

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

ALANA CAIN, ASHTON BROWN,
REYNAUD VARISTE, REYNAJIA
VARISTE, THADDEUS LONG,
VANESSA MAXWELL, et al.

Plaintiffs,

v.

Case No. 15-4479

CITY OF NEW ORLEANS; ORLEANS)
PARISH CRIMINAL DISTRICT COURT;)
MARLIN GUSMAN, ORLEANS PARISH)
SHERIFF; ARTHUR MORRELL, CLERK)
OF COURT; ROBERT KAZIK, JUDICIAL)
ADMINISTRATOR;)
SECTION "A" OF THE ORLEANS)
PARISH CRIMINAL DISTRICT)
COURT, JUDGE LAURIE A. WHITE;)
SECTION "B" OF THE ORLEANS)
PARISH CRIMINAL DISTRICT)
COURT, JUDGE TRACEY)
FLEMINGS- DAVILLIER;)
SECTION "C" OF THE ORLEANS)
PARISH CRIMINAL DISTRICT COURT,)
JUDGE BENEDICT WILLARD;)
SECTION "D" OF THE ORLEANS)
PARISH CRIMINAL DISTRICT COURT,)
AD HOC JUDGE DENNIS WALDRON;)
SECTION "E" OF THE ORLEANS)
PARISH CRIMINAL DISTRICT COURT,)
JUDGE KEVA LANDRUM-JOHNSON;)
SECTION "F" OF THE ORLEANS)
PARISH CRIMINAL DISTRICT COURT,)
JUDGE ROBIN PITTMAN;)
SECTION "G" OF THE ORLEANS)
PARISH CRIMINAL DISTRICT COURT,)
JUDGE BYRON C. WILLIAMS;)
SECTION "H" OF THE ORLEANS)
PARISH CRIMINAL DISTRICT COURT,)
JUDGE CAMILLE BURAS;)
SECTION "I" OF THE ORLEANS)
PARISH CRIMINAL DISTRICT COURT,)

JUDGE KAREN K. HERMAN;)
 SECTION “J” OF THE ORLEANS)
 PARISH CRIMINAL DISTRICT)
 COURT, JUDGE DARRYL DERBIGNY;)
 SECTION “K” OF THE ORLEANS)
 PARISH CRIMINAL DISTRICT COURT,)
 JUDGE ARTHUR HUNTER;)
 SECTION “L” OF THE ORLEANS)
 PARISH CRIMINAL DISTRICT COURT,)
 JUDGE FRANZ ZIBILICH;)
 MAGISTRATE OF THE ORLEANS)
 PARISH CRIMINAL DISTRICT COURT,)
 JUDGE HARRY CANTRELL) (Complaint: Class Action)
)
 Defendants.)
 _____)

CLASS ACTION COMPLAINT

Introduction

Despite longstanding Supreme Court precedent that the Government cannot imprison people just because they are poor, New Orleans officials routinely use jail and threats of jail to collect court debts from thousands of the City’s poorest people. The result is an illegal, unconstitutional, and unjust modern debtors’ prison. To make matters worse, officials in the Collections Department of the Orleans Parish Criminal District Court have admitted under oath that they have been issuing arrest warrants for unpaid debts by signing themselves the signatures of judges without first presenting any information to the judge or even notifying the judge.¹ The Defendants use their unconstitutional scheme of arresting and jailing people for their inability to pay and keeping them in jail until they come up with money to fund themselves off the backs of New Orleans’ poorest.

The Plaintiffs in this case are each victims of this illegal scheme. They each live in poverty and each has been jailed for unpaid or late court debts. Although the Plaintiffs pleaded

¹ See Transcript of Evidentiary Hearing in *State of Louisiana v. Michael Addison*, No. 426-246J, Jan. 30, 2015, attached as Exhibit 1.

that they were unable to pay due to their indigence, they were all arrested on an illegal warrant, and all languished in jail for nonpayment without receiving notice of how or when they would be released or when a hearing would be held. None was afforded the inquiry into their ability to pay that the United States Constitution requires.

Once locked in jail, each person was told that they had no court date set and that they would not be released until they paid the entirety of their debts or posted a preset \$20,000 secured money bond.² No inquiry was made into their individual circumstances, their ability to pay, or whether they constituted a danger to the community or a risk of flight prior to the setting of this secured money bond. Some languished in jail for days and others remained locked up for weeks.

The environment of threats of jail and actual jailing creates a culture of fear among indigent people and their families, who borrow money at high interest rates, divert money from food for their children, and cash their family members' disability checks in a desperate attempt to pay the Collections Department to avoid indefinite confinement.

The policies and practices that led to the jailing of the Plaintiffs and to the creation of a local debtors' prison are part of a broader breakdown of fairness and neutrality in the local criminal legal system, where financial conflicts of interest have derailed the pursuit of justice. When an indigent defendant appears in court, every government entity—the jailor who brought her there, the lawyer assigned to represent her, the prosecutor arguing against her, and the judge ruling on her case—funds its own budget in part based on the decisions made in her case. Each of them takes a percentage of every money bond that is required for release after arrest. Each also partially funds their own budgets through fees that are assessed only upon conviction.

² All named Plaintiffs had to seek the help of family members or others in jail with them to contact the clerk of court and find out why they were locked up to begin with. At no time did anyone come to them and tell them why they were locked up or when or how they could be released.

This Court struck down elements of these financial conflicts of interest over two decades ago. And yet, the system has persisted, with devastating consequences for the bodies and minds of the poorest people in New Orleans and for the dignity of the justice system. These conflicts of interest are out of line with fundamental principles of due process as those concepts have been understood throughout American legal history. Officials involved in every area of the local legal system, including law enforcement, lawyers, and judges, acknowledge and complain that these financial incentives have corrupted the basic delivery of justice in the City.

The treatment of Alana Cain, Ashton Brown, Reynaud Variste, Reynajia Variste, Thaddeus Long, Vanessa Maxwell, and each of the other Plaintiffs reveals systemic illegality perpetrated by the Defendants against some of the poorest people in the community. The Defendants, as a matter of policy and practice, engage in the same conduct against many other human beings on a daily basis, unlawfully jailing people if they are too poor to pay debts from prior convictions, including the associated fees, costs, and surcharges that the Defendants ultimately use for their own benefit.

Poverty is widespread in New Orleans. The United States Census Bureau reports that 104,919 people in New Orleans live in poverty.³ That is more than one in four people (27%). Though millions of people work full-time and are still struggling to subsist below the federal poverty line, many people are living in extreme poverty: national statistics show that over 1.5 million families get by on less than \$2 a day.⁴ There are countless people in our community who have nearly no source of income at all. In New Orleans, about half of the adult men in the African American community are unemployed and receive no unemployment compensation.⁵

³ United States Census Bureau, Quick Facts, *available at* <http://quickfacts.census.gov/qfd/states/22/22071.html>.

⁴ <http://www.cbsnews.com/news/the-surg-ing-ranks-of-americas-ultrapoor/>.

⁵ http://allthingslocalnola.info/yahoo_site_admin/assets/docs/RecognizingPotential.170111053.pdf.

The Defendants know that most people appearing before them are impoverished because eighty-five percent of the people appearing in Orleans Parish Criminal District Court have been determined to be indigent for purposes of appointment of the Orleans Public Defenders. Plus, Louisiana Law Revised Statute 15:175 defines indigency for purposes of criminal proceedings as people who earn less than 200% of the Federal Poverty Guidelines or receive food stamps, Medicaid, or disability benefits. And yet, impoverished people represent the large majority of people who owe debts to the Collections Department. The burden of court debts increases recidivism, blocks productive reentry, devastates families who have to make hard choices about debt payments or food, inhibits mental health care, and makes it harder for people to obtain housing and employment.⁶ It is therefore from those among us who are least able to pay that the Court's Collections Department attempts to fund its own budget through jailing and threats of jailing for nonpayment.

By and through their attorneys and on behalf of themselves and all others similarly situated, the Plaintiffs seek in this civil action the vindication of their fundamental rights, compensation for the violations that they suffered, injunctive relief assuring that their rights will not be violated again, and a declaration that the Defendants' conduct is unlawful. In the year 2015, these practices have no place in our society.

Nature of the Action⁷

1. Defendants fund themselves through the collection of money from the people that they process and judge. The pursuit of that money has corrupted the basic delivery of justice and

⁶ See generally, Brennan Center for Justice, *Criminal Justice Debt: A Barrier to Reentry* (2010), available at <https://www.brennancenter.org/publication/criminal-justice-debt-barrier-reentry>.

⁷ Plaintiffs make the allegations in this Complaint based on personal knowledge as to matters in which they have had personal involvement and on information and belief as to all other matters.

resulted in pervasive conflicts of interest and rampant constitutional violations in the procedures for collecting those debts after cases are closed.

2. The Orleans Parish Criminal District Court and the City of New Orleans jointly fund the Collections Department as part of their efforts to supplement the City and Court budgets with the debts collected from mostly indigent people. Defendants act in concert to implement a regime of debt collection premised on assessing high amounts of court costs and discretionary fees and then collecting money from impoverished former defendants in a manner that deliberately ignores longstanding constitutional and statutory protections.

3. This scheme is accomplished by threatening indigent people with jailing if they or their families do not pay, issuing invalid arrest warrants, wrongfully imprisoning court debtors, delaying any hearing in court indefinitely, charging preset secured money bonds for those arrested on Collections Department warrants (from which the judges, the District Attorney, the Public Defender, and the Sheriff each take a percentage), and failing to perform any inquiry into an individual's ability to pay when they are finally brought to court for debt-collection proceedings. When released from jail, former defendant debtors who have not paid their debts in their entirety are returned to a cycle of debt and threats.

4. Plaintiffs seek declaratory, injunctive, and compensatory relief.

Jurisdiction and Venue

5. This is a civil rights action arising under 42 U.S.C. § 1983, § 1988 and 28 U.S.C. § 2201, *et seq.*, and the Fourth and Fourteenth Amendments to the United States Constitution. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343. This Court has pendant jurisdiction over the state law claims under 28 U.S.C. § 1367.

6. Venue in this Court is proper pursuant to 28 U.S.C. § 1391.

Parties

7. Plaintiff Alana Cain is a 26-year-old resident of New Orleans. Plaintiff Ashton Brown is a 21-year-old resident of New Orleans. Plaintiff Reynaud Variste is a 26-year-old resident of New Orleans. Plaintiff Reynajia Variste is a 21-year-old resident of New Orleans. Plaintiff Thaddeus Long is a 33-year-old resident of New Orleans. Plaintiff Vanessa Maxwell is a 49-year-old resident of New Orleans. The named Plaintiffs represent themselves as individuals and a Class of similarly situated people all subject to the Defendants' debt-collection scheme.

8. Defendant City of New Orleans is a municipal government entity, organized under the laws of the State of Louisiana. Among other things, the City of New Orleans funds the hiring of the Collections Department employees who openly and as a matter of policy commit the violations at issue in this case. Moreover, the City of New Orleans police officers execute the Collections Department warrants even though the City knows or should know that the warrants are invalid and unconstitutional and that arrestees will be subjected to the Defendants' unconstitutional practices once in custody.

9. Defendant Orleans Parish Criminal District Court is a municipal government entity that manages the Judicial Administrator and the Collections Department and that, along with the City of New Orleans, jointly funds the operation of the Collections Department. The Orleans Parish Criminal District Court is managed administratively by the Orleans Parish Criminal District Court judges, who jointly control and administer the Judicial Expense Fund.

10. Defendant Judicial Administrator, Robert Kazik, is an employee of the Orleans Parish Criminal District Court. He is responsible to and supervised by the judges of the Orleans Parish Criminal District Court. Robert Kazik is responsible for the operation of the Collections

Department, which is jointly funded by the City of New Orleans and the Orleans Parish Criminal District Court. He is sued in his official and individual capacities.

11. The Clerk of Court, Arthur Morrell, is an elected public official responsible for oversight and funding of the Orleans Parish Criminal District Court's operations. He is sued in his official and individual capacities.

12. Orleans Parish Sheriff Marlin Gusman operates the local jail and unconstitutionally detains impoverished people indefinitely because of their inability to make a financial payment for their release. He is sued in his official capacity.

13. The individual Judges of the Orleans Parish Criminal District Court are defendants herein because: they supervise and are responsible for the Judicial Administrator as well as the employees of the Orleans Parish Criminal District Court; they knew or should have known of the unconstitutional practices described herein which result in the illegal, unconstitutional, and wrongful arrest and imprisonment of Plaintiffs; and they have each failed to provide Plaintiffs with the legal process they are constitutionally due if imprisoned for nonpayment of court debts. They are sued for declaratory relief only.

The thirteen Orleans Parish Criminal District Court judges are: Section A, Honorable Judge Laurie A. White; Section B, Honorable Judge Tracey Flemings-Davillier; Section C, Honorable Judge Benedict Willard; Section D, Honorable Judge ad hoc Dennis Waldron; Section E, Honorable Judge Keva Landrum-Johnson; Section F, Honorable Judge Robin Pittman; Section G, Honorable Judge Byron C. Williams; Section H, Honorable Judge Camille Buras; Section I, Honorable Judge Karen K. Herman; Section J, Honorable Judge Darryl Derbigny; Section K, Honorable Judge Arthur Hunter; Section L, Honorable Judge Franz Zibilich; and Magistrate Judge Harry Cantrell.

Factual Background

A. The Named Plaintiffs' Imprisonment

i. Plaintiff Alana Cain

13. Alana Cain is a 26-year-old woman.

14. Ms. Cain lives in desperate poverty. She struggles to get enough money for food, clothing, shelter, and the other basic necessities of life. She has no income and helps take care of her mother who is sick with cancer.

15. Ms. Cain was charged with a felony theft offense in 2012 and found to be indigent. She was assessed a fine and court costs (including \$600 in discretionary costs imposed by the judge to feed the judge's Judicial Expense Fund) after conviction. Ms. Cain could not afford to pay.

16. Pursuant to the Defendants' policy, Ms. Cain's case was closed after she was sentenced on July 8, 2013. She was sent to the Collections Department, who decided in the discretion of its employees that she would be required to pay \$100 per month even though she was destitute. Collections Department employees informed Ms. Cain that they would also decide when she had to bring the money each month.

17. Ms. Cain made every payment by borrowing money from friends and family, who were also living in poverty.

18. After making consistent on-time payments, Ms. Cain was late one time. She called the collections department and spoke to a supervisor. The supervisor told her that he could give her more time to pay but that she might have a warrant put out for her arrest. She informed him that she did not have enough money to pay, and he told her that he would issue a warrant for her arrest.

19. Ms. Cain tried to come up with the money, but she was not able to do so. When Ms. Cain asked if she could make a smaller payment to the Collections Department, employees in the Collections Department told her that, pursuant to their policy, they would refuse to accept any payment smaller than \$50. They told her not to bother to bring anything less.

20. On March 11, 2015, Ms. Cain was a passenger in a car that New Orleans police pulled over for a traffic violation. After asking for her identification, the police officer told her that she had a warrant for her arrest and that he could not let her go. Ms. Cain had \$80 that her friend had lent her that she was hoping to put toward her court debts. They were returning from the bank with the money in her purse.

21. She informed the officer that she had spoken to the Collections Department and told them that she could not afford to pay, but the officer told her that he was just doing his job and that he had to take her to jail.

22. When Ms. Cain arrived at the Orleans Parish Prison, the local jail run by the Orleans Parish Sheriff, jail staff told her that she had a warrant because she had not paid her court debts. She told jail staff that she had spoken to the Collections Department and that she asked for more time to make her monthly payment. She had money on her when she was arrested and she asked if she could use that money to pay Collections. Jail staff told her that they could not do anything about it and that she had a \$20,000 secured bond pursuant to standard policy.

23. Ms. Cain asked when she could go to court, and jail staff told her that there was no way to find out when her court date would be. Jail staff told her that someone from her family had to call the court to get her placed on a docket or else she would not get a court date. There was no free phone available for inmate use, and Ms. Cain therefore could not reach anyone in her family.

24. Ms. Cain repeatedly tried to use the jail computer system to ask what was happening to her and to communicate with someone who could tell her when she could go to court.

25. Another prisoner eventually took pity on Ms. Cain and let her use a paid phone account after several days.

26. Ms. Cain then called her sister, who agreed to call the court and try to get her on the docket.

27. After a week, Ms. Cain was brought to court. The judge told her that if she ever missed a payment again, she would have to spend 90 days in jail.

28. Ms. Cain told the judge that she did not have a job and that she was not able to come up with the money. The judge made no meaningful inquiry into her indigence and, pursuant to policy, neither the lawyers representing the District Attorney nor the Public Defender informed her of her constitutional rights or asked the judge to conduct such an inquiry. The judge told her that she was required to pay or she would be jailed.

29. Ms. Cain has no bank account, no car, and no significant assets. She relies intermittently on food stamps and the kindness of her family to provide her with clothing, food, shelter and the other basic necessities of life. She has struggled to find work since her criminal conviction, and she takes care of her mother who is sick with cancer. She suffers from several medical conditions and has felt trapped in a cycle of debt and fear caused by the threats of the Collections Department employees.

ii. Plaintiff Ashton Brown

30. Mr. Brown is a 21-year-old New Orleans resident.

31. Mr. Brown lives in desperate poverty and struggles to meet the basic necessities of life, including food, clothing, medical care, and shelter.

32. Mr. Brown was placed on inactive probation stemming from a theft conviction on December 16, 2013. He was assessed a total of \$500 in various costs and discretionary fees levied for the benefit of the judges, the District Attorney, and the Public Defender. He could not afford to pay the court debts. As is standard, Mr. Brown was also subsequently charged additional fees for his probation officer.

33. Mr. Brown was forced to decide which set of fees he could pay with money he scraped together in lieu of buying food and clothing. He decided to pay his probation officer \$200 because he was told that he would be revoked if he did not pay his probation fees.

34. When he paid his probation fees, the Collections Department told him that he could not get any extensions on his other court debts and told him to pay up. Mr. Brown informed the Collections Department that he could not afford to pay his court debts. When he could not pay, the Collections Department staff decided to sign and issue a warrant for his arrest because of nonpayment, even though they knew that he was indigent and could not pay.

35. In May 2015, Mr. Brown was arrested for drug possession.⁸ After his drug case was resolved on July 23, 2015, Mr. Brown was assessed fees and costs and returned to jail from the courtroom solely because of his prior unpaid debts from the 2013 case. He was told that he would not be released until he paid what he owed on his 2013 case or until he paid a new preset

⁸ He was jailed and assessed an \$8,000 secured money bond on the drug charges prior to trial. Pursuant to local practice and procedure, the bond was assessed without any meaningful assessment of his ability to pay. Mr. Brown could not afford to pay the bond, and so he remained in jail for months. When he went to court for the first time, Mr. Brown's bond was raised at the urging of the District Attorney to \$12,000, again without any meaningful inquiry into his ability to pay or any meaningful hearing concerning whether he was a danger to the community or a risk of flight. It is common practice for local judges and the District Attorney to seek high money bonds because each is able to collect a percentage of every money bond, so each has a direct financial incentive to set bond as high as possible.

\$20,000 bond on his Collections Department warrant. Mr. Brown was destitute and had already been determined indigent by the court. He had no bank account and no assets.

36. For two weeks following the disposition of his drug case, Mr. Brown languished in terrible jail conditions without being brought to court. He became increasingly desperate and depressed because he had just become a father for the first time, and he had been kept in jail since May, without being able to see his newborn daughter, solely because he could not come up with money that local officials required for his release.

37. Mr. Brown reached out from jail to his uncle who was able to set up a potential job for him. Mr. Brown was excited at the possibility because, prior to being locked up in May, he was only able to help support his new daughter by performing scattered odd jobs, like mowing lawns to pay for her food and diapers.

38. Finally, on August 6, 2015, Mr. Brown was brought to court. The judge, consistent with routine practice, told him that he would not be released from jail unless he paid his old court costs and fees. Mr. Brown told the judge that he thought that he had a job waiting for him and that he could try to work for enough money to pay the court debts. The judge told him that he could not release him. The judge told him he could not release him unless he paid at least \$100. The judge told Mr. Brown that he would reset him for another court hearing in a week's time and that he would be kept in jail unless he got a family member to pay. Mr. Brown was sent back to jail. No meaningful inquiry was made into his ability to pay, and none of the required constitutional procedures for determining his ability to pay were followed.

