as the Court deems necessary and proper.

See **Exhibit 2**, attached hereto at page 16.

Respectfully submitted,

Vogel Newsome 9/17/04

Vogel Newsome
Post Office Box 31265
Jackson, Mississippi 39286
(601) 885-9536 or 362-4910

CERTIFICATE OF SERVICE

A copy of the above-referenced document was sent to the following persons on September 17, 2004.

FIRST CLASS MAIL

United States District Court
Honorable G. Thomas Porteous, Jr.
United States District Judge
c/o Pro Se Unit Division
500 Camp Street
New Orleans, LA 70130

Justice For All Law Center, LLC
Michelle E. Scott-Bennett
1500 Lafayette Street, Suite 140-A
Gretna, LA 70053

Rutledge C. Clement, Jr.,
Amelia Williams Koch
Locke Liddell & Sapp LLP
601 Poydras Street, Suite 2400
New Orleans, Louisiana 70130-6036

Roy C. Cheatwood
Amelia Williams Koch
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
201 St. Charles Avenue, Suite 3600
New Orleans, Louisiana 70170-1000

Robert B. Acomb, Jr.,
Jennifer A. Faroldi
Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P.
201 St. Charles Avenue
New Orleans, Louisiana 70170-5100

Vogel Newsome 9-17-04
VOGEL D. NEWSOME