39. Pursuant to standard policy and practice, neither the District Attorney's Office nor the Public Defender informed Mr. Brown of his constitutional rights, including his right not to be jailed for nonpayment without an inquiry into his indigence. As is routine, nor did either the

prosecutor or public defender request such an inquiry or findings in his case. Mr. Brown was not even given notice prior to or at the hearing that his ability to pay would be a critical issue in the proceedings as required by Supreme Court precedent.

40. Several days later, with the help of another detainee at Orleans Parish Prison, Mr. Brown was able to get a message to his grandmother. Brown's family was able to scrape together \$100. They paid the Collections Department, and Mr. Brown was released from jail. Collections Department employees told him that he would be arrested and jailed again if he does not continue making payments on time.

iii. Plaintiff Reynaud Variste

41. Reynaud Variste was sleeping quietly at home with his family in January 2015 when numerous armed officers surrounded and stormed his house with assault rifles and military gear. The officers pointed guns at Mr. Variste and his family and handcuffed him.

42. When Mr. Variste asked what was happening, the officers told him not to worry about it too much because he simply owed some old court costs and fees. He was taken to jail.

43. Mr. Variste had been convicted several years earlier and had been assessed about \$1,600 in court costs and fees. He had a low paying construction job, and he did his best both to make payments and to meet the basic necessities of life for himself and his family. However, after he had reduced his court debts to \$700 with regular payments, his hours on the job were cut approximately in half because of a slowdown in business. He could no longer afford both to pay his court debts and to meet the basic necessities of life.

44. Mr. Variste went to the Collections Department and told the employees there that he could not afford his payments anymore. The Collections Department told Mr. Variste that there was nothing that they could do and that he had to pay what he owed. An employee told

him that the best that he could offer Mr. Variste was to let him pay a total of \$100 per month instead of \$100 per month on each of his two cases.

45. Mr. Variste separately owed about \$65 per month for his probation fees.

46. Each time Mr. Variste was late on a payment, Collections Department staff told him that he had to bring double the next time. These purported fee increases were not made pursuant to any legal process.

47. After his arrest, Mr. Variste languished in jail for 3 days, and he could not figure out what was happening to him. Jail staff had no idea when or whether Mr. Variste would be taken to court because of the Defendants' policy of indefinite detention after Collections Department arrest warrants are executed. Finally, Mr. Variste called a bondsman, who told him that he would probably not be released from jail until he paid his entire court debts, which would be cheaper than paying the \$20,000 money bond needed to get a court date to challenge the debts.

48. Mr. Variste was told that he had to pay the entirety of his court debts in order to get out. And although Mr. Variste's girlfriend eventually used his paycheck to pay the entire debt amount on the subsequent Friday, Mr. Variste stayed in jail over the weekend and was not released until the following Monday. He never saw a judge and was never brought to court.

49. Mr. Variste missed work while in jail, and he was in danger of losing his job because he could not reach his employer while he was jailed.

50. Mr. Variste struggles to survive financially and to provide the basic necessities of life for himself and his 11-month-old child.

iv. Plaintiff Reynajia Variste

51. Reynajia Variste is a 21-year-old New Orleans resident.

52. Ms. Variste pled guilty to an offense in October 2014. She was told that she owed approximately \$900 as a result of the costs and fees imposed by the court.

53. Ms. Variste was unable to pay what the Collections Department demanded. No inquiry was conducted into her ability to pay, even though, like the other Plaintiffs, she had previously been found indigent for purposes of the appointment of counsel.

54. In May 2015, New Orleans police set up an informal checkpoint in her neighborhood after a robbery and began stopping all residents. Police stopped her while she was walking and ran her name through a database, which revealed a Collections Department warrant for non-payment. Even though she was pregnant, she was handcuffed, arrested, and taken to a district station. She was then transported to jail.

55. At booking, staff told Ms. Variste that she could go free if she paid her court debts. She was also given the choice to pay a standard \$20,000 money bond in the alternative. She was jailed instead because she did not have the money.

56. Ms. Variste's family was desperate to get her out of jail because she was pregnant, and they worried about the effects of being in the notoriously dangerous and unsanitary jail on her unborn child.

57. Ms. Variste's aunt went to the Collections Department to find out what was going on. The Collections Department told her that they would require at least \$400 before they would agree to let her out of jail. The Collections Department told her aunt that they would require that amount of money because they needed close to half of what she owed in total.

58. Ms. Variste and her family panicked because they could not come up with the money.

59. Ms. Variste was not permitted to shower or clean herself for the first three days in jail, and she could not tolerate the food. After a few days, she started bleeding from her vagina. She informed the guard, and the guard declined to tell a jail nurse. She continued to bleed for two days without receiving medical attention.

60. After seven days in custody, her family borrowed money to lend to Ms. Variste to buy her release. A portion of the money was borrowed from the SSI check of one of her relatives, who depended on that money to survive. When her family paid the Collections Department, Ms. Variste was released. She never saw a judge.

61. After her release, Ms. Variste went to the hospital, and she was told that the bleeding was a problem with her placenta.

62. Ms. Variste survives on food stamps and has no significant assets and no bank account.

63. Ms. Variste has applied to numerous jobs in the past couple of years, and despite nearly receiving them, she is routinely rejected after a background check reveals her felony theft conviction.

64. After she was released from jail, the Collections Department resumed threatening her with arrest and jail if she did not pay what they told her to pay. In early August 2015, she went to the Collections Department and paid \$100 even though she could not afford it without severe hardship because she was scared of the threats to have her arrested before she gave birth. She continues to live in constant fear of being arrested and jailed indefinitely for being unable to pay.

v. Plaintiff Thaddeus Long

65. Thaddeus Long is a 33-year-old resident of New Orleans. He struggles financially to meet the basic necessities of life for himself and his family.

66. Mr. Long was working at a temp-to-hire job in June 2015. He was working for the City of New Orleans to modernize its parking meters by removing old meters and installing new pay stations. He had just started the job and had been working for several weeks.

67. Mr. Long was pulled over by City of New Orleans police. After the police searched his name, the police system indicated that the Collections Department had issued a warrant for nonpayment of fees and costs stemming from a 2011 conviction. Mr. Long explained to police that he had paid off his debts in their entirety. A note in Mr. Long's court files confirms that he had paid his debts in full in October 2013.

68. Nonetheless, the Collections Department had, pursuant to its policy and practice, issued a warrant for his arrest for nonpayment.

69. Pursuant to policy and practice, Mr. Long was not brought to court to see a judge. Instead he was transported to Coshatta, Louisiana and held there for six days on the standard \$20,000 secured money bond until he convinced someone to inquire about his case and was brought to court. When he appeared in court, he explained the mistake, which was apparent from the court records. He was released immediately.

70. Because of the Collections Department warrant, the standard bond set and perpetuated by those who profit from the setting of those bonds, and the policy and practice of not producing arrestees in a prompt manner, Mr. Long lost a week of work and soon after lost his job.

vi. Plaintiff Vanessa Maxwell

71. Vanessa Maxwell is a 49-year-old resident of New Orleans. She is the mother of seven children, and she has six grandchildren.

72. Ms. Maxwell is indigent and is staying in her sister's home with seven other family members.

73. Ms. Maxwell suffers from schizophrenia. She regularly hears voices talking to her, usually the voice of her dead son. She is also bipolar, suffers from major depressive disorder, and suffers from social anxiety disorder that debilitates her when she is forced to be around a lot of other people.

74. In 2011, she was convicted of an offense in New Orleans and assessed court costs and fees. After she served her sentence, she was sent to Mississippi because the Louisiana offense constituted a violation of her Mississippi probation terms. She was then placed in revocation proceedings in Mississippi.

75. Unbeknownst to Ms. Maxwell, while she was in Mississippi, the Collections Department issued a warrant for her arrest for nonpayment of her New Orleans court fees.

76. Once she moved back to Louisiana, Ms. Maxwell did not find out about the warrant until she got into an argument with her boyfriend. When police arrived to investigate, Ms. Maxwell was arrested after the officer ran her name and saw the Collections Department warrant.

77. Ms. Maxwell was brought to jail, where she stayed in central lockup for a couple of days. She could not eat the food provided to her because it was moldy. Mold, feces, and urine covered the toilet area around her cell. The place smelled like urine.

78. After a couple of days, she was transferred to the women's facility.

79. At no point did anyone inform her why she was being detained, how she could seek release, or when she would be brought to court.

80. Ms. Maxwell wrote grievances every day to get the attention of someone who could tell her what was happening. No one responded.

81. After calling the Orleans Parish Criminal District Court clerk repeatedly without any help, her daughter and son-in-law hired a private attorney with money they scraped together to get her name on the docket. Ms. Maxwell was never brought to court. Instead she continued to sit in jail.

82. Ms. Maxwell had the number of a public defender who had handled a case for her son. She called repeatedly, and she finally got through after several days. She begged the Public Defender's Office to get her name on a docket to see a judge.

83. On Thursday, May 21, 2015, twelve days after her arrest, Ms. Maxwell was brought to court. Ms. Maxwell's public defender argued for her release and although no indigency hearing was conducted, the judge ordered her release contingent on Ms. Maxwell paying \$191 within a week.

84. Ms. Maxwell has not been able to come up with any money to pay the Collections Department since her release. She does not leave her house except to pick up her grandson from the bus stop nearby. She is in imminent danger of arrest and jailing again pursuant to monetary conditions that she cannot make.

D. The Defendants' Policies and Practices

85. The Plaintiffs and many other witnesses have, in recent months and years, observed numerous other indigent New Orleans residents jailed as a matter of pattern and practice by the Collections Department. These residents are kept in jail for non-payment of debts

without an inquiry into their ability to pay, pursuant to standard preset secured monetary bonds from which supposedly neutral judicial and government actors who set those bonds are promised a percentage, and without the consideration of whether imprisonment serves legitimate interests in light of available alternatives as required by federal and Louisiana law.

86. Moreover, when proceedings are eventually held days or weeks later for people who cannot buy their release or who cannot find anyone to buy their release for them, the Defendants' cursory and fleeting proceedings (commonly lasting less than a minute to several minutes) often do not even identify the specific debts and fees owed or the cases in which they were supposedly incurred. These unconstitutional proceedings do not provide a debtor with a meaningful opportunity to contest the validity of the debts, to put on evidence concerning their indigence, or to consider any non-financial alternatives to detention. Debtors are routinely sent back to jail until they pay an arbitrary amount of money without examination or findings on any of these constitutionally required issues.

87. The treatment of the Plaintiffs was caused by the Defendants' policies and practices to collect debts from the fines, fees, costs, and surcharges that benefit the Defendants.

1. The Initial Assessment of Court Costs, Fees, and Surcharges

88. The Defendants impose an automatic \$20,000 money bond on anyone illegally arrested and imprisoned for non-payment or late payment of court debts. This bond, like every pre-trial money bond issued in New Orleans, partially funds the District Attorney, the Public Defender, the Sheriff, and the Judicial Expense Fund. The judges collect 1.8% of each bond, and the other three entities each collect 0.4% of each bond. The judges collect over \$1 million from these bond fees alone into the Judicial Expense Fund each year, and they have decided to earmark these bond fees for payroll of court employees. The Court and the judges rely to a

significant extent on these bond fees to fund their operating budget. Even though this practice was previously ruled unconstitutional by this Court nearly 25 years ago in *Augustus v. Roemer*, 771 F. Supp. 1458, 1473 (E.D. La. 1991), it continues unabated.⁹

89. As a result, Defendants have developed a policy, pattern, and practice of advocating for and implementing high bonds, fines, costs and fees without any constitutional basis and any meaningful inquiry into a person's ability to pay, even when they know that the person is indigent. As a result, many people languish in jail every year solely because they are too poor to make a monetary payment.

90. At the conclusion of a criminal case, as a matter of policy and practice in the thousands of cases prosecuted each year, prosecutors advocate for, and the judges impose, a variety of mandatory court costs and discretionary fees. Among these fees are assessments used directly to fund the District Attorney's office, the Public Defender, and the Court itself. Probation officers impose additional fees. Each of these actors relies to a significant extent on the assessment and collection of these myriad fees and costs to fund their operations and to pay employee salaries and extra benefits. These costs and fees fund a significant percentage of each Defendant's overall operating budget.

91. All of these fees and costs are imposed without any inquiry into an individual's ability to pay.

⁹ After *Roemer* struck down a statute specific to New Orleans, the legislature passed a new statute creating a materially indistinguishable scheme *for the whole state*. After subsequent lobbying by the judges of the Orleans Parish Criminal District Court, the legislature authorized an additional percentage to be funneled into the Judicial Expense Fund of the Orleans Parish Criminal District Court. As a result, 3% of every bail bond issued is set aside for local officials, including 1.8% for the judges to control and 0.4% directly for the budget of the District Attorney. LA. REV. STAT. ANN. § 22:822; § 13:1381.5.

The Sheriff and Public Defender also each take 0.4% percent of every bail bond, thus giving the Sheriff incentive to continue to participate in unlawful policies and practices and the Public Defender a financial conflict of interest, including an incentive not to advocate for recognizance or lower secured money bonds and an incentive not to appeal excessive money bail orders.

Because the statute was designed to fund a large percentage of the operating budgets of each actor, each currently depends on the continuation of the practice to survive.

92. One of the discretionary fees assessed upon conviction is the “Judicial Expense Fund” of the Orleans Parish Criminal District Court. The judges of the court manage the Fund and Court operations in an administrative capacity but refused for many years to disclose the financial details of the account or to permit basic public auditing. The Fund collects millions of dollars to support the Court’s operating budget in the administrative discretion of the judges of the Court, who decide in any individual’s case whether to assess the fee and, if so, how much to levy up to \$250 for each misdemeanor charge and \$2,000 for each felony charge.

93. Every relevant actor in the judicial proceedings thus has a direct and significant financial incentive for the proceedings to result in conviction.

94. One of the fees collected from Plaintiffs was the subject of an expose in 2010.¹⁰ For many years, Orleans Parish Criminal District Court judges had been using the money assessed and collected from former criminal defendants to purchase private insurance benefits for themselves that the State of Louisiana does not provide public employees.¹¹ From 2006 until 2011, the judges had spent more than \$1.9 million on their own personal medical and other benefits for themselves and their spouses.¹²

¹⁰ Richard A. Webster, *Bail System Puts Court-Costs on Backs of Poor*, New Orleans City Business, Aug. 20, 2010.

¹¹ Gordon Russell, *The Times-Picayune, WVUE-TV file suit against Criminal District Court* (Feb.19, 2013), available at http://www.nola.com/crime/index.ssf/2013/02/nolacom_the_times-picayune_wvu.html; see also John Simerman, *Orleans criminal court judges turn over documents detailing lavish life-insurance benefits*, (Apr. 16, 2013), available at http://www.nola.com/crime/index.ssf/2013/04/orleans_criminal_court_judges_1.html (“Legislative Auditor Daryl Purpera’s office found that during 2010, the 13 Criminal Court judges in Orleans Parish collectively held 249 supplemental insurance policies fully funded by the court. The average judge held 19 policies, at an average cost of \$14,500 per judge.”).

¹² In a similar scheme involving materially identical practices, local municipal court judges were caught using the money collected into the judicial expense fund to hire the personal chef of former New Orleans Saints football star Reggie Bush to prepare gourmet meals for themselves. See Mike Perlstein, *Why Was High Profile Chef on Court Payroll as Custodian?* (Aug. 27, 2010), available at <http://www.wvltv.com/news/eyewitness/10pm-Perlstein-Chef-story-101689763.html>.

95. The Orleans Parish District Attorney and the Louisiana Legislative Auditor condemned this misuse of court fees.¹³ The State of Louisiana Legislative Auditor investigated the judges in 2012 and confirmed the District Attorney's findings concerning the judges' misuse of money collected from former criminal defendant debtors. The State Auditor found in an audit issued November 21, 2012 that from 2009-2011:

- The Orleans Parish Criminal District Court judges spent over \$154,750 from the Judicial Expense Fund to reimburse themselves for private out-of-pocket medical expenses.
- The judges paid 100% of the cost of their personal professional liability insurance policies out of the Fund.
- The judges spent nearly half a million dollars on extra health, dental, vision, cancer, hospitalization, critical illness, long-term care, accidental death and dismemberment, and life insurance policies.
- Each judge had an *average* of 15-19 additional supplemental insurance policies paid for entirely out of the Fund.

The judges spent excessive money on travel and lodgings at conferences, using money collected into the Judicial Expense Fund from former criminal defendants.¹⁴

96. The systemic financial conflicts of interest have not improved in the years since. The Court still uses the millions of dollars of revenues collected in this manner to fund its basic operations, employee salaries, travel and more. The Court and the judges and employees who administer its finances are aware that a substantial part of its operating budget depends on the generation and ultimate collection of fees from convicted defendants.¹⁵

¹³ See Leon A. Cannizzaro, Jr., District Attorney, Letter to Buddy Caldwell, Aug. 4, 2011 and Louisiana Legislative Auditor's Report, November 21, 2012.

¹⁴ Auditor's Report, *supra*.

¹⁵ As one former Orleans Parish Criminal District Court judge publicly acknowledged: "I was as guilty of that as any when I was on the bench, but *you have to fund yourself in some fashion*. And so you did it on the backs of the people who were least able to pay." (emphasis added). Richard A. Webster, Bail System Puts Court Costs on Backs of Poor, NEW ORLEANS CITY BUS., Aug. 20, 2010, available at http://www.projectjusticenola.org/wp-content/uploads/2010/08/Bail_System.pdf; see also Paul Purpura, *New Orleans Judge Camille Buras says she's*

97. In 2012, the Orleans Parish Criminal District Court judges objected to the transfer of misdemeanor cases to the Municipal Court because it meant that they would lose significant revenue. During one discussion at a City Council meeting, the Chief Municipal Court Judge responded to a discussion about this controversy:

“The judges should not be in the business of . . . making money . . . We’re here to . . . dispense justice We’re not even supposed to be placed in that extremely conflicting position, as to be concerned about how many fines and fees we take in so that we can operate. You cannot place that burden on us any longer. It’s unfair . . . and it goes against the pledge we take when we take office.”¹⁶

98. The knowledge that operating budgets come from money bond and post-conviction fees affects every major decision of local court actors. For example, employees of the Orleans Public Defender were recently informed by management that, because collections from fees had not been enough to fund even existing staff salaries, employees would have to be furloughed. Employees were encouraged to supplement their income with donations from Facebook friends.

99. Every Collections Department employee knows that their salaries and the operating budget of their departments depend to a significant extent on the assessment and subsequent collection of these court costs and fees.

2. Debt-Collection Policies and the Issuance of Invalid Warrants

100. Upon conviction, the various costs and fees are assessed. Indigent debtors who cannot pay in full immediately are told to go to the Collections Department. Once at the Collections Department, debtors are told by Collections Department employees (who call

repaying court for benefits (Jul. 16, 2015) Nola.com, http://www.nola.com/crime/index.ssf/2015/07/camille_buras_insurance.html (at least one judge has since apologized for her impropriety and promised to pay back the Judicial Expense Fund).

¹⁶ *City Council Budget Hearings on 2013 Proposed Budget*, supra note 4, at 20:00 (Nov. 9, 2012), available at http://cityofno.granicus.com/MediaPlayer.php?view_id=3&clip_id=1382 (last visited August 29, 2015)

themselves “Collections Agents”) that they must pay a certain amount of money at certain designated times. These payments and times are determined in the discretion of Collections Department employees.

101. Pursuant to Collections Department policy and practice, no inquiry is ever made into a person’s ability to pay, even when former defendant debtors are known to be indigent.

102. Collections Department employees are trained by supervisors as a matter of policy and practice that their goal should be to collect as much money as possible for the Court and, as a result, they never inform indigent people of any of their rights to seek to have the payments waived, reduced, or otherwise modified.

103. Pursuant to Collections Department policy and practice, debtors are told that Collections Department employees will have them arrested if they do not make the payments determined by the employees. Collections Department employees refuse to accept, as a matter of policy, amounts less than the entire amount due as determined by Collections Department staff.

104. Pursuant to Collections Department policy and practice, if a person fails to make the payments determined by the Collections Department, Collections Department employees will sign without authorization the signature of a judge on a “warrant” and “issue” such warrants themselves even if the person is not on probation and even if the case has been closed.¹⁷

105. These warrants are issued purportedly for “failure to pay” and not for failure to appear at any particular court proceeding. They are issued instead of simply informing a debtor of a future court date, issuing a valid summons, and giving a debtor an opportunity to explain his or her nonpayment prior to the deprivation of the debtor’s fundamental liberty.

¹⁷ Collections Department employees will also often send an uncertified letter to the last known address of a debtor demanding payment. Those letters do not set forth any process available to the debtor or inform the debtor of any of the debtors’ rights, and Collections Department employees have no way of knowing whether the letters are ever received.

106. The warrants are printed from Collections Department computing software and filled out by collections agents working in the Department. Agents have been trained to sign the signatures of judges themselves rather than to present any evidence or information to a neutral judicial officer.

107. A neutral judicial officer does not evaluate these warrants. Additionally, they are often issued years after a purported nonpayment, and they are routinely issued in error or by ignoring evidence of a person's indigence.¹⁸

108. The Defendants are aware of these open policies and practices and yet allow them to continue.¹⁹ Indeed, the Court and the City have even agreed to fund extra positions in the Collections Department in order to maximize additional revenues from more people.²⁰

3. The Illegal Post-Arrest Procedures

109. After arrest on an illegal Collections Department warrant, the Defendants' standard policy and practice is to let arrestee debtors languish in jail indefinitely.

110. As a matter of policy and practice, each Collections Department warrant is accompanied by a preset \$20,000 secured money bond required for release. This standard money bond is set without reference to ability to pay or any other circumstance. If paid, a percentage of the bond goes to the Sheriff, to the Public Defender, to the District Attorney, and to the Judicial Expense Fund of the Orleans Parish Criminal District Court.

¹⁸ The Criminal District Court reported to the City Council in June 2015 that it was in the process of collaborating with the City of New Orleans Police Department and the District Attorney to implement a more efficient online warrant system.

¹⁹ Collections Department officials testified earlier this year under oath confirming the implementation and execution of these policies and practices in open court during a hearing into the detention of an indigent debtor.

²⁰ Despite the extra positions funded jointly by the Court and the City of New Orleans, the Court complained to the City Council in June 2015 that a shortage of funding for the Collections Department had forced it to float other employees to cover that and other areas of its administration. It noted that budget cuts had left it with one vacant position in the Collections Department. The Court made the same complaints to the City Council in previous years, even though the City has agreed each year jointly to fund additional Collections Department positions.

111. Jailed debtors are routinely told that they can pay this money bond, pay the entirety of their debts, or pay an amount Collections Department employees unilaterally determine. Thus, a debtor wishing to remain at liberty in order to contest the validity of her debt or raise other legal or factual issues relating to the amount or the collection must almost always pay a bond amount larger than the value of the debt just for the opportunity to be heard at a future court date. In contrast, if a debtor simply pays what the Collections Department claims is owed, they are released from jail with no opportunity to contest the debt or the jailing.²¹

112. After indefinite periods in jail, arrestees are eventually brought to court if they have not been able to pay their debts or afford their money bond. The Defendants have no set policy or practice concerning how long arrestees must wait in jail prior to a court date, and the wait is routinely longer than 48 hours. Indeed, it is routine that prisoners languish a week or several weeks. As a result of their indefinite detention, debtors are forced to seek the assistance of family members and friends.

113. When brought to court, arrestees are either sent back to jail unless they make a payment or released on threat of future arrest and incarceration if they do not bring money to the Collections Department, all with the consent and advocacy of the District Attorney and often without the representation of a lawyer.²² It is the Defendants' policy and practice never to conduct any meaningful inquiry into a debtor's ability to pay or to give notice to the debtor as to what the critical issues at the proceeding will be.

114. The Defendants' policy and practice is never to allow court debtors to enjoy any of the civil judgment protections offered to every judgment debtor under Louisiana law. For

²¹This is particularly troubling because clerical errors and mistakes of fact and law are common in matters involving collection of court fines, fees, and costs.

²² Debtors are often released on threat of future incarceration if they are represented by a lawyer at such hearings even though unrepresented debtors are typically sent back to jail.

example, the Defendants ignore the basic substantive statutory asset exemptions and safeguards protecting judgment debtors from creditors taking assets needed for the basic necessities of life, as well as procedural protections concerning how money can be collected. *See generally, e.g.*, Louisiana Rev. Stat. Ann. § 13:3881; § 13:3913.

Class Action Allegations

115. The named Plaintiffs bring this Class action on behalf of themselves and all others similarly situated, for the purpose of asserting the declaratory and injunctive claims alleged in this Complaint on a common basis.

116. A class action is a superior means, and the only practicable means, by which Plaintiffs and unknown Class members can challenge the Defendants' unlawful debt-collection scheme.

117. This action is brought and may properly be maintained as a Class action pursuant to Rule 23(a)(1)-(4), Rule 23(b)(2), and Rule 23(b)(3) of the Federal Rules of Civil Procedure.

118. This action satisfies the numerosity, commonality, typicality, and adequacy requirements of those provisions.

119. The Plaintiffs propose a Declaratory and Injunctive Class. The Declaratory and Injunctive Class is defined as: All persons who currently owe or who will incur court debts to the Orleans Parish Criminal District Court from fines, fees, costs, or surcharges arising from cases in the court.

A. Numerosity. Fed. R. Civ. P. 23(a)(1)

120. The Defendants subject thousands of people each year to the Collections Department's policies and practices discussed in this Complaint. Pursuant to the Defendants' policy and practice, all of these people with outstanding court debts are currently being

threatened with arrest and indefinite jailing if they do not make the payments in the amount or frequency purportedly required by the Collections Department.

121. The Defendants have jailed hundreds of people for nonpayment of debts in the past several years. The names, case numbers, and dates of imprisonment of those jailed are easily available by consulting records maintained by the Defendants.

122. The Defendants followed and follow the same debt-collection policies, practices, and procedures to accomplish the threats and jailing of the Class members. For example, pursuant to the Defendants' policy and practice, those jailed for nonpayment by the Defendants' scheme do not receive meaningful inquiries into their ability to pay as required by federal law. Pursuant to policy, invalid "warrants" are issued and the posting of preset monetary bonds or full debt payment are required for release, with indefinite detention the result of nonpayment. Pursuant to policy, no determinations of indigence or evaluations of alternatives to incarceration are made during eventual court appearances, and the Defendants provided none of the relevant state and federal protections for judgment debtors. Nor are those jailed by the Defendants provided adequate counsel to represent them at the fleeting court proceeding that result in their further jailing.

123. Those who still owe the Defendants debt payments or who will incur such debts will be subjected to the same ongoing policies and practices absent the relief sought in this Complaint.

B. Commonality. Fed. R. Civ. P. 23(a)(2).

124. The relief sought is common to all members of the Class, and common questions of law and fact exist as to all members of the Class. The Plaintiffs seek relief concerning whether the Defendants' policies, practices, and procedures violated their rights and relief

requiring the Defendants to change their policies, practices, and procedures so that the Plaintiffs' rights will be protected in the future.

125. Among the most important, but not the only, common questions of fact are:

- Whether the Collections Department has discretion to set the amount and timing of payment requirements;
- Whether the Collections Department has a policy and practice of issuing warrants based solely on nonpayment during the time and in the manner required by the Collections Department and without probable cause that any offense has been committed;
- Whether the money assessed and collected by supposedly neutral actors actually is used for the benefit of the budgets of those actors and, if so, to what extent;
- Whether the Collections Department fails to conduct any meaningful inquiry into indigence prior to issuing arrest warrants that result in indefinite jailing;
- Whether Collections Department employees sign the signature of judicial officers without authorization to create the "warrants" that they issue unilaterally;
- Whether Defendants arrest Plaintiffs pursuant to these illegal warrants;
- Whether Defendants imprison Plaintiffs pursuant to these illegal warrants;
- Whether each warrant comes with a standard \$20,000 secured money bond;
- Whether the money bonds result in a percentage going to the Judicial Expense Fund and to the District Attorney, the Public Defender, and the Sheriff's budgets;
- Whether the Defendants have a policy and practice of delaying a hearing indefinitely;
- Whether the Defendants provide notice to debtors that their ability to pay will be a relevant issue at the hearings at which they are continued to be jailed and whether the Defendants ensure that findings are made concerning ability to pay and alternatives to incarceration;
- Whether (and, if so, how) the Defendants provide adequate representation to those jailed for unpaid debts in proceedings that result in their incarceration and whether any representation provided is free of financial conflicts of interest;
- What procedural mechanisms, if any, the Defendants use as matter of policy and practice to determine indigence; for example, whether the Defendants use a standard state-issued form for determining ability to pay;
- Whether the Defendants apply state procedural and state and federal substantive law designed to determine indigence and to protect indigent debtors;
- Whether Defendants have a policy and practice of threatening debtors with incarceration for unpaid debts without informing them of their constitutional rights.

126. Among the most important common question of law are:

- Whether it is lawful to issue arrest warrants solely for non-payment of amounts and during a time period required by Collections Department employees, especially given the lack of inquiry into indigence and the actual knowledge of

- Collections Department employees that a debtor is indigent and unable to pay;
- Whether such warrants can be issued to deprive debtors of their liberty without prior meaningful opportunity to be heard;
- Whether it is lawful to sign the signature of a judicial officer without contacting that officer or presenting any evidence to that officer in order to obtain a warrant and whether it is lawful to issue such warrants without a finding of probable cause that any offense has been committed;
- Whether it is lawful to arrest people under such illegal warrants;
- Whether it is lawful to detain people under such illegal warrants;
- Whether a person can be kept in jail pursuant to a standard \$20,000 bond fee without any inquiry into indigence or into the person's danger to the community or risk of flight;
- Whether bail amounts advocated for and set by supposedly neutral actors who actually have a personal financial stake in the amounts set violates due process;
- Whether the Defendants can keep debtors in jail indefinitely after arrest until they pay and whether the policy and practice of delaying a hearing indefinitely is lawful;
- Whether due process is violated by proceedings conducted without notice to debtors that their ability to pay will be a relevant issue at the hearings and without findings made concerning the ability to pay;
- Whether competent constitutional counsel is required at hearings involving complex statutory fees, constitutional issues, jailing, an adversary represented by an experienced prosecutor, and potentially years of documents, court records, and fees to evaluate;
- Whether the Defendants can operate a scheme that ignores all of the basic state law protections for civil judgment debtors, such as exemptions from seizure, garnishment protections, and protection of federal benefits.

127. These common legal and factual questions arise from one central scheme and set of policies and practices: the Defendants' unconstitutional debt-collection system. The Defendants operate this scheme openly and in materially the same manner every day. The material components of the scheme do not vary from Class member to Class member, and the resolution of these legal and factual issues will determine whether all of the members of the class are entitled to the constitutional relief that they seek.

C. Typicality. Fed. R. Civ. P. 23(a)(3).

128. The named Plaintiffs' claims are typical of the claims of the members of the Class, and they have the same interests in this case as all other members of the Class that they

represent. Each of them suffered injuries from the failure of the Defendants to comply with the basic constitutional provisions detailed below. The answer to whether the Defendants' scheme of policies and practices is unconstitutional will determine the claims of the named Plaintiffs and every other Class member.

129. If the named Plaintiffs succeed in their claims that the Defendants' policies and practices concerning debt collection for fines, fees, costs, and surcharges violate the law in the ways alleged in each claim of the Complaint, then that ruling will likewise benefit every other member of the Injunctive Class.²³

D. Adequacy. Fed. R. Civ. P. 23(a)(4).

130. The named Plaintiffs are adequate representatives of the Class because they are members of the Class and because their interests coincide with, and are not antagonistic to, those of the Class. There are no known conflicts of interest among Class members, all of whom have a similar interest in vindicating the constitutional rights to which they are entitled.

131. Plaintiffs are represented by William Quigley, his associates²⁴ and attorneys from Equal Justice Under Law²⁵ who have experience litigating complex civil rights matters in federal court and extensive knowledge of both the details of the Defendants' scheme and the relevant constitutional and statutory law.

132. Counsel's efforts have so far included extensive investigation over a period of

²³ The named Plaintiffs representing the Declaratory and Injunctive Class are: Alana Cain, Ashton Brown, Reynajia Variste, and Vanessa Maxwell.

²⁴ William Quigley has practiced law in Louisiana for nearly forty years, during which time he has litigated numerous class action civil rights cases in federal court. He holds the positions of Professor of Law and Director of the Stuart H. Smith La Clinic and Center for Social Justice and the Gillis Long Poverty Law Center at Loyola University New Orleans College of Law. Anna Lelleid-Douffet has been practicing law in Louisiana with Bill Quigley since graduating from Loyola in 2013. Most of her work has been in Federal court in the Fifth and Sixth Circuits, representing criminal defendants.

²⁵ Equal Justice Under Law is a non-profit civil rights organization based in Washington, D.C. The organization was founded and is run by Alec Karakatsanis and Phil Telfeyan, and it is funded in part by the Harvard Law School Public Service Venture Fund.

months, including numerous interviews with witnesses, legal system employees, law enforcement officials, jail inmates, families, attorneys practicing in New Orleans and Louisiana courts, and national experts in debt collection, court costs, conflicts of interest, and constitutional law.

133. Counsel has also studied budget documents, court records, and transcripts in order to gain an understanding of state law and practices as they relate to federal constitutional requirements. Counsel has studied the way that these systems function in other cities and states in order to investigate the wide array of options in practice for government officials.

134. As a result, counsel has devoted enormous time and resources to becoming intimately familiar with the Defendants' scheme and with all of the relevant state and federal laws and procedures that can and should govern it. Counsel has also developed relationships with many individuals and families victimized by the Defendants' practices.

135. The Plaintiffs are represented by attorneys from Equal Justice Under Law who have experience litigating complex civil rights class action lawsuits in federal court and extensive knowledge of the relevant constitutional law. Counsel for Plaintiffs has also been lead counsel in several similar class action constitutional challenges to unlawful municipal debt-collection regimes. *See, e.g., Mitchell et al. v. City of Montgomery*, 2014-cv-186 (M.D. Ala. 2014). That case involved a major investigation to end widespread injustices involving the use of private probation and the jailing of impoverished people by the City of Montgomery over a period of years for their non-payment of debt from traffic tickets and other misdemeanor offenses.²⁶ The litigation resulted in the cancelling of the private probation contract, the release

²⁶ Counsel is also lead attorney in several recent class action lawsuits challenging the use of money bail to keep impoverished people in jail prior to trial. *See Jones et al. v. City of Clanton*, 15-cv-34 (M.D. Ala. 2015); *Pierce et al. v. City of Velda City*, 15-cv-570 (E.D. Mo. 2015); *Powell et al. v. City of St. Ann*, 4:15-cv-840 (E.D. Mo. 2015); *Thompson et al. v. City of Moss Point*, 1:15-cv-00182-LG-RHW (S.D. Miss. 2015); *Cooper et al. v. City of Dothan*,

of numerous people from the local jail, and a consent decree mandating new policies and practices.²⁷ Counsel is also lead attorney in pending lawsuits challenging the treatment of indigent people with court debts in the municipal courts and jails of Jennings and Ferguson, Missouri. *See also Jenkins et al. v. City of Jennings*, 15-cv-252-CEJ (E.D. Mo. 2015); *Fant et al. v. City of Ferguson*, 15-cv-253-AGF (E.D. Mo. 2015).

136. The Plaintiffs and their attorneys will fairly and adequately protect the interests of the members of the Class.

E. Rule 23(b)(2)

137. Class action status is appropriate because the Defendants, through the policies, practices, and procedures that make up their court debt-collection scheme, have acted and/or refused to act on grounds generally applicable to the Declaratory and Injunctive Class. Thus, a declaration that people are entitled, as a matter of federal law, to a meaningful inquiry into their ability to pay and an evaluation of alternatives to incarceration before they are jailed for nonpayment will apply to each Class member. The same applies to rulings on the other claims, including: that Defendants cannot issue and execute illegal arrest warrants for debtors without probable cause that they have committed an offense and without notice or a hearing prior to the deprivation of their fundamental liberty; that Class members cannot be held in jail indefinitely pursuant to a fixed monetary bond that they cannot afford without any inquiry into their indigence or finding that they pose a danger to the community or risk of flight; that Class

1:15-cv-425-WKW (M.D. Ala. 2015). Counsel was also previously the lead attorney in a constitutional civil rights class action against the District of Columbia in the United States District Court for the District of Columbia. *See* 1:13-cv-00686-ESH (D.D.C. 2013). In that litigation, undersigned counsel was responsible for investigating and building the complex constitutional claims against the District of Columbia, authoring the legal filings in the class action case, and negotiating a Memorandum of Understanding with the District of Columbia Attorney General that stayed the class action litigation and began to implement sweeping changes to the County's policies and practices governing the civil forfeiture of property by the District's Metropolitan Police Department—procedures that affect thousands of putative class members every year.

²⁷ *See* Consent Decree in *Mitchell et al, v. City of Montgomery*, 2014-cv-186 (M.D. Ala. 2014) attached as Exhibit 2.

members are entitled to notice, a neutral tribunal, and representation by counsel at a complex hearing initiated and litigated by experienced prosecutors and after which they are jailed; and that the Defendants cannot collect debts from Class members in a manner that violates and evades all of the relevant protections for other judgment debtors.

138. Injunctive relief compelling the Defendants to comply with these constitutional rights will similarly protect each member of the Class from being again subjected to the Defendants' unlawful policies and practices with respect to the debts that they still owe and protect those who will incur such debts in the future from the same unconstitutional conduct. Therefore, declaratory and injunctive relief with respect to the Class as a whole is appropriate.

139. Plaintiffs seek the following relief and hereby demand a jury in this cause for all matters so appropriate.

Claims for Relief

Count One: The Defendants' Policy of Issuing and Executing Illegal Arrest Warrants Violates the Fourth and Fourteenth Amendments.

140. Plaintiffs incorporate by reference the allegations in paragraphs 1-140.

141. The Defendants' policy and practice is to issue and execute arrest warrants for those debtors who have not paid old court debts based solely on nonpayment. These warrants are sought, issued, and served without any inquiry into the person's ability to pay even when the Defendants have knowledge that the person is impoverished and unable to pay the debts. These warrants are sought, issued, and served without any finding of probable cause that the person has committed any offense and with knowledge that no probable cause exists. Moreover, the warrants are issued not by a judicial officer but by Collections Department employees called "Collections Agents," who write the signatures of the judicial officer on warrants without

presenting any evidence or information, let alone providing any information under oath, to any judicial officer.

142. The Defendants issue arrest warrants instead of using legal summonses and scheduling court dates. The Defendants therefore deprive people of their liberty unnecessarily and without any opportunity to be heard, even when they have spoken to people on the phone or in person and have the opportunity to notify them to appear in court for a hearing. The Defendants' policy and practice is to deprive people of their fundamental liberty without any proper notice and hearing or any basic inquiry into whether the debt is still owed or valid or whether nonpayment was willful. These practices violate the Fourth and Fourteenth Amendments and result in a deprivation of fundamental liberty without adequate due process.

Count Two: The Defendants' Use of a Fixed Secured Money Bond for each Collections Department "Warrant" Violates the Fourteenth Amendment.

143. Plaintiffs incorporate by reference the allegations in paragraphs 1-143.

144. The Fourteenth Amendment's due process and equal protection clauses have long prohibited imprisoning a person because of the person's inability to make a monetary payment. The Defendants violate the Plaintiffs' rights by placing and keeping them in jail prior to any debt-collection proceedings when they cannot afford to pay the preset amount of money required for release after a Collections Department nonpayment arrest if the person seeks to contest the issue of nonpayment or the validity of the debt.

Count Three: The Defendants Violated Plaintiffs' Rights By Jailing Them Indefinitely Without a Judicial Appearance.

145. Plaintiffs incorporate by reference the allegations in paragraphs 1-145.

146. The Due Process Clause of the Fourteenth Amendment prohibits the Defendants from jailing the Plaintiffs indefinitely and without any meaningful legal process through which

they can challenge their detention by keeping them confined in the local jail (routinely for days or weeks) unless or until they can make arbitrarily determined cash payments to the Collections Department.

Count Four: Defendants Violated Plaintiffs' Due Process Rights By Implementing a Scheme of Money Bonds In Which Constitutionally Neutral Judicial and Government Actors Take a Percentage of Each Bond to Fund Their Own Budgets.

147. Plaintiffs incorporate by reference the allegations in paragraphs 1-147.

148. The Defendants operate a system of money bond in which the judges collect and control 1.8% of every bond paid into the Fund that they manage as administrators to operate the budget of the Court. Every relevant actor in the local system implementing and reviewing such money bail settings has an incentive to set money bonds in a manner that ensures the maximization of their own revenues.²⁸ This creates an intolerable financial conflict of interest.

149. The Defendants therefore enforce a Collections Department money bond system on which the judges, District Attorney, Sheriff, and Public Defender depend to fund their own operations that is unconstitutional under the Fourteenth Amendment because it contravenes fundamental principles of neutrality. Despite this Court striking down that system nearly 25 years ago, the Defendants continue to operate the illegal money bail arrangement and to take a cut of every money bond paid. To the extent the Defendants are complying with state statutes, *see* La. Rev. Stat. Ann. § 22:822; § 13:1381.5, those statutes are, as this Court has previously held, unconstitutional.

²⁸ The District Attorney collects 0.4% of every bond paid to fund its own salaries and other operations. Because the Public Defender also collects 0.4% of every bond paid to fund its salaries and operations. This money collected through convictions is insufficient to fund the Public Defender. As a result, indigent defense in Orleans Parish Criminal District Court is chronically underfunded with devastating results. Indeed, in addition to ensuring that enough money is assessed and collected from the convictions of their clients, Public Defenders have recently been told that they will be furloughed unless more money is brought in.

Count Five: The Defendants Violated Plaintiffs' Rights By Jailing Them For Non-Payment of Debts Without Any Inquiry Into Their Ability To Pay and in Proceedings that Otherwise Violate Basic Due Process.

150. Plaintiffs incorporate by reference the allegations in paragraphs 1-150.

151. The Fourteenth Amendment's due process and equal protection clauses have long prohibited imprisoning a person for the failure to pay money owed to the government if that person is unable to pay and without following basic procedures to make that determination. The Defendants violated Plaintiffs' rights by imprisoning them when they could not afford to pay the debt allegedly owed and without following the basic constitutional process required.

152. The Defendants violated the Plaintiffs' rights by jailing them, and by threatening to jail them, without conducting any inquiry into their ability to pay and without conducting any inquiry into alternatives to imprisonment as required by the United States Constitution. The Defendants similarly did not: provide the required notice to the Plaintiffs concerning the relevant and critical issues at any hearing contemplating their imprisonment; provide a meaningful opportunity for the Plaintiffs to present evidence of their inability to pay; or make findings concerning their ability to pay.

153. Moreover, the Defendants did not and do not provide the neutral tribunal free of financial conflicts of interest due process requires because the prosecutor and judicial officer at such debt-collection hearings are both financially interested in the outcome of the proceeding because they depend, to a significant extent, on the collection of revenue from those proceedings to fund their own operating budgets. The due process findings of fact and law required by *Bearden v. Georgia*, 461 U.S. 660, 672-73 (1983) and *Turner v. Rogers*, 131 S. Ct. 2507, 2520 (2011) require, at a minimum, neutral prosecutorial and judicial officers, free from financial

conflicts of interest of the kind condemned in *Ward v. Village of Monroeville*, 409 U.S. 57, 60 (1972).

Count Six: The Defendants' Use of Jail and Threats of Jail To Collect Debts Owed to the Defendants Violates Equal Protection Because It Imposes Unduly Harsh and Punitive Restrictions On Debtors Whose Creditor Is the Government Compared To Those Who Owe Money to Private Creditors.

154. Plaintiffs incorporate by reference the allegations in paragraphs 1-154.

155. The Supreme Court has held that, when a government seeks to recoup costs of prosecution from indigent defendants—for example, the cost of appointed counsel—it may not take advantage of its position to impose unduly restrictive methods of collection solely because the debt is owed to the government and not to a private creditor. The Defendants take advantage of their control over the machinery of the court, jail, and police systems to deny debtors the statutory protections that every other Louisiana debtor may invoke against a private creditor. This coercive policy and practice constitutes invidious discrimination and violates the fundamental principles of equal protection of the laws.

Count Seven: Defendants' Conduct Constitutes Wrongful Arrest Under Louisiana Law.

156. Plaintiffs incorporate by reference the allegations in paragraphs 1-156.

157. Defendants' conduct described herein constitutes wrongful arrest of Plaintiffs under the laws of the state of Louisiana and the United States.

Count Eight: Defendants' Conduct Constitutes Wrongful Imprisonment Under Louisiana Law.

158. Plaintiffs incorporate by reference the allegations in paragraphs 1-158.

159. Defendants' conduct described herein constitutes wrongful imprisonment of Plaintiffs under the laws of the state of Louisiana and the United States.

Request for Relief

WHEREFORE, Plaintiffs request that this Court issue the following relief:

- a. A declaratory judgment that the Defendants violate Plaintiffs' Fourth and Fourteenth Amendment rights by arresting them on illegal warrants issued only on the basis of nonpayment of a monetary judgment and without any meaningful pre-deprivation process;
- b. A declaratory judgment that the Defendants violate the Fourteenth Amendment rights of the Plaintiffs by keeping them in jail pursuant to a fixed secured bond that they cannot afford;
- c. A declaratory judgment that the Defendants violate the Fourteenth Amendment rights of the Plaintiffs by keeping them in jail indefinitely after arrest unless they pay an arbitrarily determined amount of money to settle their debts;
- d. A declaratory judgment that the Defendants violate the Fourteenth Amendment rights of the Plaintiffs by imprisoning them without conducting any meaningful inquiry into their ability to pay or into any alternatives to incarceration and at proceedings lacking in basic judicial neutrality;
- e. A declaratory judgment that the Defendants violated the Plaintiffs' equal protection rights by imposing harsh debt collection measures that could not lawfully be imposed on debtors whose creditors are private entities;
- f. An order and judgment preliminarily and permanently enjoining the Defendants from enforcing the above-described unconstitutional policies and practices against the Plaintiffs and the Class of similarly situated people that they represent;
- g. A judgment compensating the named Plaintiffs for the damages that they suffered as a result of the Defendants' unconstitutional and unlawful conduct;
- h. An order and judgment granting reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988, and any other relief this Court deems just and proper.

Respectfully submitted,

s/Bill Quigley

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Attorneys for Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Alana Cain et al.

(b) County of Residence of First Listed Plaintiff Orleans

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

William P. Quigley (La Bar NO. 07769); Anna Lelleid-Douffet (La Bar No. 35204); Alec Karakatsanis (D.C. Bar No. 999294) (Pro Hac Vice Application Pending)

DEFENDANTS

City of New Orleans et al.

County of Residence of First Listed Defendant Orleans

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Sharonda R. Williams (La Bar No. 28809)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 H1A (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	IMMIGRATION	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. § 1983

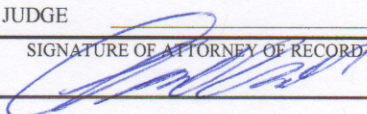
Brief description of cause:
Unconstitutional threats and use of jail against indigents for criminal court debts.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 9-17-15 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Plaintiff's Exhibit 1

CRIMINAL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LOUISIANA

STATE OF LOUISIANA
VERSUS
MICHAEL ADDISON

NO. 426-246
SECTION "J"

Evidentiary Hearing

Testimony and Notes of Evidence, taken
in the above-entitled and -numbered cause, before the
HON. DARRYL DERBIGNY, Judge, presiding on the 30th day
of January, 2015.

APPEARANCES:

REPRESENTING THE STATE OF LOUISIANA:

IAIN DOVER, ESQ.
MICHAEL HEIER, ESQ.
ASSISTANT DISTRICT ATTORNEYS

REPRESENTING THE DEFENDANT:

BARKSDALE HORTENSTINE, ESQ.
ORLEANS PUBLIC DEFENDERS

REPORTED BY:

VINCENT P. BORRELLO, JR., CCR, RPR
OFFICIAL COURT REPORTER
IN AND FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

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WITNESS INDEX

PAGE

DEFENSE WITNESS:

JOY WILSON

Direct Examination by Mr. Hortenstine

4

SHANNON SIMS

Direct Examination by Mr. Hortenstine

20

MICHAEL ADDISON

Direct Examination by Mr. Hortenstine

27

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EXHIBIT INDEX

			OFR'D	REC'D
	DEFENSE :			
	1	Release	19	20
	2	Collection Report	20	20
	3	Defense Motion	33	34
	4	Defense Motion	34	34
	5	Minute Entry	20	20

1 **MR. DOVER:**

2 Judge, Defense Counsel, Mr. Hortenstine,
3 went to get his witness back. We can procure
4 the conclusion of evidence.

5 **MR. HORTENSTINE:**

6 Your Honor, I will move for
7 sequestration of witnesses.

8 **THE COURT:**

9 Who are you calling first?

10 **MR. HORTENSTINE:**

11 Miss Wilson, first.

12 **THE COURT:**

13 Miss Sims, please step out for a moment.
14 Come on up, Miss Wilson.

15 **JOY WILSON,**

16 Orleans Criminal District Court, after having been first
17 duly sworn, did testify as follows:

18 **- DIRECT EXAMINATION -**

19 **BY MR. HORTENSTINE:**

20 **Q.** Miss Wilson, could you give your full name and job
21 description?

22 **A.** Joy Wilson, collection agent.

23 **Q.** And in what department do you work?

24 **A.** Collection department.

25 **Q.** Is there a division within the collection
26 department called "fines and fees" or is it just the
27 collection department?

28 **A.** Just the collection department.

29 **Q.** What are your duties with the collection
30 department?

31 **A.** We are to -- once defendants are sentenced, they
32 come down to the fines and fees collection department

1 and we set them up, get their information as far as
2 name, address, phone number, explain to them the terms
3 as far as how the fines and fees are collected, and then
4 after that we monitor them, except -- once -- during
5 monitoring they come in and make payments and we accept
6 the payments from them.

7 **Q.** Okay. Sometimes in the course of your job,
8 defendants have been assessed fines and fees don't make
9 a payment, correct?

10 **A.** Correct.

11 **Q.** When that happens, would you walk the Court through
12 what the process is? Just give an example: The
13 defendant fails to make payment according to the
14 schedule y'all worked out, what happens?

15 **A.** Once they are sentenced, that's the initial date,
16 they come down, they are given 30 days from their
17 sentence date to make their first payment. When they
18 fail to make their first payment, I, in return, send out
19 a first warning letter reminding them about their
20 payment. If they don't adhere to the first letter we
21 then send out a final warning letter.

22 **Q.** With the second warning letter, when is that sent
23 in regards to the first? Is it one week later, two
24 weeks?

25 **A.** The second warning letter is sent the -- it's the
26 second one after -- it's the second one after they
27 missed a payment.

28 **Q.** Just for clarification: You meet the defendant on
29 the date of sentencing when they get fines and fees
30 assessed, right?

31 **A.** Yes.

32 **Q.** And they come to your office and you make a payment

1 plan for that defendant?

2 **A.** Correct.

3 **Q.** And the next date they are going to come in and
4 make a payment on that payment plan?

5 **A.** Yes.

6 **Q.** If they fail to appear before you at that time and
7 make that payment or fail to pay it beforehand, then you
8 send them a courtesy letter?

9 **A.** Yes.

10 **Q.** What address you send that letter to?

11 **A.** The address given to me when they come down and set
12 up. I ask them for all their information, all the
13 update information I ask them that and they in turn give
14 it to me.

15 **Q.** Just for clarification: Are they under any sort of
16 bond at this time through your department? Do y'all set
17 them on a bond?

18 **A.** No, we have nothing to do with their bonds.

19 **Q.** Are you aware, to your knowledge, are defendants
20 after they pled guilty or found guilty -- whatever the
21 sentence has occurred when you meet them -- are you
22 aware whether they are on or not on bond at that time?

23 **A.** No, I'm really not aware.

24 **Q.** That's fine. Now, we were in the middle of this.
25 The first letter is sent as a courtesy, because
26 sometimes a person maybe late or forgot, and the second
27 letter is sent a month later, and that says you have to
28 pay at this time or we will put a capias out for you?
29 What does that letter say?

30 **A.** I'm not sure of the exact wording, but I know
31 within the letter it says they are past due on their
32 payment and they need to contact collections to make a

1 payment.

2 **Q.** If they failed to make contact with you at that
3 time, what happens next?

4 **A.** After the second letter which is the final letter?

5 **Q.** Yes.

6 **A.** I still give them a couple of days and also check
7 Docket Master because they may have come in to get an
8 extension from the Court and didn't notify us. After
9 that, we go into the third month, I issue a capias.

10 **Q.** Now, you said you check Docket Master. You are
11 talking AS-400, the program that Orleans Parish Criminal
12 sheriff's Office uses to track the docket?

13 **A.** Yes.

14 **Q.** And you log onto that and you check basically
15 what is the Docket Master for a given case for the
16 client?

17 **A.** Yes.

18 **Q.** If on that document it does not have an indication
19 that that person has been before the Court and received
20 an extension, and that individual has not contacted you,
21 that's when you begin to issue the capias?

22 **A.** Yes.

23 **Q.** Now, you don't contact the Court at that time,
24 correct?

25 **A.** No.

26 **Q.** You don't contact the judge about this?

27 **A.** No.

28 **Q.** And you don't contact the minute clerk in the
29 Court, correct?

30 **A.** No.

31 **Q.** Can you talk about what it is you do to create that
32 capias that goes out against the people that don't

1 contact you back?

2 **A.** The capias is already created within our software.
3 I upload it to that particular defendant's case and
4 print it out.

5 **Q.** So in your computer at your station you have a
6 program you can click and you just put the individual's
7 information and it prints and you have a printed out
8 capias?

9 **A.** Correct.

10 **Q.** What do you do with that document? Do you sign
11 that document?

12 **A.** Yes, we have to put certain information on the
13 capias.

14 **Q.** What information?

15 **A.** The charge, and we have to sign it, and turn it
16 into the sheriff's office, and then turn a copy in also
17 to the clerk's office.

18 **Q.** Okay. Does the judge ever sign that capias?

19 **A.** No.

20 **Q.** Does anyone from the judge's staff sign that capias
21 for him?

22 **A.** No.

23 **Q.** When you sign that capias, do you sign the judge's
24 name or your name?

25 **A.** The judge's name.

26 **Q.** So you put the judge's name on the bottom of the
27 capias you send off to Orleans Parish Criminal Sheriff's
28 Office?

29 **A.** Correct.

30 **Q.** Do you have a stamp or you just write it in?

31 **A.** Write it in.

32 **Q.** When you send those letters, at any time did you

1 attempt to make phone calls to individuals?

2 **A.** No.

3 **Q.** At any time do you send the sheriff's office out to
4 serve the individuals not having paid or not of the
5 date?

6 **A.** No.

7 **Q.** When you send those letters, do you send them
8 regular mail, first class, certified copies?

9 **A.** Regular mail.

10 **Q.** Not certified?

11 **A.** No.

12 **Q.** So you don't get a receipt back saying it was
13 received?

14 **A.** No.

15 **Q.** And you don't go through the sheriff's office to
16 have them served through the state service process,
17 correct?

18 **A.** I don't think we have that authority.

19 **Q.** Okay. Where do you think the authority comes from
20 to issue the capias that you print? Who instructed you
21 how to do that and why?

22 **A.** I was trained -- when I was hired that was part of
23 my training of doing my job.

24 **Q.** And who trained you?

25 **A.** I think it was Lynn Danteen (spelled phonetically).

26 **Q.** At any point during the training, regarding this
27 issuance of capias, did she indicate you needed to talk
28 to the judge or check with the judge about issuing the
29 capias for failure to pay fines and fees?

30 **A.** No, after they are sentenced, if they have fines
31 and fees the cases are turned over to fines and fees.

32 **Q.** So this is your issue now. In your training, this

1 is for you to determine. It's no longer an issue for
2 the Court, correct?

3 **A.** It's an issue within the collection department
4 unless otherwise stated by the judge, or something may
5 have to go to the judge to see the judge about.

6 **Q.** Now, we talked about this earlier in the hall and
7 we were just discussing this. Sometimes people have
8 reasons they can't pay?

9 **A.** Correct.

10 **Q.** And sometimes it's because they can't afford to
11 pay?

12 **A.** Correct.

13 **Q.** Sometimes it's because they can't get a job?

14 **A.** Correct.

15 **Q.** Sometimes it's because maybe they are incarcerated?

16 **A.** Yes.

17 **Q.** Okay. And so there could be all kinds of reasons a
18 person can't make payment?

19 **A.** Right.

20 **Q.** What kind of determination can you make as to why
21 this person can't pay?

22 **A.** If they come in. Because on the letter it states
23 to either call or come in to make arrangements for the
24 payment, whatever the situation may be. If it's
25 something that is more a long-term reason as to why they
26 can't pay, I refer them to the Court to come and see the
27 judge, maybe to get community service, a couple of
28 months of extensions. So that's how it's handled.

29 **Q.** If they come in. If they don't come in you contact
30 their family or make phone calls and track them down to
31 see if they having trouble paying to pay at that time?

32 **A.** I sent out the letters so I tried to contact them.

1 Q. The letters we spoke of already, the initial letter
2 of non-payment and final letter of non-payment?

3 A. Correct.

4 Q. Which is addressed to the defendant at the address
5 they give you?

6 A. Correct.

7 Q. Are the defendants who you do issue a capias for,
8 are they ever notified after the capias has been issued?
9 Is there a letter sent out that says there is now a
10 warrant for your arrest and you better come in?

11 A. No.

12 Q. And the basis that you derive the authority -- let
13 me make it simple. When you sign a capias, right, you
14 get the authority to do that because the case has been
15 turned over to the department of collections?

16 A. Yes.

17 Q. And so it's the department of collections that vest
18 that authority in you?

19 A. Yes.

20 Q. Okay. Now I want to talk about the recall of these
21 capias. If a person has a fines and fees capias issued
22 against them and they are arrested, who is able to
23 recall that capias?

24 A. The department of -- the collections department is
25 able to recall it or the judge.

26 Q. Okay. And if you recall it, in the collection
27 department, you are authorized to do that because the
28 collections department is authorized to recall alias
29 capiases on their own authority?

30 A. Yes, only the capias we issue.

31 Q. The capias you issue?

32 A. Yes.

1 Q. And again, those capiases are signed by you,
2 correct?

3 A. Correct.

4 Q. But they are signed in the name of the judge?

5 A. Correct.

6 Q. Are you aware of how a defendant can learn what
7 type of money they owe for fines and fees once they have
8 been arrested on the capias?

9 A. Repeat the question.

10 Q. The defendant gets arrested on the capias you
11 issued, okay?

12 A. Okay.

13 Q. Comes in, wants to know why they have been arrested
14 and talking to the deputy, what not. How can he learn
15 the amount of money he needs to pay in order to get a
16 release issue?

17 A. Once they are sentenced and -- the defendant knows
18 if they been making payments or not. You know you have
19 not been making the payment, you know how much you owe.
20 And once -- again, once they are sentenced, they are
21 read off everything they have to pay and they sign off
22 on it. They are aware of it when they are -- on the
23 sentence date.

24 Q. I may have asked that poorly. Let me try again.
25 When an individual is arrested on one of these capiases
26 for failure to pay, they can be released by you
27 recalling the alias capias, correct?

28 A. Yes.

29 Q. Why would you recall the alias capias?

30 A. Because they come in and make the payment for me to
31 recall it.

32 Q. So how can the individual know what amount he needs

1 to pay in order to be released? They would contact you?
2 Do you know anyone else who would give them that
3 information?

4 **A.** Anyone in collections that works in the collections
5 department. They can call the main line and they can
6 get that information whether I'm in the office or not.

7 **Q.** When you say "they," you're talking about a
8 defendant's family, friends or the associates, because
9 they are in jail so they can't do it?

10 **A.** Yes.

11 **Q.** So when the family, friends, or associates of a
12 defendant incarcerated under a capias come in the office
13 and find how much owed, how do they make arrangements to
14 get the person released? If they like, "I paid 200 of
15 the 500 remaining," then do they get back on track? Do
16 they have to pay in full? What kind of arrangements are
17 made under those circumstances?

18 **A.** Depending on, I guess, the years on the case or the
19 months. That would determine how much they have to pay.
20 If they don't have that amount, we send them to the
21 judge for the judge to okay that amount that they have
22 and set them up on a new payment plan, whether it's
23 extending their probation or whatever they work out with
24 the judge.

25 **Q.** The only reason you would send them to the judge is
26 if they are unable to catch up on the arrears, whatever
27 amount they owe you?

28 **A.** Correct.

29 **Q.** If they are one month behind, a capias gets issued
30 because, for some reason, they don't follow the policy
31 of sending out the monthly warning letter, they only one
32 month in arrears -- lets start over. They are three

1 months in arrears, you send out all the warning letters,
2 but because of their financial status they only have to
3 pay \$50 a month, and the owe \$150 in a case. If the
4 family comes in and pays the 150 you will then recall
5 the capias and resume the payments, is that correct?

6 **A.** Yes.

7 **Q.** And your authority in doing that comes from the
8 collection department?

9 **A.** Yes.

10 **Q.** Are you aware of the time it takes for a person
11 that has been arrested on the fines and fees capias to
12 be brought to court?

13 **A.** Am I aware of it?

14 **Q.** Yes.

15 **A.** No.

16 **Q.** You are aware it could take a week, ten days, three
17 days. It just depends or you have no knowledge at all
18 about the time?

19 **A.** I'm not really aware or sure of that process.

20 **Q.** If I ask you any questions you don't know the
21 answer, "I don't know." That answer is fine.

22 Now, do you know what the crime is -- right -- the
23 specific crime that a person is being held on when they
24 are being held on a failure to pay fines and fees? Is
25 it a fines and fees crime? What kind of crime is that,
26 that a person can be arrested on a warrant?

27 **A.** It's just a failure to pay fines and fees.

28 **Q.** You're not aware of any kind of statutory -- you
29 know, like smoking marijuana is a violation of 4966.
30 There is a code; there is a provision or law in place.
31 You're not aware of any code or law that is violated by
32 failure to pay fines and fees?

1 **A.** I'm not aware of that.

2 **Q.** So it's not so much a crime, but failure to pay
3 fines and fees?

4 **A.** Correct.

5 **Q.** Are those cases, outstanding fines and fees
6 sometimes -- you may actually be in a unique position to
7 know this. You have been there for three years?

8 **A.** Yes.

9 **Q.** Sometimes do fines and fees -- kind of like cold
10 cases -- get revised and the old cases looked through
11 well beyond the normal time frame?

12 **A.** Yes. Sometimes within a year you check up on old
13 cases to see if there are active warrants.

14 **Q.** And if you were to look in the AS-400 and see there
15 was not a capias issued for an individual who had not
16 paid fines and fees in like five years, you would then
17 issue a capias for failure to pay fines and fees because
18 that's too long to pay fines and fees?

19 **A.** No, we don't, because it could be one or two
20 things: Probation has expired; it could be the
21 probation terminated; that person is revoked. We just
22 don't issue a capias because they have not paid. You
23 have to look into other things before that happens.

24 **Q.** How do you make that determination? What is the
25 cutoff for you?

26 **A.** Again, you have to see if that probation is
27 expired, if it has been terminated, revoked, converted
28 to community service.

29 **MR. HORTENSTINE:**

30 May I approach, Judge?

31 **THE COURT:**

32 Yes.

1 **EXAMINATION BY MR. HORTENSTINE:**

2 **Q.** I will approach with what is marked as Defense 2.

3 Do you recognize this?

4 **A.** Yes.

5 **Q.** Can you tell the Court what Defense Exhibit 2 is?

6 **A.** A detailed collection report on that particular
7 defendant.

8 **Q.** What defendant is this for?

9 **A.** Michael Addison.

10 **Q.** What does this explain?

11 **A.** It gives you the case number, his name, his
12 address, telephone number, asks for the address,
13 telephone number, sentencing date, his date of
14 probation, expiration, your next payment date, gives you
15 what fine was assessed, the amount of fine, if it was
16 paid and how much was paid.

17 **Q.** Now, I understand that this takes place back in --
18 his sentencing was back in 2002?

19 **A.** Correct.

20 **Q.** You were not working with the department of
21 collections at that time?

22 **A.** No.

23 **Q.** I understand you don't have personal knowledge of
24 this, but I want to ask you a few questions about what
25 is on this.

26 **A.** Okay.

27 **Q.** It says, "Date of probation expiration, 8-19-2003."
28 Is that right?

29 **A.** Yes.

30 **Q.** Is that what you are talking about, if that date is
31 passed, and there is still out due debt and there was no
32 capias issued, you would not issue a capias?

1 **A.** Right.

2 **Q.** Here is the next payment date, 6-19-2014. That is
3 long after the probation, so presumably a capias has
4 been issued. Were the fines and fees in this case paid?

5 **A.** It was paid on 6-19-14.

6 **Q.** So on 6-19-14, the fines and fees were paid?

7 **A.** Yes.

8 **Q.** In full?

9 **A.** Yes.

10 **Q.** You agree that there is no telephone number or
11 address for Mr. Addison on this document, correct?

12 **A.** Correct.

13 **Q.** You were not there, but at the time this was done
14 they failed to take down that information in system?

15 **A.** Correct. And the reason they failed to take it is
16 because he came and made the full payment.

17 **Q.** So this document -- okay. Let's talk about Mr.
18 Addison, specifically. When Mr. Addison's family,
19 friend, or his wife came in and made the full payment,
20 then the capias was released, correct?

21 **A.** I didn't accept the payment, but from my
22 understanding it was.

23 **MR. HORTENSTINE:**

24 I will approach again, if I may?

25 **THE COURT:**

26 Yes.

27 **EXAMINATION BY MR. HORTENSTINE:**

28 **Q.** I will mark this as Defense Exhibit 5. Do you
29 recognize this document?

30 **A.** Yes.

31 **Q.** All right. Can you tell the Court what this is?

32 **A.** Copy of Docket Master for Mr. Addison.

1 Q. So this is a certified copy, and the most recent
2 date is November 21, 2014; correct?

3 A. Correct.

4 Q. Now, when we look at that Docket Master -- let me
5 back up. You get a phone call from the police officer.
6 Do you ever get phone calls from police officers saying,
7 "Hey, is there a valid warrant out for this guy from
8 fines and fees?"

9 A. From the sheriff's office, yes.

10 Q. Not the police. The police calls the sheriff and
11 the sheriff calls you, right?

12 A. Yes.

13 Q. And those are the sheriff's officers -- the
14 deputies in the records department, right?

15 A. I guess.

16 Q. They call you and they ask, "Hey, will you check
17 for me if this is a valid fines and fees capias?"

18 A. Correct.

19 Q. Now, this is Mr. Addison. This is D-5, Mr.
20 Addison's Docket Master. Let's pretend a deputy just
21 called you back on June 18 of 2014. We can see on
22 June 19, '14, all fines and fees were paid and a minute
23 entry is created on the 18th of June, 2014. You
24 received this, you would look back to see if there was a
25 capias issued, correct?

26 A. Correct.

27 Q. Was there a capias issued in this case?

28 A. Yes.

29 Q. And on what date?

30 A. 2-21-2003.

31 Q. Okay. And on February 21, 2003, the defendant
32 failed to pay the required fines and fees imposed by the

1 Court and a capias was issued on this date and the
2 defendant at-large?

3 **A.** Correct.

4 **Q.** When you were called on the 18th by the sheriff's
5 office, you would look back and see that, correct?

6 **A.** Yes.

7 **Q.** There is also an entry for March 10, 2010. You see
8 that?

9 **A.** Yes.

10 **Q.** It says, "Clerks office received defense motion for
11 concurrent sentences." Do you see that?

12 **A.** Yes.

13 **Q.** Do you know what that means?

14 **A.** No.

15 **Q.** Do know what a concurrent sentence or a defense
16 motion for concurrent sentence is?

17 **A.** No.

18 **Q.** Okay. And did you take any steps to try -- would
19 you have in your normal course of duty to take any steps
20 and try to figure out what this meant given there was a
21 capias issued previously?

22 **A.** Yes, if I'm unaware of something I will try to
23 contact somebody to help me out whether in court or my
24 department.

25 **MR. HORTENSTINE:**

26 I have no further questions. Thank you
27 very much.

28 **MR. HEIER:**

29 Judge, the State doesn't have anything.

30 **MR. HORTENSTINE:**

31 Judge, at this time I would call Miss
32 Shannon Sims to the stand.

1 And just for procedural process, I have
2 previously marked Defense Exhibit 1, which
3 also marked Sheriff's Office 1, which is the
4 faxing of all fines and fees paid, release
5 defendant to this matter only by the fines
6 and fees department -- I mean the collection
7 division -- to the sheriff's office,
8 previously entered into the evidence. Out of
9 an abundance of caution, I'll move to
10 introduce it into evidence again.

11 Defense Exhibit 2, the detailed
12 collection report that we went over. I would
13 move that into evidence; offer, file and
14 introduce that into evidence.

15 Defense 5, certified copy of the minute
16 entry, with the most recent date being
17 November 21, 2014, I'll offer, file and
18 introduce that into evidence.

19 **THE COURT:**

20 Very well. Let those be admitted.

21 **MR. HORTENSTINE:**

22 We call Miss Sims.

23 **SHANNON SIMS,**

24 Deputy Judicial Administrator, Orleans Criminal District
25 Court, after having been first duly sworn, did testify
26 as follows:

27 **- DIRECT EXAMINATION -**

28 **BY MR. HORTENSTINE:**

29 **Q.** Good afternoon, Miss Sims. Could you tell the
30 Court what your job title is?

31 **A.** I'm the Deputy Judicial Administrator.

32 **Q.** What do you do with regard to the collection

1 department? What are your duties, responsibilities?

2 **A.** We oversee the collections department. If there is
3 an issue we try to rectify the issue. Any issues or
4 whatever. Whatever is needed.

5 **Q.** You have direct oversight over that organization,
6 is that correct?

7 **A.** Rob Kazik and I both, yes.

8 **Q.** So if some kind of issue would come up with the
9 department, would you be the person to go to for a
10 solution?

11 **A.** One of us, yes.

12 **Q.** For instance, is this the policy or is this an
13 exception, those kind of questions would come up to you?

14 **A.** If it would come to me and I wouldn't know I would
15 refer to Rob.

16 **Q.** But you are in a position to know most of the time?

17 **A.** Yes.

18 **Q.** So I want to ask you some questions, all general
19 questions about the process that takes place.

20 **A.** Sure.

21 **Q.** Are you in any way involved in the training of
22 collection agents?

23 **A.** No.

24 **Q.** Are you aware that they are trained?

25 **A.** Yes.

26 **Q.** Who does a training of the new collection agent?

27 **A.** Rob Kazik.

28 **Q.** And who is Rob Kazik?

29 **A.** The Judicial Administrator.

30 **Q.** And so when Mr. Kazik does the training of the
31 collection agent you're not present for that?

32 **A.** No.

1 Q. Do you know what they discussed?

2 A. No.

3 Q. Do you know the duties of the collection agent?

4 A. Yes.

5 Q. Do you know if those duties include meeting a
6 defendant and assessing their payment schedule?

7 A. Correct.

8 Q. When a payment schedule is violated, or an
9 individual is not capable, or doesn't come in, or
10 whatever, they may even issue a capias for that
11 individual?

12 A. In some sections, yes.

13 Q. Do you know which sections of court that is?

14 A. I don't know offhand. I can tell you one that does
15 not, and that is Section A.

16 Q. What does Section A do instead?

17 A. They have their defendants come to the section of
18 court.

19 Q. Are you familiar with the process by which a
20 collection agent contacts defendants who have to make a
21 payment initially?

22 A. Yes.

23 Q. Initially they send out a letter to the address
24 they previously provide at the initial meeting?

25 A. That's correct.

26 Q. And then they send a subsequent notice a month
27 collect?

28 A. That's correct.

29 Q. And after those two notices have gone out and if
30 they still have not heard from or received payment from
31 that defendant, they are then authorized to issue a
32 capias, is that correct?

1 **A.** That's correct.

2 **Q.** Are you aware of where the authority to issue that
3 *capias* is derived? Does that come from the department,
4 itself, or does that come from the JA's office?

5 **A.** Comes from the judges.

6 **Q.** Comes from the judges, collectively?

7 **A.** Some individually. Like I said, Section A does not
8 want theirs issued, so Section A does not issue through
9 collections, other sections comes from the judge. It's
10 up to the individual judge.

11 **Q.** You are aware that when those *capias* are issued the
12 individual judge is not consulted about that individual
13 *capias*?

14 **A.** That's correct.

15 **Q.** Where is it that this authority has been given?
16 When was that done? Do you know?

17 **A.** Long before we were here.

18 **Q.** When did you start?

19 **A.** 2006.

20 **Q.** Okay.

21 **A.** Let me say this: I've been in the building since
22 1996, but in this position since 2006.

23 **Q.** Okay. Now I want to talk to you a little bit -- a
24 little off track. Previously there was a time when
25 fines and fees believed that a *capias* was warranted,
26 they brought that fines and fees document to the court,
27 and the judge signed it, himself. Is that accurate?

28 **A.** I'm not sure. Not since is I've been in the JA's
29 office.

30 **Q.** Okay. The collections agent is in no way trained,
31 or ordered, or expected to determine the reason for
32 non-payment, correct?

1 **A.** If --

2 **Q.** If they are not contacted by the defendant, it is
3 not the duty, obligation, or expectation of the
4 collection agent to find out why that individual is not
5 capable of paying?

6 **A.** No, it is not.

7 **Q.** Aside from the two letters sent, they are not
8 required to make phone calls or track down the person?

9 **A.** No.

10 **Q.** They are not required to the check the jail system
11 to see if they are incarcerated?

12 **A.** They are not required, but I know they do.

13 **Q.** They certainly not required or expected to check
14 other parishes?

15 **A.** That's correct.

16 **Q.** Because they only have access to Orleans Parish
17 Criminal Sheriff's Office?

18 **A.** That's correct.

19 **Q.** So the person arrested in a different parish, they
20 wouldn't be able to look that up?

21 **A.** Correct.

22 **Q.** And they are not expected to look that up?

23 **A.** They don't have the capability.

24 **Q.** Like the ability to issue an alias capias, these
25 individuals, they also have the ability to recall an
26 alias capias and order a release of an individual who
27 has been arrested under the circumstances?

28 **A.** Upon payment.

29 **Q.** And so when a family comes in and makes a payment
30 for the fines and fees, the collection agent is vested
31 with the authority to recall that warrant and release
32 the individual on that hold?

1 **A.** On that hold.

2 **Q.** Okay. And where does that authority come from?

3 **A.** From the judges.

4 **Q.** Okay. And did Judge Derbigny, like at the
5 beginning of the year, call the JA's office or the
6 department of collection and say for this year I
7 authorize you to do this?

8 **A.** No.

9 **Q.** Is it --

10 **A.** It's standing unless it's recalled.

11 **Q.** It's a standing authority unless it's -- and it's
12 been recalled by Section A, right, Judge White?

13 **A.** Yes.

14 **Q.** When she took off as a judge she said, "I don't
15 want to do this like this --

16 **A.** Some years after.

17 **Q.** Okay. Some years after doing that process she
18 recalled it?

19 **A.** Yes.

20 **Q.** However, other judges, in fact almost all judges,
21 still use this process, correct?

22 **A.** Yes.

23 **Q.** But that authority was vested in this organization
24 prior to your taking part in it in any way?

25 **A.** That's correct.

26 **Q.** And you are unaware when that date was when that
27 was done?

28 **A.** That's correct.

29 **Q.** And you are unaware of the mechanism by which it
30 was done?

31 **A.** Yes.

32 **Q.** You don't know if that was done in writing?

1 **A.** I don't.

2 **Q.** You don't know if it was done in an En Banc?

3 **A.** I don't.

4 **Q.** You don't know if it was done by the chief judge
5 that one year and it has just been a practice that was
6 carried on?

7 **A.** I don't.

8 **Q.** To your knowledge, as the overseer of the
9 collection agent -- the department of collections --
10 it's just customary practice. This is how it's been
11 done?

12 **A.** To my knowledge.

13 **Q.** And so we just had this judicial election, new
14 judges are in, correct?

15 **A.** Correct.

16 **Q.** None of those judges were called up and said, "Hey,
17 do you want to change the way it's done?" It's just
18 assumed that authority remains unless they take the
19 steps to recall it, correct?

20 **A.** They are aware of the practice and no one has said
21 not to.

22 **Q.** Right. But it would be on them to come to you and
23 say we don't want to report to the collection agency and
24 do it this way?

25 **A.** Yes.

26 **Q.** You don't ask them, "Do you want to continue this
27 practice?" It's just a customary practice?

28 **A.** Correct.

29 **Q.** Do you have any knowledge regarding how long an
30 individual might remain in custody before he is brought
31 to court on a fines and fees capias?

32 **A.** I think it's two business days after they have been

1 arrested.

2 **Q.** To you, it would come to a surprise if some people
3 who would remain in jail for seven, even ten days prior
4 to getting into court on a file arrest for an alias
5 *capias*?

6 **A.** Recently the clerk's office was informed that they
7 needed to put anyone with a file arrest notification on
8 the court's docket within two business days.

9 **Q.** Do you know when that was done?

10 **A.** It was a couple of years now.

11 **MR. HORTENSTINE:**

12 I have no further questions. I really
13 appreciate your time, especially in that you
14 were not under subpoena.

15 **THE WITNESS:**

16 No problem.

17 **THE COURT:**

18 Anything by the State?

19 **MR. DOVER:**

20 Your Honor, I don't think we even have
21 standing.

22 **MR. HORTENSTINE:**

23 I will call Michael Addison to stand.

24 **MICHAEL ADDISON,**

25 after having been first duly sworn, did testify as
26 follows:

27 **- DIRECT EXAMINATION -**

28 **BY MR. HORTENSTINE:**

29 **Q.** Mr. Addison, introduce yourself to the Court. Tell
30 the Court your name?

31 **A.** Michael Addison.

32 **Q.** Mr. Addison, you were in Section J in 2001 for a

1 marijuana first, right?

2 **A.** Yes.

3 **Q.** And it was on January 16 of 2002 that you went to
4 trial on that marijuana first, correct?

5 **A.** Yes.

6 **Q.** And you were found guilty?

7 **A.** Yes.

8 **Q.** When you were found guilty you were sentenced to
9 what, you remember?

10 **A.** One year intensive probation.

11 **Q.** Okay. And you were given probation?

12 **A.** And also given fines.

13 **Q.** Fines and fees. Now, when you initially were put
14 on probation, did you meet your probation officer?

15 **A.** Yes.

16 **Q.** Did you make attempts to make payments for fines
17 and fees?

18 **A.** Yes.

19 **Q.** And you were actually required to return to court
20 -- you pled guilty -- you were found guilty on
21 January 16, 2002; correct?

22 **A.** Yes.

23 **Q.** And a status hearing was set for February 2, 2002;
24 correct?

25 **A.** Yes.

26 **Q.** You attended that day, right?

27 **A.** Yes.

28 **Q.** And you were compliant with everything except
29 employment?

30 **A.** Yes.

31 **Q.** And a new date was set for April 5, 2002, and you
32 were present for that date, right?

1 **A.** Correct.

2 **Q.** On that date you had employment with pay stubs,
3 correct?

4 **A.** Yes.

5 **Q.** And you were present in court on that day?

6 **A.** Yes.

7 **Q.** You were asked to come back on July 5, 2002. Why
8 were you not present on that day?

9 **A.** I was arrested in St. John Parish.

10 **Q.** That was on May 5, 2002?

11 **A.** Yes.

12 **Q.** So you were in the custody of St. John Parish when
13 your court date came?

14 **A.** Yes.

15 **Q.** And you were unable to appear because of that?

16 **A.** Yes.

17 **Q.** At the time while you were incarcerated in St. John
18 Parish -- how long were you incarcerated in St. John and
19 with in DOC?

20 **A.** Total?

21 **Q.** Total.

22 **A.** Ten years.

23 **Q.** During the course of those ten years, were you in
24 any way able to make payments or attend court before the
25 Orleans Parish marijuana first case we are here on?

26 **A.** No.

27 **Q.** Why?

28 **A.** Orleans wouldn't entertain, I guess, the
29 misdemeanor or felony, but I was able to put in motions
30 to try --

31 **Q.** We'll cover that.

32 **MR. HORTENSTINE:**

1 Your Honor, if I could approach at this
2 time what is marked as Defense 3 and
3 Defense 4?

4 **THE COURT:**

5 Yes.

6 **EXAMINATION BY MR. HORTENSTINE:**

7 **Q.** Mr. Addison, do you recognize Defense Exhibit 3?

8 **A.** Yes.

9 **Q.** And can you read to the Court what Defense 3 is?

10 **A.** Motion to allow defendant plea of guilty and waiver
11 of right present.

12 **Q.** Okay. In this motion, you request the Court to run
13 concurrent any sentence you are now serving with credit
14 for time served?

15 **A.** Yes.

16 **Q.** At the time you were serving a ten-year sentence?

17 **A.** A 12-year sentence.

18 **Q.** You also filed what is marked as Defense 4. Can
19 you tell the Court what Defense 4 is?

20 **A.** Motion and order to lift attachment detainers.

21 **Q.** What is the request there? What are you asking the
22 Court for in that?

23 **A.** To get the detainer lift because it prevented me
24 from assessing a lot of programs that they had.

25 **Q.** Such as what?

26 **A.** One just being a trusty, to leave the premiss.
27 Also like work release, to be able to go home and make
28 some money before I get release.

29 **Q.** With the holds in place by the sheriff's office in
30 Orleans Parish you were not allowed access to those
31 programs?

32 **A.** No.

1 Q. You filed these motions and then about six months
2 before a release date came up, what happened?

3 A. The detainer was lifted.

4 Q. So to your knowledge, the motion was granted?

5 A. Yes.

6 Q. Because you no longer had a detainer?

7 A. No.

8 Q. When you were released to parole, did you ask your
9 parole officer about the detainer?

10 A. Yes.

11 Q. What you asked?

12 A. I asked him to check into it and make sure because
13 I didn't want any type of relapse or anything, and he
14 told me that, you know, being in the system, he looked
15 into it and he said nothing is showing, they would have
16 known by now and I was cleared.

17 Q. When were you released from the DOC?

18 A. December 28, 2011.

19 Q. When you were released from DOC they didn't
20 transfer you to Orleans Parish?

21 A. No.

22 Q. So at the time there was not a hold for Orleans
23 Parish?

24 A. No.

25 Q. When you met with the probation officer or parole
26 officer he told you there were no holds in Orleans
27 Parish?

28 A. No.

29 Q. At no time between December of 2011 in your release
30 and the date of your arrest in June of 2014, did you
31 have any knowledge you had outstanding fines and fees?

32 A. No.

1 Q. Or that there was a warrant for your arrest?

2 A. No.

3 Q. Tell us what happened on June 18, 2014?

4 A. I was driving; I was pulled over for a stop for a
5 traffic violation.

6 Q. Failure to where a seatbelt?

7 A. Seatbelt, yes. And then I learned there was a
8 capias for some fines and fees?

9 Q. They ran your name?

10 A. Yes.

11 Q. And it came up with the capias out of Orleans
12 Parish?

13 A. Yes.

14 Q. On this case for fines and fees.

15 Did you hear the police officer call the deputy or
16 call someone to make sure it was a valid warrant?

17 A. Yes.

18 Q. What did you hear?

19 A. I think they wanted to check into it because it was
20 so long ago. They said yes, it was valid, and they took
21 me.

22 Q. Okay. You were there taken to jail on the fines
23 and fees warrant, correct?

24 A. Yes.

25 Q. And how do you know that? Did you ask anybody?

26 A. Well, aside from the police, I waited till booking,
27 because that's when I realized everybody found out what
28 is going on, court date set, and all this stuff. So I
29 waited to booking --

30 Q. When you say, "everybody else found out," you
31 talking about other people --

32 A. Yes, other inmates would come back with court

1 dates.

2 Q. By asking the deputies?

3 A. Yes.

4 Q. So when you asked the deputy, "When is my court
5 date?" what did the deputy tell you?

6 A. Said it would be a week or however long. They
7 don't have a specific time to give me a court date.

8 Q. Did --

9 A. She gave me an option. She was like if you send
10 your people to the clerk and pay your fine they can
11 release you.

12 Q. So she said you had the option of staying in for
13 the court date that could take anywhere up to seven days
14 or more, or pay your fines and fees through your people
15 and they would release you?

16 A. Yes.

17 Q. That was on the evening of the 18th of June. What
18 took place the next day?

19 A. I had my wife look into it and pay whatever fee
20 they had.

21 Q. And what happened when she paid the fee?

22 A. They lifted the hold.

23 **MR. HORTENSTINE:**

24 I have no further questions for Mr.
25 Addison.

26 **THE COURT:**

27 You may step down.

28 Any further testimony?

29 **MR. HORTENSTINE:**

30 No, Your Honor.

31 I have to introduce Defense Exhibit 3.

32 I motion to file, offer and introduce

1 Defense 3 -- it's already in the Record to
2 make it part of this hearing -- the motion to
3 allow defendant's plea of guilty and waiver
4 of rights present; Defense Exhibit 4, the
5 motion and order to lift attachment detainer,
6 also in the Record, but to perfect this
7 hearing's documents, I would like to make
8 those exhibits part of the Record, please.

9 **THE COURT:**

10 Very well.

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REPORTER'S PAGE

I, **VINCENT P. BORRELLO, JR., Certified Court Reporter** in and for the State of Louisiana, the officer, as defined in Rule 28 of the Federal Rules of Civil Procedure and/or Article 1434(B) of the Louisiana Code of Civil Procedure, before whom this proceeding was taken, do hereby state on the Record:

That due to the interaction in the spontaneous discourse of this proceeding, dashes (--) have been used to indicate pauses, changes in thought, and/or talkovers; that same is the proper method for a Court Reporter's transcription of proceeding, and that the dashes (--) do not indicate that words or phrases have been left out of this transcript;

That any words and/or names which could not be verified through reference material have been denoted with the phrase "(spelled phonetically)."

VINCENT P. BORRELLO, JR.
Certified Court Reporter
Registered Professional Reporter

REPORTER'S CERTIFICATE

This certification is valid only for a transcript accompanied by my original signature and original required seal on this page.

I, **VINCENT P. BORRELLO, JR.**, Official Court Reporter in and for the State of Louisiana, employed as an Official Court Reporter by Criminal District Court, Parish of Orleans for the State of Louisiana, do hereby certify that this testimony was reported by me in the stenotype reporting method, was prepared and transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding;

That the transcript has been prepared in compliance with the transcript format guidelines required by statute, or by rules of the board, or by the Supreme Court of Louisiana;

That I am not of counsel, not related to counsel or the parties herein, nor am I otherwise interested in the outcome of this matter.

VINCENT P. BORRELLO, JR.
Certified Court Reporter
Registered Professional Reporter

Plaintiff's Exhibit 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**SHARNALLE MITCHELL, LORENZO)
BROWN, TITO WILLIAMS, COURTNEY)
TUBBS, TEQUILA BALLARD, WILLIE)
WILLIAMS, THOMAS ELLIS, GAVIN)
BULLOCK, KENDRICK MAUL, TAMARA)
DUDLEY, JERMAINE TYLER, JANET)
EDWARDS, RISKO MCDANIEL, DEMETRI)
COLVIN, CARL WILLIAMS, RAYSHONE)
WILLIAMS,)**

Plaintiffs,

vs.

Case No. 2:14-cv-186

CITY OF MONTGOMERY,

Defendant.

AGREEMENT TO SETTLE INJUNCTIVE AND DECLARATORY RELIEF CLAIMS

COME NOW the PARTIES to this Settlement Agreement, the sixteen Plaintiffs in the above-styled action, the City of Montgomery (hereinafter referred to as “the City”), and Presiding Judge Les Hayes, III, Judge Darron Hendley, Judge Lloria James, and Judge Milton Westry (each in his or her official capacity as Judge of the Municipal Court of the City of Montgomery) (hereinafter referred to collectively as “the Judges”) and, for good and valuable consideration, enter into this Agreement as a full and final settlement of all the Plaintiffs’ claims for declaratory and injunctive relief.

WHEREAS, the City denies any liability for the claims alleged by the Plaintiffs and further denies having authority over the Judges of the Municipal Court or over the Municipal Court itself in connection with the counts and claims pled in the above-styled action and takes the position that the relief requested cannot be provided by the City;

WHEREAS, the Judges of the Municipal Court of the City of Montgomery, without waiving any potential immunity to claims for damages, attorneys' fees, or any other relief or any defenses thereto, and to further promote the resolution of the lawsuit and thereby any potential proceedings which might be brought against them in the future;

WHEREAS, the Plaintiffs take the position that the City of Montgomery is responsible and liable for—and capable of preventing and remedying in the future—the constitutional violations alleged by the Plaintiffs, which the Plaintiffs contend involved various City officials, employees, and agents. Plaintiffs further take the position that the result of the City's actions was the illegal jailing of indigent City residents.¹ Plaintiffs seek a timely resolution of their claims for declaratory and injunctive relief in order to end the challenged practices and take the position that the following provisions, to which the parties agree, provide significant constitutional protections relating to their claims in the above-styled litigation.

The Judges of the Municipal Court of the City of Montgomery, in their official capacities, while denying liability and in order to promote the efficient and effective operation of the Court, agree to the following which are to be implemented beginning not more than forty-five days after the execution of this agreement:

1. To audio record compliance and indigence hearings (as those hearings are described in the Judicial Procedures attached hereto as Appendix 1) for a period of not less than twenty-four months following the execution of this Agreement.

¹ Nothing in this Agreement should be construed to constitute an admission by the Plaintiffs that the City of Montgomery is not liable for the constitutional violations alleged in this case or capable of remedying those violations and providing the relief sought. Similarly, nothing in this agreement should be construed to constitute an admission by the City that it is liable for the same.

2. To use a microphone when conducting court unless a Party asks that the microphone be turned off and the court finds, after allowing for objections to be made, that to turn the microphone off is appropriate to guard against disclosure of private medical information, information about a minor child, or other sensitive, private information. Use of the microphone pursuant to this Agreement shall be for a period of not less than three years following the execution of this Agreement.

3. To notify Plaintiffs' Counsel by email within twelve hours of any Municipal Court defendant's being placed in jail for nonpayment of a fine, costs or restitution (or otherwise placed in jail pursuant to the Plan, including for contempt of court for nonperformance of community service or any other reason stemming from nonpayment or nonperformance of community service in lieu of payment). Said notification would be provided to Alec Karakatsanis at the following email address: alec@equaljusticeunderlaw.org. The notification will include the defendant's name, the date of the order jailing the defendant, the case number(s), the name of the attorney representing the defendant, a copy of any written findings, and instructions regarding how to request the recording of the proceeding. The responsibility for providing said notifications will end one hundred and eighty days from the date this Agreement is executed.

4. To permit entry of the public into the courtroom in the event the doors are locked. Specifically, the Court will provide a means for the public to request entry into the courtroom by pressing a button located outside the entrance door to the courtroom which will notify security personnel within the courtroom that a member of the public wishes to enter. Once security inside the courtroom has been established, security personnel will go to the courtroom door and screen the person(s) wishing to enter the courtroom. Admission to the courtroom using this procedure will be granted as promptly as practicable. A sign will be posted at the entrance

door to the courtroom stating this procedure in large print. The amount of time in which the Municipal Court courtroom doors are locked will be minimized and limited to the time necessary to secure the courtroom, and, if it takes longer than ten minutes to secure the courtroom, and someone is seeking entrance, the Judge or courtroom clerk will call another staff member to open the door. This term will be in place for not less than three years following the execution of this Agreement

5. To train the Public Defenders regarding the requirements and holding of *Bearden v. Georgia*, 461 U.S. 660 (1983), and *Turner v. Rogers*, 131 S. Ct. 2507 (2011), within thirty days of the execution of this Agreement. The training will be conducted by Shannon Holliday and any designee made by her, and the need to request a *Bearden* hearing for any person who is subject to being jailed for failure to pay a fine, court costs, or restitution will be fully discussed with the Public Defenders as will the defendants' rights as implemented under the Judicial Procedures. The training will also emphasize the Public Defenders' obligation to represent their clients during courtroom proceedings in Municipal Court as described in the Judicial Procedures, to meet with and advise clients prior to any indigence/ability-to-pay hearing and to provide to the client the Public Defender's name and contact information, if requested, in cases in which clients are incarcerated for failure to pay fines and costs or have a pending contempt proceeding for failure to comply with an order to do community service in lieu of paying fines and costs and to fully inform their clients of their pertinent rights under Alabama law, the United States Constitution, and the new Municipal Court procedures as they relate to the indigence/ability to pay hearings.

To cause the Public Defenders' contracts to be altered so as to remove the clause referencing the "Fair Trial Tax Fund" by which the Public Defender's compensation is currently linked to whether enough money is placed in that account, to add a clause requiring the Public

Defender's attendance at the training provided by the Municipal Court regarding the general operations of the Court, and to add a clause to the effect that the Public Defenders' duties in connection with defendants who are incarcerated for failure to pay fines, court costs, or restitution include notifying defendants of applicable appellate rights and assisting them in filing notices of appeal and motions to waive any appellate bond if they wish to claim indigence. This provision shall be in place for not less than three years following the execution of this Agreement.

6. To train the Prosecutors regarding the Judicial Procedures to ensure the proper functioning of the compliance and indigence hearings described in the Judicial Procedures, attached hereto as **Appendix 1**, and to train the prosecutors regarding the holdings of *Bearden v. Georgia*, 461 U.S. 660 (1983), and *Turner v. Rogers*, 131 S. Ct. 2507 (2011). Should any new prosecutor be hired within the three year period following the execution of this Agreement, the above-described training will be provided to that newly hired prosecutor.

7. To certify to the jail administrator, whenever a person is ordered to be jailed for nonpayment of costs, fines, or restitution (or otherwise ordered to be jailed in a case involving nonpayment for nonperformance of community service), that the Judicial Procedures have been followed and to make that written certification part of the court file and/or case action summary, and to ensure that both the prosecutor and defense attorney have access to the certification in the court file. This term will be in place for a period of not less than three years following the execution of this Agreement.

8. To agree not to hire, contract with, or otherwise use any private probation company (or any other company profiting from offering payment plans relating to unpaid court fines, costs, and restitution) for a period of not less than three years following the execution of this Agreement.

9. To comply with the provisions set out in the Judicial Procedures, attached hereto as **Appendix 1**, for a period of not less than three years following the execution of this Agreement.

10. To designate at least two days within the six months following the execution of this Agreement during which individuals who have outstanding arrest warrants for having failed to appear for compliance hearings, or for initial appearances for scheduled or nonscheduled offenses, or who otherwise owe outstanding payments, can appear at the window of the Municipal Court, receive a compliance hearing date and the formal notice thereof, and clear any warrants related to their nonpayment² or failure to appear rather than being arrested. These days will be referred to hereinafter as “amnesty days” for the sake of convenience, but the Parties understand that no individual will be relieved of fines, costs or restitution as a result of the provisions of this paragraph, although the Court retains its existing authority to do so on a case by case basis. The amnesty days will be publicized through a press release provided to local media outlets at least seven, but not more than twenty-one, days before the scheduled amnesty days, and news outlets will be permitted to ask questions related thereto at a press conference held during the same period of time subsequent to the publication of the press release. The press release will be posted on the window and front door at the courthouse and on the Municipal Court website. The foregoing provisions of this paragraph notwithstanding, any (a) individuals with outstanding arrest warrants for conduct unrelated to nonpayment and not based on failures to appear for initial appearances or compliance hearings and (b) individuals who were ordered to appear at compliance hearings in connection with matters other than the payment of a fine, court costs, or restitution, may be arrested when they appear for any reason at the window. Counsel for the Plaintiffs will be notified at least

²The Municipal Court Judges and City agree to this provision as written for the sake of settlement but take the position that warrants have not been issued for failure to pay fines, costs, or restitution.

one week in advance of each amnesty day selected as part of compliance with this agreement. The press release mentioned herein will contain the following sentence: “No person who comes to the court for the Amnesty Day will be jailed for non-payment or for a warrant in a case in which the only outstanding issue is non-payment.”

11. The Judges agree that the obligations set out in this Agreement are binding on their successors in office but only to the extent that said successors fulfill the office of Municipal Court Judge during the relevant time limits set out herein.

THE CITY agrees to the following to be implemented beginning not more than forty-five days after the execution of this Agreement unless otherwise set out herein:

1. To take whatever actions are necessary on its part to accomplish the items to which the Judges of the Municipal Court agreed above.

2. Its jail administrator will not knowingly jail a defendant based on nonpayment of fines, costs, or restitution without the above-referenced certification from the Municipal Court Judge regarding compliance with the Judicial Procedures.

3. To file with within ten days of the execution of this Agreement a motion seeking joinder of the Judges of the Municipal Court of Montgomery, Alabama in their official capacities as Party Defendants in the above-styled action for the sole purpose of filing thereafter a Joint Motion for Entry of Final Declaratory and Injunctive Relief as described below. Said motion for joinder is attached hereto as **Appendix 3**

PLAINTIFFS each agree to the following:

1. To agree to the entry of a final judgment as to all declaratory and injunctive relief as set out below and further to agree not to amend the Complaint in this action or to bring any

other action against any Party to this Agreement for any equitable relief which was or could have been sought in the above-styled action.

2. To forego their request for class certification and not hereafter file a Motion for Class Certification.

3. Not to oppose the joinder of the Municipal Court Judges in accordance with the language set out in **Appendix 3** hereto.

4. To notify counsel for the Municipal Court Judges and the City immediately upon the discovery of any alleged material breach of the foregoing agreement. This notice shall include the specific nature of said breach, the time and date of said breach, the court personnel involved in the breach, and any other details necessary to identify the case or proceeding in which the said breach occurred to the extent the information is available. Said notice shall be conveyed both through email and telephonically to Shannon Holliday or Bobby Segall at the following telephone number and email addresses: (334) 834-1180, holliday@copelandfranco.com, segall@copelandfranco.com. Plaintiffs will give the Defendants a reasonable opportunity to remedy the alleged breach before seeking relief from the Court.

5. That their heirs, personal representatives, successors and assigns will be bound by the terms of this Agreement.

ALL PARTIES agree to the following:

1. To file with the other Parties to the above-styled action a Joint Stipulation of Dismissal of all class certification allegations within ten days of the execution of this Agreement. Said Joint Stipulation of Dismissal is attached hereto as **Appendix 2**.

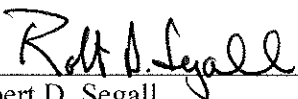
2. Once the above-referenced motion to join the judges of the Municipal Court (**Appendix 3**) is granted, to file within ten days thereof with the other Parties to this action a Joint

Motion for Entry of Final Declaratory and Injunctive Relief, as agreed-upon by the Parties and attached hereto as **Appendix 4**.


3. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

Dated this 31st day of October, 2014.

**Attorney for Presiding Judge Les Hayes, III,
Judge Darron Hendley, Judge Lloria James,
and Judge Milton Westry, in their Official
Capacities, and Defendant City of
Montgomery:**



Robert D. Segall



Shannon L. Holliday

Attorneys for Plaintiffs:

Alec Karakatsanis

Matthew Swerdlin

Joseph Mitchell McGuire

Motion for Entry of Final Declaratory and Injunctive Relief, as agreed-upon by the Parties and attached hereto as **Appendix 4**.

3. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

Dated this 31st day of October, 2014.

Attorney for Presiding Judge Les Hayes, III, Judge Darron Hendley, Judge Lloria James, and Judge Milton Westry, in their Official Capacities, and Defendant City of Montgomery:

Robert D. Segall

Shannon L. Holliday

Attorneys for Plaintiffs:



Alec Karakatsanis



Matthew Swerdlin



Joseph Mitchell McGuire

**JUDICIAL PROCEDURES OF THE
MUNICIPAL COURT OF THE CITY OF MONTGOMERY FOR
INDIGENT DEFENDANTS AND NONPAYMENT**

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BASIC PREMISES:

1. No defendant will be incarcerated for inability to pay any court-ordered monies, including fines, court costs or restitution. (Rule 26.11, Ala. R. Crim. P.).
2. A Public Defender will represent all defendants not otherwise represented by counsel at all compliance and indigence/ability-to-pay hearings. At said hearings, the judge will require that the Public Defender appear with the Defendant in front of the judge, and the Court will note the Public Defender's appearance in the record.
3. Procedures involving initial appearances at the window are applicable to those defendants appearing on or before the due date indicated on the Uniform Traffic Ticket and Complaint ("UTTC").
4. The granting of an initial sixty (60) day review will be afforded to all cases (new and old) as the procedures are implemented.
5. Form One (Payment of Fines and Costs) will be placed on the City of Montgomery website, displayed conspicuously in the Court and Lobby of the Municipal Court, and provided to defendants at their initial appearance if they are provided a compliance hearing along with Form Two (Order for Compliance Review).
6. The Court will use the current Federal Poverty Level ("FPL") chart when making an indigence determination, and there will be a presumption of indigence when a defendant is at or below 125% of the FPL subject to review of his or her assets.
7. The defendant will fill out an Affidavit of Substantial Hardship (Form C-10A) or any updated version of the same, and the inquiry relative to income and assets will follow from the information provided therein. A public Defender will be available to answer any questions about the form.
8. A defendant at 125% of FPL or below without substantial liquid assets available to pay the fines, costs, fees, or restitution will be deemed indigent. In determining whether a defendant has substantial liquid assets, the Court will not consider up to the first \$3,000 in personal property, and up to \$5,000 in home equity. A finding of substantial liquid assets cannot be based on the receipt of an Earned Income Tax Credit.
9. An indigent defendant will be given the option of either paying \$25.00 a month to pay off his fines, court costs, fees, and restitution or doing community service.
10. The Court retains the discretion to make credibility determinations relative to testimony and evidentiary submissions regarding income and assets and to question defendants relative to the same.
11. The ability of a defendant to pay who is not deemed indigent but who expresses an inability to pay his fines, costs, fees and restitution in full will be based on that defendant's: (i) disposable income, as reflected in the Affidavit of Substantial Hardship (Form C-10A) and as further clarified by questions raised in the indigence hearing, (ii) the defendant's assets, and (iii) the defendant's earning potential.
12. The community service hours' computation will be based on a minimum of \$10 credit for each hour of community service worked. The monthly requirements will be a minimum of eight (8) hours and a maximum of twenty-four (24) hours of community

**JUDICIAL PROCEDURES OF THE
MUNICIPAL COURT OF THE CITY OF MONTGOMERY FOR
INDIGENT DEFENDANTS AND NONPAYMENT**

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- service, provided, however, that the court may order more hours of monthly community service at the request of the defendant.
13. The court record shall contain an explanation of any determination of non-indigence.
 14. The Court or its designee will designate the entity with which the defendant assigned to community service must work, taking into account the needs of the City for community service, the needs of the other entities providing community service opportunities, and the defendant's needs.
 15. Defendants who do not initially pay in full are provided Forms One and Two attached hereto which provide notice regarding the procedures set out herein and defendants' rights.
 16. No person may be incarcerated for nonpayment in any case unless these procedures are followed.
 17. The payment of restitution as ordered by the court cannot be satisfied by the performance of community service, unless the restitution is owed to the City.
 18. The present language of Rule 19(C)(2) of the Rules of Judicial Administration authorizes an increase in the fine only when there is a failure to appear at the initial appearance (pre-judgment) on the ticket.
 19. After an initial ability to pay or indigence determination, a defendant's ability to pay may be re-assessed at subsequent compliance hearings based on changed circumstances or at the Court's discretion following the procedures set forth herein.
 20. No person unable to pay his or her fines and costs in full will be charged an additional fee for being placed on a payment plan unless affirmatively authorized by law.

**JUDICIAL PROCEDURES OF THE
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FIRST COURT APPEARANCE WITH ADJUDICATION OR PLEA OF GUILTY

1. Plea of guilty entered at the window (scheduled offenses only)
 - a. Obtain signature on Plea of Guilty/Waiver of Rights Form
 - b. Collection of scheduled fine and court costs
 - i. If paid in full, close case and issue receipt.
 - ii. If unable to pay on the same day, the defendant will be given an (approximate) sixty (60) day review by the Court at a compliance hearing (Forms One and Two provided).

2. Plea of guilty entered or adjudicated in Court (scheduled and non-scheduled offenses)
 - a. Judge orally receives guilty plea or adjudication of guilt
 - b. Imposition of Sentence (possible fine, court costs and jail sentence)
 - i. If it is determined that the conduct for which the defendant has been convicted warrants the imposition of a jail sentence, the sentence shall be carried out as directed by the Court. The imposition of a jail sentence will have nothing to do with a defendant's inability to pay the fines and court costs.
 - ii. If able to pay the fine and court costs on the same day, the defendant may be directed to the pay window or otherwise informed how to make payment. The full amount is paid and the case is closed.
 - iii. If the defendant tells the Court that he or she is unable to pay on the same day, the defendant will be given the following options and/or ordered as follows: placed on a payment plan and given a compliance hearing date; given an approximate sixty (60) day review by the Court at a compliance hearing; given an order to complete community service; or any other disposition deemed just and appropriate at the discretion of the Court, excluding incarceration. (Forms One and Two to be provided)
 - (a) It will not be a standard practice to hold an indigence /ability-to-pay hearing at this stage of the proceedings. However, the Court reserves the option to do so and, where the defendant is found indigent, to provide the defendant the option of the minimum payment plan or community service at this stage and to enter an order consistent with the option chosen.

**JUDICIAL PROCEDURES OF THE
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COURT APPEARANCE – COMPLIANCE REVIEW DATES

1. If the defendant does not appear (and the defendant has not received a continuance from the Court) a warrant will be issued.
2. The defendant must be given an opportunity to present evidence that the amount allegedly owed is not accurate or is not in fact owed if the Defendant believes that the amount is not correct.
3. If the defendant has not paid in full the Court will inquire as to the reasons for noncompliance, including whether the defendant has an inability to pay the amount then due. During this inquiry the Court will specifically ask questions pertaining to the defendant's ability or inability to pay the amount owed in full. One of the initial questions asked in connection with the ability to pay inquiry will be "Are you able to pay today?" or words to that effect.
4. If after inquiry by the Court, there is
 - a. No indication of inability to pay, the defendant may be placed on a payment plan by the Court; given another review date set as a compliance hearing (Forms One and Two provided); sentenced to serve time in jail (but not without an indigence/ability-to-pay hearing described below); or given any other disposition deemed just and appropriate at the discretion of the Court.
 - b. An indication of inability to pay
 - i. the defendant will be directed to a Public Defender to assist with the completion of an Affidavit of Substantial Hardship Form and any further paperwork the Court deems necessary;
 - ii. the Court will then hold a hearing at which the Public Defender will represent the defendant, and the Court will make an indigence/ability to pay determination taking into consideration any testimony, the Affidavit of Substantial Hardship, any other paperwork the Court deems necessary, and any documents submitted by the defendant. The defendant will be permitted to present evidence. If, after questioning (including questioning by the Court) and presentation of evidence, the defendant is
 - (a) determined to be at or below 125% of the Federal Poverty Level (FPL), the defendant will be determined to be indigent and unable to pay the fines, fees, court costs, and/or restitution in full at the Compliance Hearing, unless the defendant has substantial liquid assets with which he or she could satisfy the payments. In determining whether a defendant has substantial liquid assets, the Court will not consider up to the first \$3,000 in personal property,

**JUDICIAL PROCEDURES OF THE
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and up to \$5,000 in home equity. A finding of substantial liquid assets cannot be based on the receipt of an Earned Income Tax Credit.

- (b) determined to be above 125% of the FPL, the defendant will not receive a presumption of indigence, but the Court will still consider whether the defendant has the ability to pay based on the defendant's disposable income, liquid assets, and earning potential.
- iii. If the defendant is determined to be indigent or otherwise unable to pay the amount owed for fines, fees, court costs, and/or restitution in full as ordered, the Court:
- (a) may determine the defendant's ability to make payments based on that defendant's: (i) disposable income, as reflected in the Affidavit of Substantial Hardship and any other paperwork required by the Court, and as further clarified by answers to questions posed in the hearing, (ii) the defendant's assets, and (iii) the defendant's earning potential; order the defendant to make payments consistent therewith; and schedule a review at another compliance hearing (Forms One and Two provided). However the Court will not order a monthly payment in excess of \$25.00 for indigent defendants;
 - (b) may remit costs and fines;
 - (c) must (unless fines and costs are remitted in full) provide a defendant deemed indigent or otherwise unable to pay the \$25.00 minimum monthly payment, the option to complete community service (if physically able) in lieu of payment of costs and fines and schedule a review at another compliance hearing, provided that: (i) if a defendant who has previously been placed on a payment plan fails to make one or more payments, the Court may order said defendant to complete community service (if physically able) to satisfy his or her debt; and (ii) that community service will not be an option for satisfaction of amounts owed for restitution, unless restitution is owed to the City (Forms One and Two provided); and/or
 - (c) may order any other remedy deemed just and appropriate at the discretion of the Court, excluding incarceration.
- iv. If the defendant is determined in the indigence/ability-to-pay hearing to have had the ability to pay as ordered (including individuals previously placed on a payment plan), the Court may:

**JUDICIAL PROCEDURES OF THE
MUNICIPAL COURT OF THE CITY OF MONTGOMERY FOR
INDIGENT DEFENDANTS AND NONPAYMENT**

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- (a) place the defendant on a payment plan or modify the existing payment plan and schedule a review at another compliance hearing in approximately sixty days (60) (Forms One and Two provided);
 - (b) give the defendant another review date set as a compliance hearing (Forms One and Two provided);
 - (c) order the defendant to complete community service (if physically able) in lieu of payment of costs and fines and schedule a review at another compliance hearing (Forms One and Two provided);
 - (d) remit costs and fines;
 - (e) order the defendant to serve jail time with fines and costs reduced per day at an amount no less than that allowed by Ala. R. Crim. P. 26.11 (Public Defender present unless otherwise represented) if there is a finding of willful nonpayment provided that the days to which the defendant is sentenced do not exceed the number of days required to work off the amount then currently due and owing; and/or
 - (f) provide any other disposition deemed just and appropriate at the discretion of the Court.
5. If the defendant was ordered to do community service in lieu of paying, the Court may, upon the defendant's failure to comply, set a contempt hearing to determine if the defendant should be sanctioned. The Court will comply with the requirements of Ala. R. Crim. P. 33, including, but not limited to, providing notice, hearing, and written findings. The Court will remit additional fines and costs associated with any contempt conviction and will remit the original fines, fees, and costs in connection with any jail sentence given for contempt at the same rate as that provided defendants jailed pursuant to Ala. R. Crim. P. 26.11.

**JUDICIAL PROCEDURES OF THE
MUNICIPAL COURT OF THE CITY OF MONTGOMERY FOR
INDIGENT DEFENDANTS AND NONPAYMENT**
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MISCELLANEOUS PROCEDURES

In addition, the Judges of the Court will:

1. provide notice of a compliance hearing, as set out in these procedures, to all defendants on a Judicial Correction Services payment plan or contract as of June 2014;
2. treat probationers as set out in the above procedures if and when probation is subject to revocation for nonpayment of fines, costs, fees or restitution;
3. treat those who are currently on payment plans as set out in the above procedures;
4. have the Public Defender inform any defendant not otherwise represented by counsel of his or her appellate rights and provide said defendant Form 3 should he or she be sentenced to jail for failure to pay fines, costs, fees or restitution;
5. instruct the clerks to provide defendants who have failed to appear as required by their UTTC (uniform traffic ticket and complaint) with a license reinstatement letter (if the Court has notified the Alabama Department of Public Safety of the failure to appear) upon the defendant's first voluntary appearance at a compliance hearing or upon full payment of costs, fines, fees or restitution, whichever occurs first; and
6. permit a defendant who has failed to appear at his or her initial appearance date for a scheduled traffic offense and who is subject to an arrest warrant for the same, to appear at the window at the Court and *not* be arrested on that warrant but instead to be provided a compliance hearing date; and
7. instruct the clerks that no warrant for failure to appear shall be confirmed unless it is supported in the Court's file by notification from the Court or notification in a charging instrument which notification provides a specific date and time for a court hearing.

JUDICIAL PROCEDURES OF THE
MUNICIPAL COURT OF THE CITY OF MONTGOMERY FOR
INDIGENT DEFENDANTS AND NONPAYMENT

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FORM ONE

Payment of Fines and Costs

If at any time you cannot pay your fines and costs as ordered by the Court, you may go before the Court at your Compliance Hearing to discuss your financial situation, to ask that the Court's Order be changed (for example, to ask that you pay less) and/or to explain why you are unable to pay. The time and date of your Compliance Hearing before the Court will be provided to you in a Court Order given to you.

If you indicate that you are unable to pay your fines and costs, the Court will order you to complete an Affidavit of Substantial Hardship and other forms as deemed necessary, and may inquire about your finances, to include but not be limited to: income, expenses (i.e. rent, childcare, utilities, food, clothing, medical condition/bills, transportation, etc.), bank accounts, and other assets. In some circumstances, the Court may also inquire about your efforts to obtain the money to pay, including your job skills and efforts to apply for jobs. You should present any documents that you have to the Court during this inquiry. If you cannot afford an attorney, the Court will provide a Public Defender to represent you.

Based on your income, you may be ordered to perform community service or be placed on a monthly payment plan. You will be given a Compliance Hearing date to return to Court for the Judge to review your particular case(s). Your appearance at this Compliance Hearing is mandatory.

You cannot be put in jail solely for your inability to pay your fines and costs, or for nonperformance of community service, unless you willfully failed to pay or to perform the community service ordered despite having the ability to do so.

You may pay the full amount you owe at any time in accordance with the Court's Order, and at that point you will not have to continue to make payments, finish your community service, or appear at your next scheduled Compliance Hearing. You may contact the Court or inquire at a Municipal Court pay window if you would like to obtain your balance owed.

If the Court determines that you have a disability, illness, or other circumstances that would prevent you from performing community service, you will not be required to perform community service.

In summary, after you have been ordered by the Court to pay your fines and court costs or to perform community service, you will be given a Compliance Hearing date to come back to Court to review your case(s). **This hearing is mandatory.** Even if you are unable to pay all of your fines and costs or complete the hours ordered before that date, you must attend. At this Hearing, you will have the opportunity to explain to the Court why you have not complied with the Court's Order(s) and present evidence. You could be put in jail only if the Court determines that you willfully violated the Court's Order. **If you do not appear at your Compliance Hearing, a warrant will be issued for your arrest.**

JUDICIAL PROCEDURES OF THE
MUNICIPAL COURT OF THE CITY OF MONTGOMERY FOR
INDIGENT DEFENDANTS AND NONPAYMENT

Page 9 of 11

FORM TWO

Municipal Court
City of Montgomery
320 North Ripley Street
Montgomery, AL 36104

ORDER SETTING HEARING FOR COMPLIANCE REVIEW

**IN THE MUNICIPAL COURT OF MONTGOMERY, ALABAMA
MUNICIPALITY OF MONTGOMERY**

V.

ADULT NWS TEST JR, DEFENDANT

To the Defendant of the Case listed below:

<u>Case#</u>	<u>Officer</u>	<u>Attorney</u>	<u>Balance Due</u>	<u>Court Date-Hearing</u>
1999CRA999999 THEFT OF PROPERTY 3	Jane Roe		\$332.00	Friday, August 31, 2012 8:00 am

If your address changes, you shall provide notification to the court immediately.

You must attend the court hearing on the date and time referenced above unless you have paid in full your fines and court costs or completed and submitted proof of completed community service.

Your ability to pay is a critical issue in this hearing. If you are unable due to no fault of your own to pay the court costs and fines or to perform community service as ordered by the Court by the above referenced date, you may testify at this hearing and should bring with you any records to help explain the reasons for your nonpayment or nonperformance to include, but not limited to, pay stubs, utility bills, expenses, federal and state tax returns, medical bills, documents evidencing any medical condition, any evidence of efforts to gain employment, etc. If you cannot afford an attorney, a Public Defender will be provided to assist and represent you.

If, at the time of the hearing, you have failed to pay the full court costs, fines, fees or restitution ordered by the Court or have failed to meet the requirements of your payment plan, you may be sentenced to jail after the hearing for failure to pay, but only if you are found to have had the ability to pay. If you have previously been ordered to perform community service and have failed to perform community service as ordered by the Court and are found to have had the ability to do so, you may be held in contempt of court only after notice and a hearing.

If you are on probation, your probation can also be revoked and you may be jailed for failing to comply with the other terms of your probation.

If you believe the "Balance Due" amount is incorrect, you may request a balance history (both fines/fees/costs added and payments received) from a Clerk at the Window in the Municipal Court. If you still believe the "Balance Due" amount is incorrect you may discuss it with the

**JUDICIAL PROCEDURES OF THE
MUNICIPAL COURT OF THE CITY OF MONTGOMERY FOR
INDIGENT DEFENDANTS AND NONPAYMENT**

Page 10 of 11

Clerk at the Window. You may also discuss it with the Public Defender, and raise it with the Judge.

**IF YOU FAIL TO ATTEND COURT ON THE DATE REFERENCED ABOVE, A
WARRANT WILL BE ISSUED AND ADDITIONAL CHARGES MAY BE INITIATED.**

May 22, 2012

Municipal Court Judge

**JUDICIAL PROCEDURES OF THE
MUNICIPAL COURT OF THE CITY OF MONTGOMERY FOR
INDIGENT DEFENDANTS AND NONPAYMENT**

Page 11 of 11

FORM THREE

Notice of Appeal Rights

You have a right to appeal the decision of the Montgomery Municipal Court. If you file an appeal, the Montgomery County Circuit Court will review your case.

Under Alabama law, you have 14 days from the date of your trial/hearing in which to file your appeal. If you wish to file an appeal, you should tell your Municipal Court attorney or the public defender that you wish to file an appeal and you may speak to the Public Defender about how to do so.

When you file an appeal, you ordinarily must file an appeal bond. The amount of the appeal bond varies, depending upon the particular offense. If you cannot afford the cost of an appeal bond, you have a right to have a hearing before the judge for the judge to decide if you do not have to file an appeal bond and can file your appeal for free. You must fill out an affidavit of substantial hardship if you have not already done so.

If you are in jail and file an appeal, you will be released from jail once your appeal bond is posted with the court or when the Court determines that no bond is required.

APPENDIX 2

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

SHARNALLE MITCHELL, LORENZO)
BROWN, TITO WILLIAMS, COURTNEY)
TUBBS, TEQUILA BALLARD, WILLIE)
WILLIAMS, THOMAS ELLIS, GAVIN)
BULLOCK, KENDRICK MAUL, TAMARA)
DUDLEY, JERMAINE TYLER, JANET)
EDWARDS, RISKO MCDANIEL, DEMETRI)
COLVIN, CARL WILLIAMS, RAYSHONE)
WILLIAMS,)

Plaintiffs,)

vs.)

Case No. 2:14-cv-186

CITY OF MONTGOMERY,)

Defendant.)

**JOINT STIPULATION OF DISMISSAL OF PLAINTIFFS' REQUEST FOR CLASS
CERTIFICATION AND ALL REQUESTS FOR CLASS-WIDE RELIEF**

COME NOW, the Parties to the above-styled action and stipulate to the dismissal of all portions of the First Amended Class Action Complaint (Doc. 26) in this case which seek class-wide relief. To the extent that the Plaintiffs seek class-wide relief in connection with any count pled in the First Amended Class Action Complaint (Doc. 26), the Parties stipulate that the Plaintiffs' request for class-wide relief is dismissed with prejudice. The parties therefore stipulate and agree that the Plaintiffs will not hereafter file a Motion for Class Certification.

s/Shannon L. Holliday
Robert D. Segall (ASB-7354-E68R)
Shannon L. Holliday (ASB-5440-Y77S)
Copeland Franco Screws & Gill, P.A.
Post Office Box 347
Montgomery, AL 36101-0347
Telephone: (334) 834-1180
Email: holliday@copelandfranco.com
Email: segall@copelandfranco.com

Stephanie L. Smithee (ASB-8497-T82S)
City of Montgomery
Legal Department
Post Office Box 1111
Montgomery, Alabama 36101-1111
Telephone: (334) 625-2050
ssmithee@montgomeryal.gov

**ATTORNEYS FOR DEFENDANT
CITY OF MONTGOMERY**

s/Alec Karakatsanis
Alec Karakatsanis, Esq. (D.C. Bar No. 999294)
Admitted Pro Hac Vice
Equal Justice Under Law
916 G Street, NW, Suite 701
Washington, DC 20001
Telephone: 202-681-2409
Email: alec@equaljusticeunderlaw.org

Matthew Swerdlin
P.O. Box 550206
Birmingham, AL 35255
Telephone: (205) 795-3517
Email: matt@attorneyswerdlin.com

Joseph Mitchell McGuire
31 Clayton Street
Montgomery, AL 36104
Telephone: (334) 517-1000
Email: jmcguire@mandabusinesslaw.com

ATTORNEYS FOR PLAINTIFFS

APPENDIX 3

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

SHARNALLE MITCHELL, LORENZO)
BROWN, TITO WILLIAMS, COURTNEY)
TUBBS, TEQUILA BALLARD, WILLIE)
WILLIAMS, THOMAS ELLIS, GAVIN)
BULLOCK, KENDRICK MAUL, TAMARA)
DUDLEY, JERMAINE TYLER, JANET)
EDWARDS, RSKO MCDANIEL, DEMETRI)
COLVIN, CARL WILLIAMS, RAYSHONE)
WILLIAMS,)

Plaintiffs,)

vs.)

Case No. 2:14-cv-186

CITY OF MONTGOMERY,)

Defendant.)

UNOPPOSED MOTION FOR JOINDER OF PARTIES

COMES NOW Defendant, City of Montgomery, in the above-styled matter and moves this Honorable Court to join the Judges of the Municipal Court of the City of Montgomery in their official capacities as Parties to this action pursuant to Rule 19, Fed. R. Civ. P, and/or Rule 20, Fed. R. Civ. P. As grounds therefor, the City shows the following:

1. The Judges of the Municipal Court of Montgomery, Alabama include the following persons: Presiding Judge Les Hayes, III, Judge Milton Westry, Judge Darron Hendley, and Judge Lloria James (hereinafter collectively referred to as “the Judges of the Municipal Court,” or “the Judges”).

2. The current Parties to this action along with the Judges of the Municipal Court of Montgomery Alabama, in their official capacities, have entered into an agreement entitled

Agreement to Settle Injunctive and Declaratory Relief Claims (hereinafter “Settlement Agreement”) which settles all matters relative to the declaratory and injunctive relief requested by the Plaintiffs in this action.

3. The Judges of the Municipal Court in their official capacities will be providing relief to the Plaintiffs as agreed upon in the Settlement Agreement.

4. The Plaintiffs in this case further seek this Court’s continued jurisdiction over the equitable relief agreed upon by the Parties including the Municipal Court Judges, as set out in the Settlement Agreement.

5. It is the City’s understanding and as represented in the Agreement attached hereto and signed by the Municipal Court Judges of the City of Montgomery, that the Municipal Court Judges of the City of Montgomery, in the interests of promoting the efficient and effective operation of the Court, and further promoting the resolution of the lawsuit and thereby any potential proceedings which might be brought against them in the future, have agreed to joinder in their official capacities. They have agreed to joinder for this limited purpose and do not intend, in doing so, as set forth in the Settlement Agreement, to waive any potential immunity to claims for damages, attorneys’ fees, or any other relief, including other equitable relief, nor do they intend to waive any other defenses. The Judges join for the sole purpose of filing hereafter with the other Parties to this action a Joint Motion for Entry of Final Declaratory and Injunctive Relief.

6. For the entirety of the equitable relief negotiated and agreed to by the parties in the Settlement Agreement to be afforded, it is necessary that the Judges of the Municipal Court of the City of Montgomery be joined in their official capacities as Party Defendants to this action for the sole purpose of making them subject to the jurisdiction of this Court relative to this Court’s equitable jurisdiction over the Settlement Agreement.

7. This basis for seeking joinder is consistent with the requirements of Rules 19 and 20 of the Federal Rules of Civil Procedure.

8. Rule 19(a)(1) provides that “[a] person who is subject to service of process and whose joinder will not deprive the court of subject-matter jurisdiction must be joined as a party if: (A) in that person’s absence, the court cannot accord complete relief among existing parties; or (B) that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person’s absence may: (i) as a practical matter impair or impede the person’s ability to protect the interest; or (ii) leave an existing party subject to a substantial risk of incurring double, multiple or otherwise inconsistent obligations because of the interest.”

9. With respect to Rule 19, the Settlement Agreement between the Parties is such that without joinder of the Municipal Court Judges in their official capacities Plaintiffs cannot obtain the full constellation of negotiated equitable relief. *See* Rule 19(a)(1)(A).

10. Furthermore, the Municipal Court Judges in their official capacities have an interest relating to the subject matter of this lawsuit (specifically the request for equitable relief) such that it is in their interest to control the nature of any resolution of this matter involving the operations of the Municipal Court. For that reason, it was in their interest to take part in the negotiations between the Parties and to agree to the specific relief set out in the Settlement Agreement. *See* Rule 10(a)(1)(B)(i).

11. Rule 20 provides that “persons ... may be joined in one action as defendants if: (A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and (B) any question of law or fact common to all defendants will arise in the action.”

12. With respect to Rule 20, permissive joinder is appropriate because the relief which the Plaintiffs request arises, in part, out of the same transactions, i.e., hearings held before the Municipal Court, and the parties have agreed to a negotiated settlement which involves the agreement of the Judges of the Municipal Court to take certain actions.

13. Joinder as Defendants for the purpose of entering into the Settlement Agreement is the most efficient manner in which the equitable relief agreed to by the parties in this action can be resolved.

14. Furthermore, joinder for the purpose of settling civil rights actions that implicate and involve multiple parties is appropriate under Rule 19. *See, e.g., Martin v. Wilks*, 490 U.S. 755 (U.S. 1989), *abrogated by statute as the holding applies to Title VII as recognized in, Landgraf v. USI Film Prods.*, 511 U.S. 244, 251 (U.S. 1994).

15. Once joinder is granted, the Parties collectively intend immediately to file a Joint Motion for Entry of Final Declaratory and Injunctive Relief.

16. As set forth in the Agreement to settle the Plaintiffs' claims for injunctive and declaratory relief, nothing in that Agreement or in this Motion should be construed as an admission by the City of Montgomery that it is liable for the constitutional claims alleged in this case or by the Plaintiffs that the City of Montgomery is not liable for the constitutional claims alleged in this case.

17. Plaintiffs do not oppose this motion to the extent it seeks permissive joinder under Rule 20.

WHEREFORE, the City asks this Court to join the Judges of the Municipal Court as Party Defendants in this action for the limited purposes set out above.

s/Shannon L. Holliday
Robert D. Segall (ASB-7354-E68R)
Shannon L. Holliday (ASB-5440-Y77S)
Copeland Franco Screws & Gill, P.A.
Post Office Box 347
Montgomery, AL 36101-0347
Email: holliday@copelandfranco.com
Email: segall@copelandfranco.com
Phone: (334) 834-1180
Facsimile: (334) 834-3171

Stephanie L. Smithee (ASB-8497-T82S)
City of Montgomery
Legal Department
Post Office Box 1111
Montgomery, Alabama 36101-1111
Telephone: (334) 625-2050
Facsimile: (334) 625-2310
Email: ssmithee@montgomeryal.gov

**ATTORNEYS FOR DEFENDANT
CITY OF MONTGOMERY**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of October, 2014, I filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to the following counsel of record:

Alec Karakatsanis, Esq.
Equal Justice Under Law
916 G Street, NW, Suite 701
Washington, DC 20001

Joseph Mitchell McGuire
31 Clayton Street
Montgomery, AL 36104

Matthew Swerdlin, Esq.
1736 Oxmoor Road
Suite 101
Homewood, AL 35209

s/Shannon L. Holliday
Of Counsel

APPENDIX 4

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

SHARNALLE MITCHELL, LORENZO)
BROWN, TITO WILLIAMS, COURTNEY)
TUBBS, TEQUILA BALLARD, WILLIE)
WILLIAMS, THOMAS ELLIS, GAVIN)
BULLOCK, KENDRICK MAUL, TAMARA)
DUDLEY, JERMAINE TYLER, JANET)
EDWARDS, RISKO MCDANIEL, DEMETRI)
COLVIN, CARL WILLIAMS, RAYSHONE)
WILLIAMS,)

Plaintiffs,)

vs.)

Case No. 2:14-cv-186

CITY OF MONTGOMERY,)

Defendant.)

**JOINT MOTION FOR ENTRY OF FINAL
DECLARATORY AND INJUNCTIVE RELIEF**

COME NOW the Parties, including the Municipal Court Judges in their official capacity in connection with whom an uncontested motion for joinder is pending, and move this Court for entry of the attached Order. As grounds therefor, the Parties show the following:

1. The Parties have resolved all disputes regarding declaratory and injunctive relief sought by the Plaintiffs in the above-styled action by agreeing to seek entry of the Order attached hereto as **Exhibit 1**.

2. The Parties have agreed to the continued jurisdiction of this Court for the periods set out in the Agreement to Settle Declaratory and Injunctive Claims (“Settlement Agreement”) attached as **Exhibit A to Exhibit 1** for enforcement of the particular terms of the Agreement.

WHEREFORE, the Parties hereto request entry of the Order attached hereto as **Exhibit 1**.

s/Shannon L. Holliday

Robert D. Segall (ASB-7354-E68R)
Shannon L. Holliday (ASB-5440-Y77S)
Copeland Franco Screws & Gill, P.A.
Post Office Box 347
Montgomery, AL 36101-0347
Telephone: (334) 834-1180
Facsimile: (334) 834-3171
Email: holliday@copelandfranco.com
Email: segall@copelandfranco.com

Stephanie L. Smithee (ASB-8497-T82S)
City of Montgomery
Legal Department
Post Office Box 1111
Montgomery, Alabama 36101-1111
Telephone: (334) 625-2050
Email: ssmithee@montgomeryal.gov

**ATTORNEYS FOR PRESIDING
JUDGE LES HAYES, III, JUDGE
DARRON HENDLEY, JUDGE LLORIA
JAMES, AND JUDGE MILTON
WESTRY, IN THEIR OFFICIAL
CAPACITIES, AND DEFENDANT
CITY OF MONTGOMERY**

s/Alec Karakatsanis

Alec Karakatsanis, Esq. (D.C. Bar No. 999294)
Admitted Pro Hac Vice
Equal Justice Under Law
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Washington, DC 20001
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Matthew Swerdlin
P.O. Box 550206
Birmingham, AL 35255
Telephone: (205) 795-3517
Email: matt@attorneyswerdlin.com

Joseph Mitchell McGuire
31 Clayton Street
Montgomery, AL 36104
Telephone: (334) 517-1000
Email: jmcguire@mandabusinesslaw.com

ATTORNEYS FOR PLAINTIFFS

**EXHIBIT 1
TO JOINT MOTION FOR ENTRY OF FINAL DECLARATORY
AND INJUNCTIVE RELIEF**

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

SHARNALLE MITCHELL, LORENZO)
BROWN, TITO WILLIAMS, COURTNEY)
TUBBS, TEQUILA BALLARD, WILLIE)
WILLIAMS, THOMAS ELLIS, GAVIN)
BULLOCK, KENDRICK MAUL, TAMARA)
DUDLEY, JERMAINE TYLER, JANET)
EDWARDS, RISKO MCDANIEL, DEMETRI)
COLVIN, CARL WILLIAMS, RAYSHONE)
WILLIAMS,)

Plaintiffs,)

vs.)

Case No. 2:14-cv-186

CITY OF MONTGOMERY,)

Defendant.)

ORDER GRANTING FINAL DECLARATORY AND INJUNCTIVE RELIEF

Based on the representation of the Parties before the Court, the Court orders the following:

1. The Parties to the Agreement to Settle Declaratory and Injunctive Claims (“Settlement Agreement”) which is **Exhibit A** to this Order are ordered to comply with its terms for the periods set out therein.

2. The Plaintiffs’ request for declaratory and injunctive relief is hereby resolved in full subject only to the further jurisdiction of this Court to enforce the Settlement Agreement for the periods set out therein.

3. Plaintiffs are instructed to notify this Court of any material breaches of the Settlement Agreement after making full attempts to resolve the dispute with the Parties as set out in the Settlement Agreement.

District Judge

EXHIBIT A – TO EXHIBIT 1 TO JOINT MOTION FOR ENTRY OF DECLARATORY AND
INJUNCTIVE RELIEF

[The Parties agree that the entire Settlement Agreement with its appendices will constitute this
exhibit and that it need not be reproduced here.]

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Alana Cain et al.

Plaintiff(s)

v.

City of New Orleans et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) City of New Orleans
Attn: Sharonda R. Williams
1300 Perdido Street, Suite 5E03
New Orleans, 70112

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William P. Quigley
Loyola University New Orleans College of Law
Law Clinic
7214 St. Charles Ave. Campus Box 902
New Orleans, LA 70118

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* City of New Orleans
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Alana Cain et al.

Plaintiff(s)

v.

City of New Orleans, et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Orleans Parish Criminal District Court
Attention: Robert Kazik, Judicial Administrator
2700 Tulane Ave.
New Orleans, LA 70119

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William P. Quigley
Loyola University New Orleans College of Law
Law Clinic
7214 St. Charles Ave., Campus Box 902
New Orleans, LA 70119

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Orleans Parish Criminal District Court
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Alana Cain et al.

Plaintiff(s)

v.

City of New Orleans et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Orleans Parish Criminal District Court Clerk Arthur Morrell
2700 Tulane Avenue, Suite 2010
New Orleans, LA 70119

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William P. Quigley
Loyola University New Orleans College of Law
Law Clinic
7214 St. Charles Ave. Campus Box 902
New Orleans, LA 70118

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Orleans Parish Criminal District Court Clerk Arthur Morrell
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana [dropdown icon]

Alana Cain et al.

Plaintiff(s)

v.

City of New Orleans et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Robert Kazik, Judicial Administrator
Orleans Parish Criminal District Court
2700 Tulane Avenue, Suite 200
New Orleans, LA 70119

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William P. Quigley
Loyola University New Orleans College of Law
Law Clinic
7214 St. Charles Ave., Campus Box 902
New Orleans, LA 70118

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Robert Kazik
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Alana Cain et al.

Plaintiff(s)

v.

City of New Orleans et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Marlin Gusman, Sheriff
Orleans Parish Sheriff's Office
531 South Broad Street,
New Orleans, LA 70119

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William P. Quigley
Loyola University New Orleans College of Law
Law Clinic
7214 St. Charles Ave. Campus Box 902
New Orleans, LA 70118

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Marlin Gusman
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Alana Cain et al.

Plaintiff(s)

v.

City of New Orleans, et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Judge Laurie A. White
Section "A" Orleans Parish Criminal District Court
2700 Tulane Ave., First Floor
New Orleans, LA 70119

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William P. Quigley
Loyola University New Orleans College of Law
Law Clinic
7214 St. Charles Ave., Campus Box 902
New Orleans, LA 70119

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Honorable Judge Laurie A. White
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Honorable Judge Tracey Flemings-Davillier
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Honorable Judge Benedict Willard
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Honorable Ad Hoc Judge Dennis Waldron
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Alana Cain et al.

Plaintiff(s)

v.

City of New Orleans, et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Judge Keva Landrum-Johnson
Section "E" Orleans Parish Criminal District Court
2700 Tulane Ave.
New Orleans, LA 70119

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William P. Quigley
Loyola University New Orleans College of Law
Law Clinic
7214 St. Charles Ave., Campus Box 902
New Orleans, LA 70119

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Honorable Judge Keva Landrum-Johnson
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Alana Cain et al.

Plaintiff(s)

v.

City of New Orleans, et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Judge Robin D. Pittman
Section "F" Orleans Parish Criminal District Court
2700 Tulane Ave.
New Orleans, LA 70119

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William P. Quigley
Loyola University New Orleans College of Law
Law Clinic
7214 St. Charles Ave., Campus Box 902
New Orleans, LA 70119

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Honorable Judge Robin D. Pittman
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Honorable Judge Byron C. Williams
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Alana Cain et al.

Plaintiff(s)

v.

City of New Orleans, et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Judge Camille Buras
Section "H" Orleans Parish Criminal District Court
2700 Tulane Ave.
New Orleans, LA 70119

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William P. Quigley
Loyola University New Orleans College of Law
Law Clinic
7214 St. Charles Ave., Campus Box 902
New Orleans, LA 70119

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Honorable Judge Camille Buras
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Alana Cain et al.

Plaintiff(s)

v.

City of New Orleans, et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Judge Karen H. Herman
Section "I" Orleans Parish Criminal District Court
2700 Tulane Ave.
New Orleans, LA 70119

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William P. Quigley
Loyola University New Orleans College of Law
Law Clinic
7214 St. Charles Ave., Campus Box 902
New Orleans, LA 70119

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Honorable Judge Karen H. Herman
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Alana Cain et al.

Plaintiff(s)

v.

City of New Orleans, et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Judge Darryl Derbigny
Section "J" Orleans Parish Criminal District Court
2700 Tulane Ave.
New Orleans, LA 70119

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William P. Quigley
Loyola University New Orleans College of Law
Law Clinic
7214 St. Charles Ave., Campus Box 902
New Orleans, LA 70119

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Honorable Judge Darryl Derbigny
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Alana Cain et al.

Plaintiff(s)

v.

City of New Orleans, et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Judge Arthur L. Hunter, Jr.
Section "K" Orleans Parish Criminal District Court
2700 Tulane Ave.
New Orleans, LA 70119

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William P. Quigley
Loyola University New Orleans College of Law
Law Clinic
7214 St. Charles Ave., Campus Box 902
New Orleans, LA 70119

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Honorable Judge Arthur L. Hunter, Jr.
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Alana Cain et al.

Plaintiff(s)

v.

City of New Orleans, et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Judge Franz Zibilich
Section "L" Orleans Parish Criminal District Court
2700 Tulane Ave.
New Orleans, LA 70119

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William P. Quigley
Loyola University New Orleans College of Law
Law Clinic
7214 St. Charles Ave., Campus Box 902
New Orleans, LA 70119

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Honorable Judge Franz Ziblich
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Alana Cain et al.

Plaintiff(s)

v.

City of New Orleans, et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Magistrate Judge Harry Cantrell
Orleans Parish Criminal District Court
2700 Tulane Ave.
New Orleans, LA 70119

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William P. Quigley
Loyola University New Orleans College of Law
Law Clinic
7214 St. Charles Ave., Campus Box 902
New Orleans, LA 70119

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Magistrate Judge Harry Cantrell
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: