

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate increase by GTE FLORIDA INCORPORATED.) DOCKET NO. 920188-TL
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In re: Resolution by the City Commission of the City of Plant City and the Hillsborough County Board of County Commissioners for extended area service between the Plant City exchange and all of Hillsborough County.) DOCKET NO. 920939-TL
) ORDER NO. PSC-92-1469-FOF-TL
) ISSUED: 12/17/92
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)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK

ORDER RESOLVING MOTIONS, IMPOSING SANCTIONS, AND WARNING
OF THE POSSIBILITY OF FURTHER SANCTIONS

BY THE COMMISSION:

Mr. Roy A. Day has filed myriad motions with this Commission in Docket No. 920188-TL. In these motions, he sometimes references other dockets and indeed, some appear to be intended to apply to both electric and telephone cases. As a preliminary matter at the hearing in the GTE Florida Inc. Rate Case, a decision was made to deny Mr. Day's request to stop the proceeding and have it heard in federal court. The request to disqualify the Public Service Commission is a repetitive theme in Mr. Day's pleadings. Under Rule 25-22.039, Florida Administrative Code, Mr. Day did not timely file a motion to intervene in Docket 920188-TL. Mr. Day's various filings are styled as follows:

September 28, 1992, in Docket No. 920188-TL (Attachment 1):

- I. Intervenor's Motion to Disqualify the Florida Public Service Commission
- II. Intervenor's Motion to Transfer to Federal Court
- III. Intervenor's Motion for Emergency Ruling on September 30, 1992
- IV. Intervenor's Motion to Hold Action in Abeyance

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September 28, 1992, in Docket No. 920188-TL (Attachment 2):

- I. Petition (regarding fraudulent request for increase in rates for basic telephone rates by GTE of Florida, Inc.)

October 12, 1992, in Dockets Nos. 920939-TL, 920188-TL (Attachment 3):

- I. Intervenor's Motion to Disqualify the Florida Public Service Commission
- II. Intervenor's Motion to Vacate Order No. PSC-92-1124-PHO-TL
- III. Intervenor's Motion for Reconsideration of Order No PSC-92-1124-PHO-TL
- IV. Intervenor's Motion for Emergency ruling on October 13, 1992
- V. Intervenor's Motion to Hold Action in Abeyance
- VI. Intervenor's Motion to Cease and Desist the Hearings Set for October 13 through 17, 1992 and October 19, 1992 for Docket No. 920188-TL and 920939-TL, and Transfer the Said Hearings to Tampa, Florida, so the Citizen's Fourteenth Amendment Rights of Due Process and Equal Protection of the Law are not Violated
- VII. Intervenor's Motion to Reconsider Order No. PSC-92-1140-CFO-TL and Order No. PSC-92-1141-CFO-TL
- VIII. Intervenor's Motion to Intervene in the Above Entitled and Numbered Actions

October 13, 1992, in Dockets Nos. 920939-TL, 920188-TL, 910890-EI (Attachment 4):

- I. Intervenor's Motion to Disqualify the Florida Public Service Commission
- II. Intervenor's Motion for Leave to Intervene for the Above Entitled and Numbered Actions and for Order Authorizing Intervention

III. Intervenor's Motion for Emergency Ruling on October 13, 1992.

October 14, 1992, in Dockets Nos. 920939-TL, 920188-TL, 920620-TL, 910890-EI (Attachment 5):

- I. Intervenor's Motion to Disqualify the Florida Public Service Commission
- II. Intervenor's Motion to Vacate the "Case Assignment and Scheduling Record" for the Above-Entitled and Numbered Actions
- III. Intervenor's Motion to Change the "Case Assignment and Scheduling Record" for the Above-Entitled and Numbered Actions
- IV. Intervenor's Motion for Emergency Ruling on October 14, 1992

October 16, 1992, in Docket No. 920188-TL (Attachment 6):

- I. Intervenor's Response in Opposition to GTE Florida Incorporated's Motion to Strike, Motion to Dismiss
- II. Intervenor's Motion for Emergency Ruling on October 16, 1992
- III. Intervenor's Motion to Disqualify the Florida Public Service Commission

November 23, 1992, in Docket No. 920188 (Attachment 7):

- I. Intervenor's Motion to Disqualify the Florida Public Service Commission and Transfer to Federal Court
- II. Intervenor's Motion to Vacate Order No PSC-1319-CFO-TL
- III. Intervenor's Motion for Reconsideration of Order No. PSC-92-1319-CFO-TL
- IV. Intervenor's Motion for Emergency Ruling on November 20, 1992.

December 9, 1992 in Docket No. 920188-TL (Attachment 8):

- I. Intervenor's Motion to Disqualify the Florida Public Service Commission and Transfer to Federal Court
- II. Intervenor's Motion to Vacate Order No. PSC-92-1380-CFO-TL
- III. Intervenor's Motion for Reconsideration of Order No. PSC-92-1380-CFO-TL
- IV. Intervenor's Motion for Emergency Ruling on December 9, 1992.

December 11, 1992 in Docket No. 920188-TL (Attachment 13):

- I. Intervenor's Response in Opposition to GTE Florida Incorporated's Motion to Strike, Motion to Dismiss, and Motion for Sanctions
- II. Intervenor's Motion for Emergency Ruling on December 11, 1992.
- III. Intervenor's Motion to Disqualify the Florida Public Service Commission
- IV. Intervenor's Motion for Expert Witness to Testify and Intervenor's Motion for an Oral Hearing
- V. Intervenor's Motion for Sanctions

With the exception of GTEFL---the subject of the rate case---Mr. Day has filed more motions than any other single party in this docket.

GTEFL has been made aware of Mr. Day's filings indirectly because Mr. Day does not serve parties with his pleadings. However, the Company has responded twice to Mr. Day's pleadings and has asked that its responses apply to all such filings. Under the circumstances, we find this to be appropriate.

In its initial response (Attachment 9), GTEFL asserts that Mr. Day has failed to timely intervene in the docket, that Mr. Day has failed to demonstrate standing to intervene pursuant to Section 350.0611, Florida Statutes and Florida case law, that Mr. Day fails to make a clear and plain statement of his cause of action to allow

GTEFL to form a response, that while it appears that Mr. Day alleges some sort of fraud that he fails to do so with particularity as is required by Rule 1.130(b), Florida Rules of Civil Procedure, that Mr. Day fails to state a cause of action for which relief can be granted under Rule 1.140, Florida Rules of Civil Procedure, that Mr. Day fails to set out a claim for relief in sufficient clarity to allow GTEFL to form defenses or to admit or deny any allegations.

In its subsequent response (Attachment 10), GTEFL argues that Mr. Day's motions were not served on any party of record and thus, are improper under Rule 25-22.028, Florida Administrative Code, and Rule 1.080, Florida Rules of Civil Procedure.

GTEFL asserts that the Florida Rules of Civil Procedure govern proceedings before the Commission except where those rules are superseded by or in conflict with the Florida Administrative Code pursuant to Rule 25-22.035(3), Florida Administrative Code.

GTEFL moves to strike the motions as impertinent and scandalous in their content within the meaning of Rule 1.130(f), Florida Rules of Civil Procedure, and a sham pleading within the meaning of Rule 1.50(a), Florida Rules of Civil Procedure. In support of this, GTEFL asserts that Mr. Day has alleged without any basis in fact, ex parte communications, co-conspiracy, and fraudulent activity involving members of the Florida Public Service Commission and GTEFL. Specifically, Mr. Day alleges that members of the Commission received "cash under the table" and or "special favors" from GTEFL, that GTEFL perpetrated fraud against its customers relating to this rate proceeding. GTEFL concludes that such allegations are libelous in nature and go beyond the qualified privilege against liability afforded parties filing a pleading. GTEFL characterizes Mr. Day's assertions as shocking and an insult to both GTEFL and the Commission.

GTEFL states that Mr. Day's allegations are conclusory in nature, devoid of any supporting specific factual allegations and that Mr. Day fails to state a claim upon which relief can be granted pursuant to Rule 1.140(b), Florida Rules of Civil Procedure.

GTEFL contends that Mr. Day has not been granted standing as an intervenor in this docket and thus has no standing to file

motions in this docket pursuant to Rule 25-22.039, Florida Administrative Code.

GTEFL asserts that Mr. Day is required by Section 120.57(1)(b)5, Florida Statutes to sign his pleadings as an indication that "to the best of his knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purposes or needless increase in the cost of litigation." Section 120.57(1)(b)5, Florida Statutes. GTEFL concludes that Mr. Day's pleadings fail in this regard and have caused the Commission and GTEFL considerable expense in responding to what can only be characterized as a frivolous and wasteful abuse of administrative process.

GTEFL concludes that the Commission should not allow this abuse to continue and requests the Commission to impose sanctions pursuant to Section 120.57(1)(b)5, Florida Statutes, including the payment of costs and attorney's fees incurred by GTEFL in responding to Mr. Day. GTEFL also suggests that Mr. Day be prohibited from making future filings of any sort without first obtaining the permission of the Commission.

GTEFL notes that Mr. Day's conduct before the Commission is typical of well documented tactics employed by Mr. Day. GTEFL cites Day v. Allstate Insurance Co., 788 F.2d 1110 (5th Cir. 1986) (Attachment 11) as an example. In that case, the Fifth Circuit Court of Appeals dismissed Mr. Day's case on the grounds that his actions constituted willful misconduct, bad faith, harassing tactics and an abuse of the judicial system. GTEFL notes that in that case his conduct was so outrageous that the Court imposed double costs against Mr. Day even though he was an in forma pauperis litigant. The court characterized Mr. Day's tactics as a "callous disregard for the obligations of any party in litigation." After reviewing the record below the Court concluded:

...we simply cannot escape the conclusion that Day's original lawsuits, and now these appeals, are utterly without merit. His briefs are filled not with argument or authority, but with vituperative harangue. He has now had his day . . . and he has done nothing to dispel the district court's

findings that these suits are baseless and vexatious. Day v. Allstate, at 1115.

GTEFL also notes that in In re: Roy Anderson Day, Nos 86-2767 and 86-9247 (5th Cir. Feb. 10, 1987) (Appendix A of Attachment 10), Mr. Day's abuse of the judicial system and harassment of its personnel reached such a level that he was confined for criminal contempt. The Government requested that Mr. Day's mental state be determined and on June 6, 1986, the district court found Mr. Day to be suffering from a mental disease and he was committed to an appropriate facility for treatment. Mr. Day was released on November 6, 1986, whereupon the district court directed the Bureau of Prisons to transport Mr. Day to his home in Florida. GTEFL concludes that the Texas court eliminated Mr. Day as a source of trouble by removing him to the State of Florida. Copies of the pertinent orders were attached to GTEFL's pleading (Appendix A of Attachment 10).

A partial listing of Mr. Day's appellate litigation history was included with GTEFL's pleading (Appendix B of Attachment 10) with a request for judicial notice.

GTEFL asks us to strike or dismiss Mr. Day's pleadings. GTEFL also requests that we impose sanctions against Mr. Day pursuant to Section 120.57(1)(b)5, Florida Statutes, including but not limited to costs and attorney fees incurred by GTEFL in responding to Mr. Day's motions filed on or before November 18, 1992, and prohibiting Mr. Day from filing further pleadings or actions with the Commission without our first authorizing the filing of such documents.

This is a difficult matter. Understanding the way in which utilities directly impact the lives of the citizens of the state, we have always attempted to accommodate pro se litigants. For example, Mr. Day's initial foray into Commission practice resulted in our opening Docket No. 920620-TL at Mr. Day's behest. However, when one of the our attorneys wrote a letter (Attachment 12) to Mr. Day in an attempt to help him with the process, the attorney found himself named as a defendant in a federal law suit.

Since then, Mr. Day has filed a plethora of paper with this Commission in numerous dockets. He has appealed an electric rate case (Docket No. 910890-EI) to the Florida Supreme Court although

he was never a party to the proceeding. We have also opened a second complaint docket (Docket No. 921249-TL) to resolve an alleged service problem which Mr. Day has brought to our attention. In the instant docket, at a service hearing in St. Petersburg, Mr. Day testified under oath that:

the federal judge is conspiring with Mr. Beard, Florida Public Service Commission, and the licensed attorneys for GTE . . . to insure that the procedures and rules of the Florida Public Service Commission will remain in place.

This assertion under oath reveals the essence of Mr. Day's pleadings; he is angry with the judiciary and the legal profession.

Upon review of the pleadings we accept the Company's assertion that Mr. Day's allegations are conclusory in nature and devoid of any supporting specific factual allegations and that Mr. Day fails to state a claim upon which relief can be granted pursuant to Rule 1.140(b), Florida Rules of Civil Procedure. Mr. Day's pleadings shall be denied on this basis. Additionally, we accept all of GTEFL's remaining arguments. A thorough examination of Mr. Day's pleadings reveals that they are filed for an improper purpose which is manifested by excessive persistence and obdurate resistance out of proportion with the issues before the Commission. Indeed, the pleadings are abusive and frivolous harangues which are intended solely to harass and which comport with virtually none of our procedural rules. Thus, Mr. Day's pleadings in Docket No. 920188-TL shall be stricken.

After a review of those pleadings and in light of Mr. Day's litigious history (which includes a court's finding that his activities as a vexatious litigant were a manifestation of mental illness) we find that the normal latitude which we afford to individuals filing pro se is inappropriate in the context of Mr. Day's propensity for baseless and repetitious pleadings. Thus, all future filings by Mr. Day shall be required to comport with our rules and shall be served on all parties of the docket in which they are filed. Failure to comply with applicable Commission rules and orders shall result in summary denial of the pleadings.

GTEFL has asked the Commission to impose various sanctions on Mr. Day pursuant to Section 120.57(1)(b)5, Florida Statutes. In this regard, GTEFL asks that Mr. Day not be allowed to file pleadings without the prior authorization of the Commission. This is similar to the method which various courts have employed to deal with Mr. Day.

Upon review, we shall impose this sanction and require Mr. Day to obtain written authorization from the Chairman prior to filing any pleading with the Commission. To this end, when Mr. Day's filings are received, the Chairman will issue a procedural order either granting or denying authorization to Mr. Day to proceed with the pleading. This order will be subject to reconsideration by the full Commission pursuant to Rule 25-22.038(2), Florida Administrative Code. No party will be required to respond to any pleading filed by Mr. Day until an order is issued granting him permission to proceed. Since Mr. Day does not serve his pleadings on the various parties to the dockets in which he files, this will put such parties on notice of Mr. Day's pleadings.

GTEFL also has asked for legal fees and costs as a sanction pursuant to Section 120.57(1)(b)5 but did not quantify the legal expenses. The Company has represented that those expenses are considerable. Certainly our staff has spent numerous hours responding to Mr. Day's motions. Since Mr. Day is a pro se litigant, we shall not impose monetary sanctions at this time. However, Mr. Day is hereby warned that, should he persist in filing improper pleadings, a monetary sanction is appropriate under Section 120.57(1)(b)5, and will be imposed.

We shall ask GTEFL to provide an estimate of expenses incurred to date in responding to Mr. Day's filings with the Commission. Additionally, we shall ask GTEFL to include in any future responses to filings by Mr. Day the costs incurred in so responding. This information will then be available to establish appropriate monetary sanctions against Mr. Day.

Therefore, based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that Mr. Day's pleadings are hereby denied for failure to state a claim upon which relief can be granted pursuant to Rule 1.140(b), Florida Rules of Civil Procedure. It is further

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ORDERED that judicial notice is hereby taken of GTEFL's partial list of appellate litigation involving Roy Day. It is further

ORDERED that Mr. Day's pleadings were filed for an improper purpose, manifested by excessive persistence and obdurate resistance out of proportion with the issues before the Commission, and warrant sanctions pursuant to Section 120.57(1)(b)5, Florida Statutes. It is further

ORDERED that as a sanction, Mr. Day's pleadings are hereby stricken. It is further

ORDERED that as a further sanction, Mr. Day shall be allowed to file no pleading with this Commission without the written authorization of the Chairman as set forth in the body of this Order. It is further

ORDERED that no party in any docket shall be required to respond to pleadings by Mr. Day absent an order by the Chairman authorizing Mr. Day to proceed. It is further

ORDERED that all filings with this Commission by Mr. Day shall be required to comply with applicable Commission rules and orders. It is further

ORDERED that Mr. Day shall serve his pleadings on all parties to the docket in which the pleading is filed. It is further

ORDERED that pleadings which do not comport with applicable Commission rules and orders shall be denied on that basis. It is further

ORDERED that Mr. Day is hereby warned that continuing to file improper pleadings will result in the imposition of monetary sanctions pursuant to Section 120.57(1)(b)5, Florida Statutes. It is further

ORDERED that GTEFL is hereby requested to provide the Commission with an accounting of all expenses incurred in responding to Mr. Day's pleadings filed with this Commission to this point. Any responses to future filings by Mr. Day should include a statement of all costs associated with such response.

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By ORDER of the Florida Public Service Commission this 17th
day of December, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

CWM

by Kay Hegan
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The

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notice of appeal must be in the form specified in Rule 9.900 (a),
Florida Rules of Appellate Procedure.

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STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

ROY A. DAY,
V. Intervenor
GTE OF FLORIDA, INCORPORATED

DOCKET NO. 920188-TL

- I. INTERVENOR'S MOTION TO DISQUALIFY THE FLORIDA PUBLIC SERVICE COMMISSION
- II. INTERVENOR'S MOTION TO TRANSFER TO FEDERAL COURT
- III. INTERVENOR'S MOTION FOR EMERGENCY RULING ON SEPTEMBER 30, 1992,
in the alternative,
- IV. INTERVENOR'S MOTION TO HOLD ACTION IN ABEYANCE

ROY A. DAY, Intervenor, files these motions, and Intervenor would respectfully show unto this court the following in support thereof:

1. For judicial economy, Intervenor repeats and realleges the Intervenor's Motion To Disqualify Florida Public Service Commission filed on July 7, 1992 in Docket No. 920620-TL, Day v. GTE Florida, Inc., as if the aforesaid Motion To Disqualify Florida Public Service Commission was expressly stated herein. Further, Intervenor repeats and realleges the Intervenor's Petition filed in the above-entitled and numbered action, as if the aforesaid Intervenor's Petition was expressly stated herein. In addition, for judicial economy, Intervenor repeats and realleges each and every pleading filed by Intervenor in Docket No. 920620-TL, Day v. GTE Florida, Inc., and each and every correspondence sent to Chairman Thomas M. Beard from Intervenor Roy A. Day which relates, pertains, refers or mentions the

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action in Docket No. 920620-TL, as if the aforesaid pleadings and correspondence were expressly stated herein. Accordingly, the Florida Public Service Commission is disqualified from proceeding on the above-entitled and numbered action until a time in the future when the federal courts have entered a final decision in the "companion federal lawsuit". Further, the Florida Public Service Commission has a clear right to transfer the above-entitled and numbered action to a federal court with competent jurisdiction. In the alternative, Intervenor moves the Florida Public Service Commission to hold the above-entitled and numbered action in abeyance until a time in the future when a final decision has been entered in C.A. No. 92-963-CIV-T-17C, including each and all appeals, and a ruling from the Supreme Court of the United States. Due to the serious issues involved in the instant action, Intervenor needs an emergency ruling on September 30, 1992 on each and all pleadings filed by Intervenor in the above-entitled and numbered action.

2. On July 14, 1992 Roy A. Day (hereafter, "Intervenor") filed a federal civil action in the United States District Court for the Middle District of Florida, Tampa Division (See C.A. No. 92-963-CIV-T-17C, Roy A. Day v. Thomas M. Beard, et al.) for the course of illegal conduct orchestrated by the Florida Public Service Commission (hereafter, "FPSC"), specifically, Mr. Thomas M. Beard, and his co-conspirators. For judicial economy, Intervenor repeats and realleges Intervenor's C.A. No. 92-963-CIV-T-17C, as if the aforesaid Federal Complaint was expressly stated herein. Since Roy A. Day is proceeding in a forma pauperis mode, the cost is prohibitive to provide a copy of the aforesaid federal complaint. Accordingly, the

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'FPSC' is to obtain a copy of the aforesaid federal complaint. The 'FPSC', pursuant to the above-entitled and numbered action, has orchestrated a "travesty of justice", when in fact, it is FRAUD of the FIRST ORDER on the citizens of the State of Florida. Accordingly, Plaintiff moves the 'FPSC' to disqualify the 'FPSC' from proceeding on the above-entitled and numbered action and transfer to a federal court with competent jurisdiction, in the alternative, hold the above-entitled and numbered action in abeyance to a time in the future when a final decision has been entered in C.A. No. 92-963-CIV-T-17C, including but not limited to, each and all appeals to the United States Court of Appeals for the Eleventh Circuit and the Supreme Court of the United States, in the event an appeal becomes necessary. The issues which the 'FPSC' refused and continued to refuse to timely entertain in the above-entitled and numbered action, and the issues which the 'FPSC' shirked its legal and social responsibility to timely entertain in the above-entitled and numbered action, and the associated 'companion cases', will be entertained in the aforesaid C.A. No. 92-963-CIV-T-17C. Due to the course of illegal conduct which the 'FPSC' has engaged in against Intervenor, and others similarly situated, to violate Intervenor's civil rights, such a course has produced facts and evidence and law which the 'FPSC' has now lost competent jurisdiction of Intervenor's "two" (2) complaints before the 'FPSC'. Intervenor, and those similarly situated, cannot receive a FAIR HEARING before the 'FPSC'. For judicial economy, since Intervenor cannot afford to provide a copy of Intervenor's federal Complaint at this stage of litigation, Intervenor repeats and realleges Intervenor's C.A. No. 92-963-CIV-T-17C, as if the aforesaid Complaint was expressly stated herein.

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3. For judicial economy, Intervenor repeats and realleges each and every document sent to Thomas M. Beard from Intervenor Roy A. Day, and Intervenor repeats and realleges each and every document filed by Intervenor in the above-entitled and numbered action, and the "companion case" (Docket No. 920-620-TL), as if the aforesaid documents were expressly stated herein. Intervenor demands that Thomas M. Beard answer, with full and complete answers, each and every word and sentence and phrase and statement pertaining to each and all Plaintiff's correspondence sent to Thomas M. Beard. Intervenor moves the "FPSC" to transfer the above-entitled and numbered action to federal court, in the alternative, hold the above-entitled and numbered action in abeyance to a time in the future after Intervenor has received each and every full and complete answer from Thomas M. Beard on each and all Intervenor's correspondence to Thomas M. Beard. Intervenor's rights and property, and those similarly situated, are being adversely affected by the delay in receiving the aforesaid answers from Thomas M. Beard. "JUSTICE DELAYED, IS JUSTICE DENIED"! IT IS SELF-EVIDENT THAT INTERVENOR ROY A. DAY CANNOT RECEIVE A "FAIR HEARING" FROM THE "FPSC".

4. The issues raised in the federal complaint, C.A. No. 92-963-CIV-T-17C, is a multi-count complaint with numerous issues, including but not limited, the issues raised by Intervenor Roy A. Day with the "FPSC". Accordingly, pursuant to judicial economy, justice can be served by permitting the federal court entertain each and all issues, including the issues Intervenor has pending before the "FPSC". The "FPSC" has no jurisdiction to entertain each and all issues in Intervenor Roy A. Day's federal Complaint, C.A. No.

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92-963-CIV-T-17C; however, the Federal Court has a right at this stage of litigation to entertain each and all issues of Intervenor, including but not limited, the issues Intervenor Roy A. Day filed with the "FPSC". Judicial economy must be the driving force behind each and all judicial decisions, when the issues are interconnected.

5. The record should reflect for future reference to the ladies and gentlemen of the jury, that the Florida Public Service Commission refused and continued to refuse to entertain Plaintiff's pleadings in a "timely" manner to ensure that the law firm of Ketchey, Horan, Hearn & Neukamm, specifically, [m. eric edington]¹ received "artificial-monopolistic" legal fees at the rate of \$300.00 per hour in "direct contravention" to Plaintiff's pleadings in the "companion case" (Docket No. 920620-TL).

6. Intervenor demands that NO monies of GTE Corporation (parent company), and its subsidiaries and affiliates and agents and servants and co-conspirators, including but not limited to, GTE of

¹Lower case letters are used to signify a "slazy, corrupt, dishonest, unethical, illegal licensed attorney" (hereafter, "SCDUILA"), and to signify that the citizens have taken so-called licensed attorneys' rights, and their families and supporters' rights, from them, since they do not honor 90% of the citizens' rights, and have set-up a "two tier system of justice". 90% of the citizens cannot afford a "SCDUILA" at \$300.00 per hour in artificial-monopolistic legal fees. In addition, it signifies that each and every citizen is held accountable to the law whether the citizen knows the law or not. Accordingly, each and every citizen has the right to be taught primary and secondary legal research and open court litigation skills under the 5th and 14th Amendments, specifically, due process and equal protection of the law. Subsequently, each and every citizen has the right to take a "national-legal-test" and "state-legal-test", and be elected or appointed a "judge".

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Florida, Inc., be spent on each and all actions filed by Intervenor with the Florida Public Service Commission on so-called "licensed attorneys" in the State of Florida, which are employed by so-called "law firms" making artificial-monopolistic legal fees. Roy A. Day, Intervenor, demands that each and all actions filed by Intervenor with the Florida Public Service Commission be handled by "in-house attorneys" only of GTE Florida, Inc., since GTE of Florida, Inc. is a "public monopoly", and the citizens have a clear right not to pay artificial-monopolistic legal fees for each and all complaints filed with the Florida Public Service Commission.

7. Roy A. Day, Intervenor, is appearing in a "citizen-attorney" mode, and only has five(5) hours each week to work on legal matters. To the contrary, "privilege class - illegal licensed attorneys" have forty (40) hours each week to work on legal matters. The Florida Rules of Civil Procedure which require only ten (10) days for a response are discriminatory against the "ordinary citizen". Accordingly, Intervenor needs forty (40) days to file a response to each and all pleadings filed by Intervenor with the Florida Public Service Commission. Further, in a forma pauperis mode, Intervenor cannot afford to obtain copies of the pleadings filed by Intervenor in C.A. No. 92-963-CIV-T-17C. Accordingly, the "FPSC" is to obtain each and all copies of Intervenor's pleadings in C.A. No. 92-963-CIV-T-17C.

WHEREFORE, PREMISES CONSIDERED, Intervenor Roy A. Day request that the following relief be granted:

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a. That Intervenor Roy A. Day's Motion To Disqualify Florida Public Service Commission for the above-entitled and numbered action is GRANTED; That Intervenor Roy A. Day's Motion For Transfer To Federal Court is GRANTED; declare that the above-entitled and numbered action is transferred to the United States District Court for the District of Columbia, in the alternative, to C.A. No. 92-963-CIV-T-17C, so the said federal court can determine a court with competent jurisdiction, and subsequently, entertain the instant motion to hold action in abeyance.

b. In The Alternative: That Intervenor's Motion To Hold Action In Abeyance is GRANTED; that the above-entitled and numbered action is held in abeyance to a time in the future when a final judgment has been entered in C.A. No. 92-963-CIV-T-17C, including but not limited to, each and all appeals.

c. Declare that since Plaintiff Roy A. Day is proceeding in a forma pauperis mode, and in a "citizen-attorney" mode, and only has five (5) hours each week to spend on legal matters, and since "illegal licensed attorneys" have eight hours a day, seven days a week to spend on legal matters, Intervenor Roy A. Day has a clear right to have forty (40) days to respond to each and all pleadings of the opposing counsel, and each and all orders of the commission or court, even though the Florida Rules of Civil Procedure only permit ten (10) days; declare that each and all Florida Rules of Civil Procedures which require only ten (10) days to respond to pleadings is void, null and illegal, in that the said RULE sets-up a "two tier system of justice", and violates the Florida citizens' Fourteenth Amendment rights of due process and equal protection of the law and

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the basic rights of the Constitution of the State of Florida; declare each and all citizens must be treated the same before the law, and no "privilege class illegal licensed attorney" making artificial-monopolistic legal fees working forty (40) hours a week on legal matters is to take undue advantage of the citizens of the State of Florida; declare that since the Florida Rules of Civil Procedure are void, null and illegal since they are discriminatory against ninety percent (90%) of the Florida citizens, and were written for the "privilege class - illegal licensed attorney", that a "Blue Ribbon Panel" of "citizen-attorneys", who have completed a course in primary and secondary legal research and open court litigation skills, by elected to "re-write" the Florida Rules of Civil Procedure and the Florida Rules of Criminal Procedure and the Florida Rules of Evidence; declare that since Roy A. Day is proceeding in forma pauperis proceeding, that the "FPSC" will obtain each and all pleadings filed by Roy A. Day in C.A. No. 92-963-CIV-T-17C so the record is clear and certain and full and satisfactory.

d. That Roy A. Day's Motion For Emergency Ruling On September 30, 1992 is GRANTED; that the instant pleading will be entertained on September 30, 1992 due to the issues being involved are of GREAT PUBLIC CONCERN.

e. Granting Roy A. Day such other and further relief as may be just.

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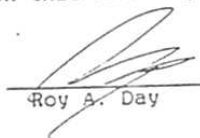
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Respectfully submitted,


Roy A. Day

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing motion has been forwarded to Thomas R. Parker, and M. Eric Edgington, GTE Florida Incorporated, P.O. Box 110, MC &, Tampa, Florida 33601, via first class mail on this 25th day of September, 1992.


Roy A. Day

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STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

ROY A. DAY,
Intervenor
V.

DOCKET NO. 920188-TL

GTE OF FLORIDA, INCORPORATED

I. PETITION

NOW COMES ROY A. DAY, (hereafter, Intervenor), and for his Complaint against the above named GTE of Florida, Inc. (hereafter, "GTE"), respectfully represents unto this commission as follows:

1. The instant complaint is filed with the Florida Public Service Commission (hereafter, "FPSC"), in connection with the "fraudulent" request for increase in rates for basic telephone rates by GTE of Florida, Inc.

2. Intervenor is being forced and coerced to file the instant "Complaint" a "second time", since the corrupt, dishonest and unethical "FPSC" engaged in a course of "illegal" conduct against Intervenor on Intervenor's "first complaint" received on by Steve Tribble on September 11, 1992 (See EXHIBIT " ", which EXHIBIT "1" is attached hereto and by reference incorporated herein). The "FPSC" is totally corrupt, and orchestrated and directed by "sleazy, corrupt, dishonest, unethical, illegal licensed attorneys" (hereafter, "SCDUILA"), and not by the citizens of the State of Florida, and for the citizens of the State of Florida.

3. The instant Petition is being filed in a "forma pauperis proceeding". Further, each and every citizen is held accountable to the law whether the citizens knows the law or not. Accordingly, each

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and every citizen has the right to be taught the law. WE HAVE A GOVERNMENT BY AND FOR THE PEOPLE, and not by and for 'illegal' licensed attorneys - unfortunately, in the year A.D. 1992, we now have a government by and for 'illegal' licensed attorneys, including but not limited to, agencies and departments, including the 'FPSC'. Subsequently, the entity known as 'licensed attorneys' in the State of Florida is 'illegal'. Each and every citizen is a 'citizen-attorney', and the citizen-attorneys must re-write the Florida Rules of Civil Procedure, Florida Rules of Evidence, Florida Rules of Criminal Procedure, and each and all statutes and RULES, including but not limited to, the RULES and statutes pertaining to the 'FPSC'. NOTE: So-called 'public counsel' 'Jack Shreve' does not represent Intervenor, and 95% of the citizens, since 'Jack Shreve' is co-conspirator with 'GTE' and the 'FPSC' and other 'un-named' 'Florida illegal licensed attorneys', to put on a 'theatrical-fraudulent-performance' before the citizens that 'Jack Shreve' represents the interest of 95% of the citizens, in fact, 'Jack Shreve' represents 'illegal' licensed attorneys, and their clients, including but not limited to, 'GTE'. 'Jack Shreve' ^{not} does represent Intervenor, and 95% of the citizens of the State of Florida pertaining to issues involved with the 'FPSC'. 'Jack Shreve' is a FRAUD OF THE FIRST ORDER on the citizens of the State of Florida.

4. Intervenor files the instant Petition on behalf of the citizens of the State of Florida who cannot afford a 'SCDUILA' at artificial-monopolistic legal fees at \$300.00 per hour (95% of the citizens of the State of Florida), and the citizens who are 'paupers' as defined by law, and each and all 'citizen-attorneys', who cannot

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afford to pay an increase in a "monopolistic telephone rate increase" being orchestrated and directed by "SCDUILA" and their co-conspirators, to "railroad" through a "fraudulent rate increase" by refusing and continuing to refuse to permit ninety-five percent (95%) of the citizens of the State of Florida from being HEARD meaningfully. Such a course has violated 95% of the citizens Fourteenth Amendment rights, with an overlay that the "format" and "structure" being used by the "FPSC" is "fraudulent", and denies the citizens true, correct and meaningful "ACCESS" to the "FPSC" to be HEARD. The so-called "commissioners" and "chairman" of the "FPSC" do not represent the citizens of the State of Florida, but only the large corporations and the "privilege class of status quo citizens" and their \$300.00 per hour "SCDUILA", so the so-called commissioners can receive "cash under the table" and/or "special favors" from large corporation and "SCDUILA", to deny the facts and evidence and law exist when it pertains to ninety-five percent (95%) of the citizens of the State of Florida, so "GTE", and other major "public utilities" can GOUGE the citizens using monopolistic practices, and so the co-conspirators ("SCDUILA"), can make artificial-monopolistic legal fees at \$300.00 per hour. The so-called "Hearing Officer" and the so-called "Judicial Review" in the "FPSC" is a "fraudulent" "structure" and "format" of the "FPSC" to ensure the citizens are not heard meaningfully, and the public monopolies "railroad" through a rate increase using "SCDUILA".

5. For judicial economy, Intervenor repeats and realleges Intervenor's original "federal complaint" filed in C.A. No. 92-963-CIV-T-17C, Roy A. Day, et al. vs. GTE of Florida, Inc. et al.,

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in the United States District Court, for the Middle District of Florida, Tampa Division, as if the aforesaid 'original' 'federal complaint' was expressly stated herein. The aforesaid 'original' 'federal complaint' pertains to the fraudulent 'long distance service' of GTE of Florida, Inc. known as 'Extend Calling Service'.
NOTE: The instant Petition is being filed pursuant to judicial economy, and in a forma pauperis proceeding. Accordingly, the 'FPSC' is to obtain a copy of the aforesaid 'original' 'federal complaint', since Intervenor cannot afford to provide a copy of the said 'federal complaint'. Upon information and belief, the 'FPSC' already has a copy of the aforesaid 'federal complaint', and the associated 'Supplemental Complaint'.

6. In connection with the aforesaid original 'federal complaint', Intervenor filed a 'Supplemental Complaint', which pertains to the 'fraudulent' request for an increase in basic telephone rates by GTE of Florida, Inc. (See EXHIBIT '2', which EXHIBIT '2' is attached hereto and by reference incorporated herein). The aforesaid EXHIBIT '2' (Supplemental Complaint) was filed in the federal complaint on August 25, 1992. ILLEGAL CONDUCT BY GTE OF FLORIDA, INC., by way of example, but not in limitation to: (1) GTE of Florida, Inc. is using the sham procedures and the fraudulent check and balance system at the 'FPSC' to 'railroad' through the 'fraudulent' rate increase; (2) Plaintiff, and millions of citizens in the State of Florida, are being denied the right to be heard meaningfully at the 'FPSC'; (3) The so-called 'Hearing Officer' and the so-called 'Judicial Review' are 'fraudulent' as defined by law, and issue 'FRAUDULENT, CLONE, STATUS QUO DECISIONS', which do not represent ninety-five percent

(95%) of the citizens of the State of Florida; the aforesaid "fraudulent decisions" represent illegal licensed attorneys only, at artificial-monopolistic legal fees of \$300.00 per hour; (4) GTE of Florida, Inc. has filed "fraudulent documents" which were "askew" and "altered", including but not limited to, accounting books (which used "askew" accounting principles), ledgers, operation cost, materials cost; (6) GTE of Florida, Inc. has engaged in "mismanagement" of its operations.

7. THE FOLLOWING STATEMENT IS FOR THE LADIES AND GENTLEMEN OF THE JURY: Upon information and belief, the "FPSC" and GTE of Florida, Inc. have already obtained a copy of the aforesaid Supplemental Complaint, and had "illegal contact with the federal courts, including the United States Court of Appeals for the Eleventh Circuit. Further, GTE of Florida, Inc. and the "FPSC" have subsequently begun to conspire to put on a "theatrical-fraudulent-performance" for the public to give a false impression that the issues are being addressed, when in fact, GTE of Florida, Inc. has begun a conspiracy with the "FPSC" attempt to cover-up and conceal the course of illegal conduct against the citizens of the State of Florida.

8. Intervenor Roy A. Day appeared at the "fraudulent" "dog and pony show" hearing held in St. Petersburg, Florida at the University of South Florida campus on September 16, 1992 pertaining to the "GTE" rate increase, and placed "direct testimony" on the face of the record. Intervenor Roy A. Day was the first speaker. So the record is clear and certain and full and satisfactory, Intervenor Roy A. Day repeats and realleges the aforesaid "direct testimony", as if the aforesaid direct testimony was expressly stated herein. Each and all

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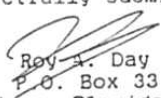
commissioners are to read the aforesaid "direct testimony". If the said "transcript", which was made of the aforesaid hearing, does not include Intervenor Roy A. Day's "direct testimony", then the commissioners are to obtain a "video" recording from local Television Stations - channel "8" or "10" or "13" or "44" in the Tampa Bay area.

WHEREFORE, PREMISES CONSIDERED, INTERVENOR, demands that the following relief be granted:

a. That the "FPSC" recuse itself from proceeding on the above-entitled and numbered complaint, since the "FPSC" is a co-conspirator with GTE of Florida, Inc. to "railroad" through a fraudulent rate increase using sham procedures and a fraudulent check and balance system; declare that the above-entitled and numbered complaint is transferred to the United States District for the District of Columbia, in the alternative, to C.A. No. 92-963-CIV-T-17C in the United States District Court for the Middle District of Florida, Tampa Division.

b. That the rate increase for basic telephone service requested by GTE of Florida, Inc. be denied in its entirety (a zero percent (0%) increase), since the said request is a fraudulent request, and not supported by honest, ethical, true, correct, clear, strong, convincing, unequivocal and uncontroverted evidence.

Respectfully submitted,


Roy A. Day
P.O. Box 33
Tarpon Springs, Florida 34688-0033

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Roy A. Day
P.O. Box 33
Tarpon Springs, Florida 34688-0033

September 25, 1992

PERSONAL for
Mr. Steve Tribble, Director of Records and Reporting
Florida Public Service Commission
101 Gaines Street
Tallahassee, Florida 32399

RE: Roy A. Day's letter dated September 9, 1992 on "New Complaint"
RE: Docket No. 920620-TL; Day v. GTE Florida
RE: Request for information

Dear Mr. Tribble:

IF AN AGENT AND SERVANT OF MR. STEVE TRIBBLE IS READING THE INSTANT LETTER, YOU ARE TO CEASE AND DESIST READING THE INSTANT LETTER, AND GIVE TO MR. STEVE TRIBBLE, AND MR. STEVE TRIBBLE, ONLY. THANK YOU.

On September 11, 1992, your office received a certified letter dated September 9, 1992 from Roy A. Day, which enclosed a "new complaint" by Roy A. Day against GTE of Florida, Inc., pertaining to the GTE of Florida, Inc. rate increase. On September 25, 1992, I received in the United States Mail a "Notice Of Amended Complaint" filed for the above-entitled and numbered complaint, specifically, Docket Number 920620-TL, which "fraudulently" appears to incorporate my "new Complaint" received by your office on September 11, 1992 with Docket Number 920620-TL. Pursuant to the Florida Rules of Civil Procedure, you have willfully, intentionally, wantonly, maliciously and fraudulent "misnomered" my "new complaint" as an "amended complaint", when in fact, if you want to "include" my "new complaint" with Docket Number 920620-TL, it must be a "Supplemental Complaint, since my "new complaint" is not intended to eliminate the "original complaint" filed for the above-entitled and numbered complaint, specifically, Docket Number 920620-TL, when in fact, my "new complaint" has new issues entirely.

Accordingly, would you please provide me the following information immediately: (1) A statement which specifically states that Roy A. Day's "original complaint" filed in Docket Number 920620-TL is still pending before the "FPSC", and the "new complaint" received by your office from Roy A. Day, which was incorporated into Docket Number 920620-TL, does not "delete" the issues in Roy A. Day's "original complaint", and the "new complaint" of Roy A. Day will be filed as a "new complaint" with a separate docket number, since the issues are entirely different, with an overlay statement that Roy A. Day's "new complaint" is being filed as a "INTERVENOR" in the GTE of Florida, Inc. rate increase request; (2) A statement which states that the "original complaint" in Docket Number 920620-TL is presently pending

(P.7) (EX. "1")

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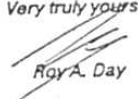
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Mr. Steve Tribble
September 25, 1992
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before the "FPSC"; (3) The date when my request for an EMERGENCY
RULING to hold Docket Number 920620-TL in abeyance will be ruled on.
I need the aforesaid information immediately, since time is of
the essence to file pleadings against your office, since it appears
you, and your co-conspirators, are attempting to "illegally" dismiss
my complaints by using "fraud".

Thank you for your cooperation and assistance in this matter.

Very truly yours,


Roy A. Day

RAD/rr

(P8)(EX. "1")

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ROY. A. DAY,
ON BEHALF OF HIMSELF AND
AS CLASS ACTION ON BEHALF
OF OTHERS SIMILARLY SITUATED,
Plaintiffs

C.A. NO. 92-963-CIV-T-17C

VS.

UNITED STATES OF AMERICA, et al.,
Defendants

SUPPLEMENTAL COMPLAINT

NOW COMES ROY A. DAY, PLAINTIFF herein, and on behalf of others similarly situated, files a supplement to Plaintiff's Complaint in this action. Since the filing of the original Complaint in this action, Defendants have begun a new course of illegal conduct to "railroad" an increase in "basic telephone rates" through the Florida Public Service Commission, and Plaintiff alleges:

COUNT ELEVEN

1. PLAINTIFF, ROY A. DAY, is a citizen of the United States of America and a resident of the State of Florida.
2. Defendant Thomas M. Beard now is, and at all times herein mentioned was duly appointed and employed by the Florida Public Service Commission as "Chairman". At all times pertinent to this Complaint, and at all times mentioned, Defendant Thomas M. Beard, was acting individually and in concert, as the "principal co-conspirator" with each and all Defendants, and Defendants' employees and agents

(P. 9) (EX. "2")
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and servants and co-conspirators. (NOTE: For judicial economy, and for the purpose of the instant Supplemental Complaint, Defendant Thomas M. Beard, is the 'quasi' Defendant Florida Public Service Commission, and the Florida Public Service Commission's agents and servants and employees and co-conspirators, including but not limited to, so-called 'commissioners' and 'Hearing Officers' and 'Judicial Review' personnel'.)

3. Defendants, James L. Johnson and Charles R. Lee, are citizens of the United States and residents of the State of Connecticut. At all times pertinent to this Complaint, Defendants James L. Johnson and Charles R. Lee, were employed by Defendant GTE Corporation, the parent company to numerous subsidiaries and affiliates, including but not limited to, GTE Florida, Inc. and GTE South. In doing the acts and things hereinafter set forth, Defendants James L. Johnson and Charles R. Lee, were acting individually and in concert with GTE Corporation, and its numerous subsidiaries and affiliates, including but not limited to GTE Florida, Inc. and GTE South, in Defendants James L. Johnson and Charles R. Lee's capacity as Chairman of the Board and Chief Executive Officer of GTE Corporation, the parent company to the numerous subsidiaries and affiliates of GTE Corporation, including but not limited to, GTE South and GTE Florida, Inc. Each and all acts of Defendants James L. Johnson and Charles R. Lee set forth herein were done by Defendants James L. Johnson and Charles R. Lee acting individually and in concert under pretense and by virtue of, and under the authority of, Defendants James L. Johnson and Charles R. Lee's office as Chairman of the Board and Chief Executive Officer GTE Corporation, the parent company to the numerous

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subsidiaries and affiliates, including but not limited to, GTE Florida, Inc., and GTE South. At all times pertinent to this Complaint, and at all times mentioned, and in doing the acts and things hereinafter set forth, Defendant James L. Johnson and Defendant Charles R. Lee, were acting individually and in concert, as "co-conspirators" with each and all Defendants, including but not limited to, Defendant Thomas M. Beard, under the pretense of the statutes, ordinances, regulations, customs, and usages of the State of Florida, and under the authority of the State of Florida to deny Plaintiff, and others similarly situated, their rights under the Constitution of the United States, particularly under the provisions of the Fourteenth Amendment. Further, each and all Defendants' employees and agents and servants and co-conspirators, were acting individually and in concert, as "co-conspirators" under the pretense of the statutes, ordinances, regulations, customs, and usages of the State of Florida, and under the authority of the State of Florida to deny Plaintiff, and others similarly situated, their rights under the Constitution of the United States, particularly under the provisions of the Fourteenth Amendment.

4. This is a civil action brought for preliminary and permanent injunctions to prevent deprivations under color of Federal Law of certain rights, privileges, and immunities secured to Plaintiff by the Constitution of the United States, for an order declaring unconstitutional the discriminatory acts of Defendants, and for money damages to redress the injury caused to Plaintiff by the unconstitutional acts of Defendants.

(P11)(EX. "2")

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5. This action is brought pursuant to Title 28, United States Code, Section 2201, 2202, and Title 42, United States Code, Section 1983 and 1985. This Court has jurisdiction under Title 28, United States Code, Section 1343.

6. Plaintiff brings and prosecutes this action pursuant to Rule 23 of the Federal Rules of Civil Procedure, as a 'Class Action' for himself and a representative of and on behalf of all persons similarly situated, to wit, each and every Florida citizen who has been subjected to Defendants' 'sham procedures' and 'fraudulent check and balance systems' at the Florida Public Service Commission, to ensure the citizens of the State of Florida are not 'meaningfully heard', and so the true and correct evidence is not placed on the face of the record at the Florida Public Service Commission, with the overlay of generating a 'fraudulent' 'final decision', including but not limited to, a 'fraudulent increase in basic telephone rates'. Those persons for and on whose behalf this action is brought are hereinafter referred to as 'class members'.

7. Plaintiff has been informed and believes and on such information and belief alleges, that the class members are so numerous that joinder of all members is impracticable. The prosecution of separate actions by the individual class members, even if possible, would create a risk of: (A.) inconsistent or varying adjudications with respect to individual class members against 'Defendants', and which could establish incompatible standards of conduct for the 'Defendants' or (B.) adjudications with respect to individual class members which would, as a practical matter, be dispositive of the interests of the other class members not parties to the adjudications

(P12) (EX. "2")
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or which would substantially impair or impede the ability of the class members to protect their interests.

8. There are substantial questions of law and facts on controlling issue of Defendants' 'sham procedures' and 'fraudulent check and balance systems' at the Florida Public Service Commission, to ensure the citizens of the State of Florida are not 'meaningfully' heard, and so the true and correct evidence is not placed on the face of the record at the Florida Public Service Commission, with the overlay of generating a 'fraudulent' 'final decision', including but not limited to, a 'fraudulent increase in basic telephone rates'. The aforesaid issues are common to the claim of Plaintiff against Defendants, and to the claim of each of the class members against Defendants. The question of Defendants' 'sham procedures' and 'fraudulent check and balance systems' at the Florida Public Service Commission, to ensure the citizens of the State of Florida are not 'meaningfully' heard, and so the true and correct evidence is not placed on the face of the record at the Florida Public Service Commission, with the overlay of generating a 'fraudulent' 'final decision', including but not limited to, a 'fraudulent increase in basic telephone rates', are governing and dispositive of the claims against Defendants of each class member. The claims of Plaintiff herein are typical, in all important respects, of the claims of each and all of the class members, and are based and arises out of the identical facts constituting the unlawful conduct of Defendants to establish 'sham procedures' and a 'fraudulent check and balance system' at the Florida Public Service Commission, to ensure the citizens of the State of Florida are not 'meaningfully' heard, and so the true and correct evidence is

(P13) (EX. "2")
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not placed on the face of the record at the Florida Public Service Commission, with the overlay of generating a 'fraudulent' 'final decision', including but not limited to, a 'fraudulent increase in basic telephone rates'.

9. Plaintiff will fairly and adequately represent the interests of the class and the individual members due to the reason of the similarity or identity of the claim of Plaintiff and the individual class members, specifically, Defendants' 'sham procedures' and 'fraudulent check and balance systems' at the Florida Public Service Commission, to ensure the citizens of the State of Florida are not 'meaningfully' heard, and so the true and correct evidence is not placed on the face of the record at the Florida Public Service Commission, with the overlay of generating a 'fraudulent' 'final decision', including but not limited to, a 'fraudulent increase in basic telephone rates'. The successful assertion of Plaintiff's claims here, will necessarily establish determinations of fact and law adequate to prove liability of Defendants, and to each class member. The questions of law and fact common to Plaintiff against Defendants, and to the claims of all class members against Defendants to engage in 'sham procedures' and 'fraudulent check and balance systems' at the Florida Public Service Commission, to ensure the citizens of the State of Florida are not 'meaningfully' heard, and so the true and correct evidence is not placed on the face of the record at the Florida Public Service Commission, with the overlay of generating a 'fraudulent' 'final decision', including but not limited to, a 'fraudulent increase in basic telephone rates', predominate over questions, if any affecting only individual members, and a class action is superior to

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other available methods, if in fact any other methods are available which Plaintiff denies, for the fair and efficient adjudication of the matters alleged herein.

10. Defendant James L. Johnson and Defendant Charles R. Lee and Defendant GTE Corporation and GTE Florida, Inc. is representative of the telecommunication industry in the State of Florida, in that the aforesaid Defendants have "conspired" with Defendant Thomas M. Beard (Florida Public Service Commission and its agents and servants and employees and co-conspirators, including but not limited to, commissioners and "Hearing Officers" and "Judicial Review" personnel), to establish "sham procedures", and a "fraudulent check and balance system", at the Florida Public Service Commission, to ensure the citizens of the State of Florida are not "meaningfully" heard, and so the true and correct evidence is not placed on the face of the record at the Florida Public Service Commission, with the overlay of generating a "fraudulent" "final decision", including but not limited to, a "fraudulent increase in basic telephone rates".

11. Defendants concocted and devised, carried out, a plan, scheme, practice and course of illegal conduct which operated as a fraud or deceit upon Plaintiff and the class members, and which operated to deny Plaintiff and the citizens of the State of Florida the right to have "NO" "sham procedures" and "NO" "fraudulent check and balance systems" at the Florida Public Service Commission, with the overlay to deny Plaintiff and the citizens of the State of Florida the right to be "meaningfully" heard, and so the true and correct evidence is not placed on the face of the record at the Florida Public Service Commission, generating a "fraudulent" "final decision",

including but not limited to, a 'fraudulent increase in basic telephone rates' by Defendant GTE Corporation and Defendant GTE Florida, Inc.

12. The aforesaid Defendants' plan, scheme, practice and course operated as a fraud or deceit upon Plaintiff, and the class members, as follows:

13. Since the filing of the original Complaint in this action, Defendants have begun a new course of 'railroading' an increase in 'basic telephone rates' through the same 'facsimile', fraudulent system that Defendants subjected Plaintiff to in the original Complaint, which involved Defendant GTE Florida, Inc. 'railroading' through a so-called 'long distance calling service' known as 'Extended Calling Service'. Defendant GTE Florida, Inc. is now attempting to 'railroad' through an increase in 'fraudulent' basic telephone rates for GTE Florida, Inc. customers, specifically, Defendants have instituted 'sham procedures' and a 'fraudulent check and balance system' at the Florida Public Service Commission, to ensure that ninety-five percent (95%) of the citizens are not heard 'meaningfully', and are denied true and correct 'access' to the Florida Public Service Commission to cease and desist each and all 'fraudulent basic telephone rate increases' that are not warranted or justified, with the overlay that the 'final decision' pertaining to each and all 'fraudulent basic telephone rate increases' are made 'NOT' by ninety-five percent (95%) of the citizens, but by a 'privilege class 'illegal' licensed attorney' designated as a 'Hearing Officer', and subsequently, by a 'privilege class 'illegal' licensed attorney' in a so-called 'Judicial Review', with the overlay

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that the 'privilege class 'illegal' licensed attorneys' for the said parties are making artificial-monopolistic legal fees of \$300.00 per hour. Accordingly, the 'final decision' is a 'FRAUDULENT, CLONE, STATUS QUO DECISION' issued by Defendants, and Defendants agents and servants and co-conspirators, to ensure that ninety-five percent (95%) of the citizens of the State of Florida are subjected to the said 'SHAM PROCEDURE', with the overlay to ensure that the citizens receive an increase in the 'fraudulent basic telephone rate', without being heard meaningfully - the ninety-five percent (95%) citizen has no veto power over the 'fraudulent basic telephone rate increases'. The 'fraudulent' increase in basic telephone rate is 'railroaded' through the 'SHAM PROCEDURE' by Defendants placing a 'fraudulent theatrical performance' before the citizens. The Defendants 'SHAM PROCEDURES' have created a 'GLASS CEILING', so that ninety-five percent (95%) of the citizens have no 'veto' power of the 'fraudulent increase in the basic telephone rates', with the overlay that ninety-five percent (95%) of the citizens can 'protest' and 'yell' and 'scream' and 'march', but their exercise of freedom of speech is 'useless', since Defendants, and Defendants' co-conspirators ('privilege class 'illegal' licensed attorneys designated as the so-called 'Hearing Officer', or designated as the so-called 'Judicial Review' personnel), issue 'FRAUDULENT, CLONE STATUS QUO DECISION', which eliminate ninety-five percent (95%) of the citizens in the 'controlling decision making process'. Defendants and Defendants co-conspirators have generated so-called 'ESOTERIC LAW', specifically, law for the privilege class citizen who can afford a so-called Florida 'illegal' Licensed Attorney at artificial-monopolistic legal

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fees of \$300.00 per hour. Plaintiff attempted to obtain the aforesaid "ESOTERIC LAW", but was denied the true and correct law (See Plaintiff's original Complaint on Plaintiff being denied what law the Florida Public Service Commission is using). Subsequently, Defendants are able to "railroad" through a fraudulent increase in the basic telephone rates which are NOT justified or warranted, with the overlay that Defendants are using fraudulent accounting procedures, and willfully, intentionally, wantonly, maliciously and fraudulently submitting "askew documents" and "altered documents", to cunningly, deceptively and fraudulently mislead the citizens of the State of Florida that an increase in the basic telephone rate is needed, when in fact, it is not needed. The aforesaid fraudulent accounting procedures, and the willful, intentional, wanton, malicious and fraudulent "askew documents", and "altered documents", are an attempt to "conceal" and "cover-up" Defendant Charles R. Lee and Defendant Jam L. Johns and Defendant GTE Corporation and Defendant GTE Florida, Inc. course of deficient, and well below marginal managerial, ability and aptitudes, specifically, the managers which have been selected to operate GTE Corporation and GTE Florida, Inc. are incompetent and deficient, and are running an operation that is fifty percent (50%) non-productive, and fifty percent (50%) overstaffed, with numerous needless and unnecessary "managers", with the overlay of: (A) instructing employees to be fifty percent (50%) "non productive", (B) instructing managers and employees to purchase "equipment" that is not needed, (C) instructing managers to destroy equipment, to push-up the cost of operation, (D) instructing managers with "no objectives" and with no "managerial direction" for "economic frugality" and

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'savings', since the 'public' is paying for the 'mismanagement' conduct of the aforesaid Defendants.

14. Since Defendant GTE Florida, Inc., and other utilities operating in the State of Florida, are 'public monopolies', each and every citizen in the in the State of Florida has the full and complete right to ensure that the citizens are not being subjected to 'FRAUD OF THE FIRST ORDER' by any increase in the basic telephone rate due to 'mismanagement' of the said public utility company, including but not limited to, Defendant GTE Florida, Inc., and with the subsequent 'covering-up' and 'concealing' of the said 'mismanagement', by conspiring with Defendant Thomas M. Beard (and Defendant Thomas M. Beard's co-conspirators and agents and servants and employees), by 'railroading' through an increase in basic telephone rates by using 'SHAM PROCEDURES' and a fraudulent check and balance system at the Florida Public Service Commission.

15. To ensure that Defendants can 'railroad' through the 'fraudulent' basic telephone rate increase, Defendants are now using a 'fraudulent' 'PR campaign' to place a 'false image' to the citizens of the State of Florida that the said increase in basic telephone rates are necessary, when in fact, the said increase in basic telephone rates are not justified or warranted in each and all circumstances. The same 'facsimile', fraudulent conduct that Plaintiff was subjected to when Plaintiff filed a complaint with the Florida Public Service Commission, is the same course of 'fraudulent' conduct that the citizens of the State of Florida are being subjected to pertaining to Defendant GTE Florida, Incorporated's request for a rate increase on the basic telephone service. There is no 'check and balance'

system between the 'public monopoly' 'utilities' (by way of example but not in limitation to, Defendant GTE Corporation and Defendant GTE Florida, Inc. and Defendant Charles R. Lee), and their agents and servants and co-conspirators (Florida Public Service Commission and Defendant Thomas M. Beard and the so-called commissioners and so-called 'Hearing Officer' and 'Judicial Review' personnel), when in fact, the aforesaid Defendants are 'conspiring' to ensure that the rate increase requested by Defendant GTE Florida, Inc. proceeds, even though it is not warranted or justified, solely for the purpose to ensure that the 'STATUS QUO' citizen continuous to rob and rape the citizens of the State of Florida, specifically, ninety-five percent (95%) of the citizens of the State of Florida are being robbed and raped by Defendants, and their co-conspirators and agents and servants.

16. The rate increase requested by Defendant GTE Florida Inc. is being made by a 'privilege class citizen' only, who can afford to pay a so-called Florida 'illegal' licensed attorney the artificial-monopolistic legal fees of \$300.00 per hour. The aforesaid system ensures that the 'citizens' are not heard in a meaningful, true and correct manner, but only through a fraudulent 'PR campaign' using a so-called Florida 'illegal' licensed attorney designated as a 'Public Counsel', specifically, Jack Shreve. The so-called Florida 'illegal' Licensed Attorney Jack Shreve is putting on a fraudulent 'theatrical performance' before the citizens that the rate increase is not warranted, when in fact, the so-called Florida 'illegal' Licensed Attorney 'Public Counsel' 'Jack Shreve' is conspiring with Defendants' attorneys of record to ensure all the so-called Florida

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"illegal" Licensed Attorneys make artificial-monopolistic legal fees of \$300.00 per hour, including "Public Counsel" "Jack Shreve", who is "supposed to be" protecting the citizens of the State of Florida, when in fact, "Public Counsel" "Jack Shreve" is protecting the artificial-monopolistic legal fee rate of \$300.00 per hour, with the overlay to ensure that Defendants "railroad" the rate increase of basic telephone service through the Florida Public Service Commission with the "SHAM PROCEDURES", to ensure that the citizens are not meaningfully heard in a true and correct manner.

17. The citizens are being subjected to irreparable harm, with the overlay of a great loss of money, time and effort, due to the unconscionable and unreasonable conduct of Defendants to set-up "sham procedures" to ensure that the citizens are not meaningfully heard, and so Defendants can "railroad" through a rate increase without the citizens having "meaningful", true and correct "access" to the Florida Public Service Commission. The aforesaid fraudulent procedures ensure the citizens will receive a "fraudulent basic telephone rate increase". The Florida Public Service Commission is no longer a viable check and balance system for the citizens of the State of Florida against the "public utilities - monopolies", and this Court must issue an order directing the State of Florida to "reformat" the so-called Florida Public Service Commission immediately so the citizens have "meaningful", true and correct "access", and so a check and balance system exist again, and so there is a "separation of powers" between the various utilities, including but not limited to, Defendant GTE Florida, Inc., and the Florida Public Service Commission. There is presently no "separation of powers" between the various

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utilities, including Defendant GTE Florida, Inc. and the Florida Public Service Commission, when in fact, they are both "sleeping in the same bed". Accordingly, the aforesaid "sham procedures", and "fraudulent check and balance system", are subjecting the citizens of the State of Florida to a serious and persistent course of illegal conduct, with an overlay of great irreparable harm.

18. This Court must immediately appoint a Blue Ribbon Panel to reformat the Florida Public Service Commission to ensure that a true and correct "check and balance system" is established, and each and all "sham procedures" are eliminated, and each and all utilities are subjected to a full and complete review of the said utilities "books", including but not limited to, accounting books, ledgers, operation documents, purchasing documents and "man-power" production documents. Further, this Court must direct the "Blue Ribbon Panel", that if it elects to "keep" a review by the so-called the "Hearing Officer", and a review by a so-called "Judicial Review" as part of the Florida Public Service Commission, then the said personnel who would comprise the "Judicial Review" and "Hearing Officer" positions, must be "citizen-attorneys" as defined in Plaintiff's original Complaint, so ninety-five percent (95%) of the citizens can be heard, and NO "FRAUDULENT, CLONE STATUS QUO DECISION" is entered against the citizens of the State of Florida using "ESOTERIC LAW", and so the citizens are "meaningfully" heard, and the true and correct evidence is placed on the face of the record pertaining to each and all request for basic telephone rate increases.

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19. The aforesaid "SHAM PROCEDURE" being orchestrated by Defendants, ensuring that the rate increase requested for basic telephone service by Defendant GTE Florida, Inc. is granted, as stated in paragraphs "12" through "18", constitutes a violation of Plaintiff's, and the citizens of the State of Florida, civil rights of due process and equal protection of the law, violating the Fourteenth Amendment to the Constitution of the United States, and deprived Plaintiff, and the citizens of the State of Florida, of the following rights, privileges and immunities secured to Plaintiff, and the citizens of the State of Florida, by the Constitution and Laws of the United States:

A. The right of Plaintiff, and the citizens of the State of Florida, not to be deprived of life, liberty or property without due process of law and the right to equal protection of the law and the liberty to contract, secured by the Fourteenth Amendment to the Constitution of the United States.

20. In doing the acts and things above complained of, Defendants were engaged in a scheme and conspiracy designed and intended to deny and deprive Plaintiff, and the citizens of the State of Florida, of rights guaranteed to Plaintiff, and the citizens of the State of Florida, under the Constitution and Laws of the United States, as hereinabove enumerated.

21. Plaintiff has been denied his property and rights, due to the course of "sham procedures", and a "fraudulent system" of check and balances at the Florida Public Service Commission. Defendants' course of illegal conduct resulted in a loss to Plaintiff in the SUM CERTAIN of Eighty Thousand Dollars (\$80,000.00) (for the unconscionable and unreasonable monthly increase in Plaintiff's basic telephone service for a lifetime).

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22. The wrong done by Defendants was aggravated by that kind of willfulness, wantonness and malice for which the law allows the imposition of exemplary damages. Plaintiff shows that an award of substantial exemplary damages would serve not only to deter these Defendants from again engaging in the aforesaid actions, but it would also serve as a warning or deterrent to others similarly situated. Accordingly, Plaintiff hereby sues for exemplary damages in the SUM of Ten Million Dollars (\$10,000,000.00).

23. Money damages, however, cannot remedy the irreparable harm done by the Defendants course of illegal conduct to conspire to establish 'sham procedures' and a 'fraudulent system' of check and balances at the Florida Public Service Commission to deprive Plaintiff of the rights secured by the Constitution and Laws of the United States, since Defendants' course of illegal conduct against Plaintiff, and the citizens of the State of Florida, resulted in Defendants 'tearing-up' the Constitution and Laws of the United States into scrap paper, and subsequently, attempting to deny Plaintiff, and the citizens of the State of Florida, due process and equal protection of the law. No adequate remedy exists at law for redress of those deprivations which continue to occur and will occur in the future unless enjoined by this court, since the Florida Public Service Commission has shown that "NO" citizen can receive a "fair hearing", or gain "meaningful, true and correct" "access" to the Florida Public Service Commission, unless the citizen can afford to hire a so-called 'privilege class - illegal licensed attorney' at the artificial-monopolistic legal fee rate of \$300.00 per hour to prepare, file and present a complaint, or defend a telephone rate increase, since

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the Florida Public Service Commission has been 'illegally' usurped by so-called 'privilege class - illegal licensed attorneys', and their co-conspirators, using 'ESOTERIC LAW'. The Defendants are all 'sleeping in the same bed'. There is no check and balance for the citizens. Subsequently, each and all 'final decisions' are 'FRAUDULENT, CLONE, STATUS QUO DECISIONS, based on 'prior agreement and personal motivation' ('exparte communications'), and NOT based on law and facts and evidence, with an overlay of 'ESOTERIC LAW'. The aforesaid 'FRAUDULENT, CLONE, STATUS QUO DECISIONS are being made by so-called 'illegal licensed attorneys', and 'NOT' 'citizen-attorneys', and Defendants are conspiring with large Defendant law firms to channel '\$300.00 per hour in 'artificial-monopolistic' legal fees, to ensure that the said fraudulent basic telephone rate increase is granted, even though a 'majority' of citizens in the State of Florida 'oppose' the said rate increase. The 'fraudulent' procedures and systems established by the Florida Public Service Commission ensures that no citizen is heard 'meaningfully', and each and all true and correct evidence is denied on the face of the record.

24. Due to the aforesaid facts, supra, no other adequate remedy exists at law for redress of the course of illegal conduct by Defendants against Plaintiff, and others similarly situated, and which continue to occur and will occur in the future, unless this court permits Plaintiff, and those similarly situated, to have immediate 'ACCESS' to this Court, to obtain relief from Defendants, with the overlay to have this Court issue an order directing the Florida Public Service Commission to cease and desist operation under the

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present system, and to have a 'Blue Ribbon Panel' appointed immediately to 'reformat' the Florida Public Service Commission so the citizens are heard 'meaningfully', and receive true and correct 'access' on each and all matters which relate, pertain, refer or mention a 'Public Utility - Monopoly', including but not limited to, an increase in basic telephone rates. Plaintiff, and others similarly situated, cannot receive a 'FAIR HEARING' presently before the Florida Public Service Commission due to the 'sham procedures' and 'fraudulent system' of check and balance, since Defendants are all 'sleeping in the same bed', and ninety-five percent (95%) of the citizens of the State of Florida are denied 'meaningful' access to the aforesaid 'bed' - the citizens have the right to completely 'destroy' the aforesaid 'corrupt, unethical and dishonest bed', since the majority of citizens would not want to get even near the said 'bed', due to the 'corrupt, unethical, dishonest and illegal conduct taking place in the said 'bed', occupied only by Defendants.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, demands that the following relief be granted:

a. Setting a prompt hearing for a preliminary injunction wherein Defendants shall show cause why they, and those in active concert or participation with them or any of them, should not be enjoined during pendency of this action from continuing to proceed with each and all proceedings which refer, relate, mention or pertain to the rate increase requested by Defendant GTE Florida, Inc. at the Florida Public Service Commission during the pendency of the instant action, and to continue to have 'sham procedures', and a 'fraudulent check and balance system', so the citizens of the State of Florida

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are denied 'meaningful', true and correct 'access' to the Florida Public Service Commission to question each and all rate increases, and ensure that the fraudulent request for a rate increase is denied, and not 'railroaded' through the 'fraudulent check and balance system' of Defendants using a fraudulent 'PR campaign' to place a 'false image' to the citizens of the State of Florida that Defendants are performing their job functions in a proper mode, when in fact, the job functions have been deficient and well below marginal; setting a prompt hearing for a preliminary injunction wherein Defendants shall show cause why they, and those in active concert or participation with them or any of them, should not be enjoined during pendency of this action from continuing to proceed with each and all proceedings which refer, relate, pertain or mention each and all 'public utilities' in the State of Florida at the Florida Public Service Commission, due to the 'sham procedures' and 'fraudulent check and balance system', and why a 'Blue Ribbon Panel' should not be appointed immediately to 'reformat' the Florida Public Service Commission, including but not limited to, personnel and procedures and check and balance systems, to ensure that ninety-five percent (95%) of the citizens of the State of Florida are heard 'meaningfully', and are permitted to have 'true and correct' 'access', to ensure that each and all the rate increases for basic telephone service that are not warranted or justified are denied.

b. Issuing a permanent injunction restraining Defendants from continuing to proceed with each and all proceedings which refer, relate, mention or pertain to the rate increase requested by Defendant GTE Florida, Inc. at the Florida Public Service Commission dur-

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ing the pendency of the instant action, and restraining Defendants to continue to have "sham procedures" and a "fraudulent check and balance system" at the Florida Public Service Commission so the citizens of the State of Florida are denied "meaningful", true and correct "access" to the Florida Public Service Commission to question each and all rate increases, and ensure that the fraudulent request for a rate increase is denied if the said rate increase is not warranted or justified, and subsequently not "railroaded" through the "fraudulent check and balance system" of Defendants, using a fraudulent "PR campaign" to place a "false image" to the citizens of the State of Florida that Defendants are performing their job functions in a proper mode, when in fact, the job functions have been deficient and well below marginal; issuing a permanent injunction restraining Defendants from continuing to proceed with each and all proceedings at the Florida Public Service Commission which refer, relate, pertain or mention the rate increase requested for basic telephone service by defendant GTE Florida, Inc., due to the "sham procedures" and "fraudulent check and balance system", and appoint a "Blue Ribbon Panel" immediately to "reformat" the Florida Public Commission, including but not limited to, personnel and procedures and check and balance systems, to ensure that ninety-five percent (95%) of the citizens of the State of Florida are heard "meaningfully", and are permitted to have "true and correct" "access", to have a fraudulent rate increase denied that is not warranted or justified.

c. Declare that Defendants, and Defendants' co-conspirators and agents and servants and employees, have violated Plaintiff's Fourteenth amendment rights of due process and equal

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protection, and the citizens of the State of Florida rights, and declare that on each and every proceeding at the Florida Public Service Commission is to cease and desist immediately, and a Blue Ribbon Panel is to be appointed immediately to reformat the Florida Public Service Commission so there are no 'sham procedures' and no 'fraudulent check and balance systems', and so the citizens can gain 'meaningful' 'access' to ensure that rate increases that are requested, are not fraudulent rate increases to take 'undue advantage' of the citizens of the State of Florida, and 'unjustly' enrich Defendant GTE Corporation and GTE GTE Florida, Inc., and to ensure that Defendants perform their job function in a proper mode, and not negligently, at the expense of the citizens of the State of Florida, and to ensure the citizens are not denied due process and equal protection of the law, by having FRAUDULENT, CLONE, STATUS QUO DECISIONS issued by 'privilege class - illegal licensed attorneys' for the status quo, pursuant to 'prior agreement and personal motivation' (outside the authority of the 'Hearing Officer' and 'Judicial Review' of the Florida Public Service Commission), using 'ESOTERIC LAW'.

d. Granting Plaintiff judgment against Defendants, and each of them, jointly and severally, for compensatory damages in the amount of Eighty Thousand Dollars (\$80,000.00) with interest at the lawful rate until paid; that Plaintiff have and recover on that judgment at the rate of twenty percent (20%) per annum until paid; and approximately five hundred thousand (500,00) other individuals similarly situated, and the loss to the aforesaid individuals is undetermined at this stage of litigation.

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e. Granting Plaintiff judgment against Defendants, and each of them, jointly and severally, for exemplary damages in the amount of Ten Million Dollars (\$10,000,000.00); that Plaintiff have and recover interest on that judgment at the rate of twenty percent (20%) per annum until paid.

f. Awarding Plaintiff cost and reasonable attorneys' fees ("litigating fees") or, in the alternative, time and money spent to prepare, file and present this lawsuit for the reasonable costs and expenses of this action, and in the event of appeal to the United States Court of Appeals and the Supreme Court of the United States, Plaintiff have and recover additional attorneys' fees and reasonable cost and expense of that action.

g. Granting Plaintiff such other and further relief as may be just.

TWELVE

25. Plaintiff repeats and realleges paragraphs one and two and three, as if the aforesaid paragraphs were expressly stated herein.

26. Defendant GTE Corporation is a corporation organized and existing under the laws of the State of Delaware, and having its principal place of business in Stamford, Connecticut. At all times pertinent to this Complaint, and at all times mentioned, Defendant GTE Corporation was acting through its principal agents and servants, Defendant James L. Johnson and Defendant Charles R. Lee, acting individually and in concert, as a "co-conspirator" with each and all

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Defendants, including but not limited to, Defendant Thomas M. Beard, and Defendants' employees and agents and servants and co-conspirators.

27. Defendant GTE Florida, Inc. is corporation with its principle place of business in Tampa, Florida, and is a subsidiary of GTE South, and GTE South is an affiliate of Defendant GTE Corporation, and is organized and existing under the laws of the State of Delaware. At all times pertinent to this Complaint, and at all times mentioned, Defendant GTE Florida, Inc. was acting through its principal agents and servants, Defendant James L. Johnson and Defendant Charles R. Lee, acting individually and in concert, as a 'co-conspirator' with each and all Defendants, including but not limited to, Defendant Thomas M. Beard, and Defendants' employees and agents and servants and co-conspirators.

28. This action arises under the United States Constitution, particularly under the provisions of the Fourteenth Amendment to the Constitution of the United States, and for an order declaring unconstitutional the discriminatory acts of Defendants, and for money damages to redress the injury caused to Plaintiff by the unconstitutional acts of Defendants.

29. This action is brought pursuant to Title 28, United States Code, Section 2201, 2202, and the Fourteenth Amendment to the Constitution of the United States. This Court has jurisdiction under Title 28, United States Code, Section 1331.

30. Plaintiff repeats and realleges paragraphs six through twenty-four, as if the aforesaid paragraphs were expressly stated herein.

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31. As a further proximate result of Defendants' course of illegal conduct to violate Plaintiff's Constitutional rights, and the citizens of the State of Florida, throughout the occurrences described above in paragraph "30", and as a direct and proximate result of Defendants' willful, intentional, wanton and malicious actions, individually and in concert, Plaintiff has suffered great mental pain and suffering with fright, chagrin, embarrassment, anger, nausea, nightmares, difficulty sleeping and his social life destroyed in the SUM of One Million Dollars (\$1,000,000.00), and will continue to suffer.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, demands that the following relief be granted:

a. Plaintiff repeats and realleges the "prayer" in COUNT ELEVEN, as if the aforesaid "prayer" was expressly stated herein.

b. Granting Plaintiff judgment against Defendants, a each of them, jointly and severally, pursuant to mental pain and suffering damages, in the SUM of One Million Dollars (\$1,000,000.00); with interest at the lawful rate, until judgment; that Plaintiff have and recover interest on that judgment at the rate of twenty percent (20%) per annum until paid.

COUNT THIRTEEN

32. Plaintiff repeats and realleges paragraphs twenty-five and twenty-six and twenty-seven, as if the aforesaid paragraphs were expressly stated herein.

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37. That said fraudulent conduct was done to conceal and cover-up Defendant Charles R. Lee and Defendant James L. Johnson's course of "mismanagement", which was "deficient", and well below marginal, and has needlessly and unnecessarily increased the cost of operation of GTE Florida, Inc., with the overlay that Defendant Charles R. Lee and Defendant James L. Johnson and Defendant GTE Corporation and Defendant GTE Florida, Inc. have conspired to file "fraudulent documents" which were "askew" and "altered", including but not limited to, accounting books (which used "askew accounting principles"), ledgers, operation cost, material cost, equipment cost, to the Florida Public Service Commission, solely for the purpose to deceive the citizens of the State of Florida that an increase in the basic telephone rate was needed, when in fact, no increase in the basic telephone rate was needed, and to attempt to take undue advantage of Plaintiff, and others similarly situated, with the overlay to "unjustly enrich" Defendants. The wrong done by Defendants, individually and in concert, was aggravated by that kind of willfulness, wantonness and malice for which the law allows the imposition of exemplary damages. Plaintiff shows that an award of substantial exemplary damages would serve not only to deter Defendants and their co-conspirators from engaging in the aforesaid course of illegal conduct, but it would also serve as a warning or deterrent to others similarly situated. Accordingly, Plaintiff sues for exemplary damages in the SUM of Twenty Million Dollars (\$20,000,000.00).

38. Due to the aforesaid facts in the instant COUNT and in COUNT ELEVEN and COUNT TWELVE, supra, no other adequate remedy exists at law for redress of the course of illegal conduct by Defendants

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33. This is a civil action brought for fraud, and for money damages to redress the injury caused to Plaintiff by the course of fraudulent conduct by Defendants.

34. Plaintiff repeats and realleges paragraphs six through eighteen, as if the aforesaid paragraphs were expressly stated herein.

35. That by virtue of the willful, intentional, wanton, and malicious "fraudulent" conduct of Defendants to establish "SHAM PROCEDURES", and a "FRAUDULENT CHECK AND BALANCE SYSTEM", with the overlay to generate "FRAUDULENT, CLONE, STATUS QUO DECISIONS", which eliminates ninety-five percent (95%) of the citizens in the decision making process of increasing the fraudulent basic rate of telephone service, solely for the purpose to "unjustly enrich" Defendants and take "undue advantage" of Plaintiff and the citizens of the State of Florida, as aforesaid, and as a proximate result thereof, Plaintiff has been damaged in the SUM CERTAIN of Eighty Thousand Dollars (\$80,000.00).

36. As a further proximate result of Defendant's fraudulent conduct throughout the occurrences described above in paragraph "34", and as a direct and proximate result of Defendants' willful, intentional, wanton and malicious actions, individually and in concert, Plaintiff has suffered great mental pain and suffering with fright, chagrin, embarrassment, anger, nausea, nightmares, difficulty sleeping and his social life destroyed in the SUM of One Million Dollars (\$1,000,000.00), and will continue to suffer.

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against Plaintiff, and others similarly situated, which continue to occur and will occur in the future, unless this court permits Plaintiff, and those similarly situated, to have immediate 'ACCESS' to this Court, to obtain relief from Defendants, with the overlay to have this Court issue an order directing the Florida Public Service Commission to cease and desist operation under the present system, and to have a 'Blue Ribbon Panel' appointed immediately to 'reformat' the Florida Public Service Commission so the citizens are heard 'meaningfully', and receive true and correct 'access' on each and all matters which relate, pertain, refer or mention a 'Public Utility - Monopoly', including but not limited to, an increase in basic telephone rates, and the right to review each and all 'documents' of the said 'utility, including but not limited to, GTE Florida, Inc., including but not limited to, accounting books, ledgers, operation cost, material cost, equipment cost, production cost, personnel cost. Plaintiff, and others similarly situated, cannot receive a 'FAIR HEARING' presently before the Florida Public Service Commission due to the 'sham procedures' and 'fraudulent system' of check and balances, since Defendants are all 'sleeping in the same bed', and ninety-five percent (95%) of the citizens of the State of Florida are denied 'meaningful' access to the aforesaid 'bed'.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, demands that the following relief be granted:

a. Granting Plaintiff judgment against Defendants, and each of them, jointly and severally, for compensatory damages in the amount of Eighty Thousand Dollars (\$80,000.00), with interest at the lawful rate; that Plaintiff have and recover on that judgment at the

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rate of twenty percent (20%) per annum until paid; and approximately five hundred thousand (500,00) other individuals similarly situated, and the loss to the aforesaid individuals is undetermined at this stage of litigation.

b. Granting Plaintiff judgment against Defendants, and each of them, jointly and severally, pursuant to mental pain and suffering damages, in the SUM of One Million Dollars (\$1,000,000.00); with interest at the lawful rate from August 25, 1992, until judgment; that Plaintiff have and recover interest on that judgment at the rate of twenty percent (20%) per annum until paid.

c. Granting Plaintiff judgment against Defendants, and each of them, jointly and severally, for exemplary damages in the amount of Twenty Million Dollars (\$20,000,000.00); that Plaintiff have and recover interest on that judgment at the rate of twenty percent (20%) per annum until paid.

d. Declare that on each and every proceeding at the Florida Public Service Commission is to cease and desist immediately, and a Blue Ribbon Panel is to be appointed immediately to reformat the Florida Public Service Commission so there are no 'sham procedures' and no 'fraudulent check and balance systems', and so the citizens can gain 'meaningful' 'access' to ensure that rate increases that are requested, are not fraudulent rate increases to take 'undue advantage' of the citizens of the State of Florida and 'unjustly' enrich Defendant GTE Corporation and GTE Florida, Inc., and to ensure that Defendants perform their job function in a proper mode, and not fraudulently, at the expense of the citizens of the State of Florida, and to ensure the citizens are not denied due process and equal protection.

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tion of the law, by having FRAUDULENT, CLONE, STATUS QUO DECISIONS issued by "privilege class - illegal licensed attorneys" for the status quo, pursuant to "prior agreement and personal motivation" (outside the authority of the "Hearing Officer" and "Judicial Review" of the Florida Public Service Commission); declare that each and every citizen has the right to review each and all "documents" of GTE Florida, Inc., including but not limited to, accounting books, ledgers, operation cost, material cost, equipment cost, personnel cost, since Defendant GTE Florida, Inc. is requesting an increase in the basic telephone rate, and since Defendants have filed fraudulent documents with the Florida Public Service Commission to deceive the citizens of the State of Florida.

e. Awarding Plaintiff cost and reasonable attorneys' fees ("litigating fees") or, in the alternative, time and money spent to prepare, file and present this lawsuit for the reasonable costs and expenses of this action, and in the event of appeal to the United States Court of Appeals and the Supreme Court of the United States, Plaintiff have and recover additional attorneys' fees and reasonable cost and expense of that action.

f. Granting Plaintiff such other and further relief as may be just.

COUNT FOURTEEN

39. Plaintiff repeats and realleges paragraphs one and three and twenty-six and twenty-seven, as if the aforesaid paragraphs were expressly stated herein.

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40. This is a civil action brought for negligence, and for money damages to redress the injury caused to Plaintiff by the course of fraudulent conduct by Defendants.

41. Plaintiff repeats and realleges paragraphs six through eighteen, as if the aforesaid paragraphs were expressly stated herein.

42. At all times mentioned, and for some time prior, Defendants, and each of them, and Defendants' co-conspirators and agents and servants and employees, had, or in the exercise of due care should have had, full and complete knowledge as highly sophisticated, informed and experienced, and well educated, and well trained, 'professional persons', that a 'duty was imposed' upon Defendants to operate a corporation without 'mismanagement', including but not limited to, cost overruns, purchasing needless and unnecessary equipment, hiring needless and unnecessary 'managers', generating non-productive working environment, generating a 'wasteful attitude' among the on-line personnel with a non-economic attitude, and a total disregard for frugal economics, and letting operating cost become excessive, and letting managers escape all accountability for excessive cost and excessive operations. Defendants did willfully, and with a wanton disregard and reckless disregard for Plaintiff's rights, and others similarly situated, refused and continued to refuse to properly hire, train, instruct and monitor managers with Defendant GTE Corporation Florida, Inc. and Defendant GTE Corporation. Further, Defendants did willfully, and with a wanton disregard and reckless disregard for Plaintiff's rights, and others similarly situated, let the managers of Defendant GTE Corporation and Defendant

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GTE Florida, Inc. avoid all accountability for the cost of operations becoming excessive at GTE Florida, Inc., with the overlay of purchasing needless and unnecessary equipment, and engaging in needless and unnecessary advertising, and hiring needless and unnecessary personnel, including managers, at the citizens expense, solely for the purpose to seek a fraudulent increase in the basic telephone rate. In addition, Defendants did willfully, and with a wanton disregard and reckless disregard for Plaintiff's rights, and others similarly situated, refused and continued to refuse to properly advise each and all managers of Defendant GTE Corporation and Defendant GTE Florida, Inc. to cease and desist the 'deficient' and well 'below marginal' managerial behavior, which was costing the citizens of the State of Florida. Such a course was a breach of duty of care by Defendants, since Defendants, who were so-called 'professional' and 'chief executive officers' and 'Chairman of the Board', had a special duty of care imposed upon them, as well their agents and servants and employees and co-conspirators.

43. With full knowledge of the existence of the above facts, Defendants refused and continued to refuse to properly hire, instruct, teach and monitor the managers of Defendant GTE Corporation and Defendant GTE Florida, Inc. Further, with full knowledge of the existence of the above facts, Defendants refused and continued to refuse to hold the managers of Defendant GTE Florida, Inc. accountable for excessive cost and excessive operation expenses, and with total disregard for the citizens of the State of Florida.

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44. That by virtue of the willful, intentional, wanton, reckless, malicious, gross "negligent" conduct of Defendants, as aforesaid, and as a proximate result thereof, Plaintiff has been damaged in the SUM CERTAIN of Eighty Thousand Dollars (\$80,000.00).

45. As a further proximate result of Defendant's gross negligent conduct throughout the occurrences described above in paragraphs '41 and 42 and 43', and as a direct and proximate result of Defendants' willful, intentional, wanton, reckless and malicious actions, individually and in concert, Plaintiff has suffered great mental pain and suffering with fright, chagrin, embarrassment, anger, nausea, nightmares, difficulty sleeping and his social life destroyed in the SUM of One Million Dollars (\$1,000,000.00), and will continue to suffer.

46. That said gross negligence was done to conceal and cover-up Defendants' course of deficient, and well below marginal skills and aptitudes in managing a major corporation. The wrong done by Defendants, individually and concert, was aggravated by that kind of willfulness, wantonness and malice for which the law allows the imposition of exemplary damages. Plaintiff shows that an award of substantial exemplary damages would serve not only to deter Defendants and their co-conspirators from engaging in the aforesaid course of illegal conduct, but it would also serve as a warning or deterrent to others similarly situated. Accordingly, Plaintiff sues for exemplary damages in the SUM of Twenty Million Dollars (\$20,000,000.00).

47. Due to the aforesaid facts, supra, no other adequate remedy exists at law for redress of the course of illegal conduct by Defendants against Plaintiff, and others similarly situated, which

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continue to occur and will occur in the future, unless this court permits Plaintiff, and those similarly situated, to have immediate 'ACCESS' to this Court, to obtain relief from Defendants. Plaintiff, and others similarly situated, cannot receive a 'FAIR HEARING' before the Florida Public Service Commission, and Defendants have full and complete knowledge of the aforesaid fact, and Defendants, accordingly, know that it will be 'simple task' to conceal and cover-up Defendants' negligent conduct in operating a major corporation, in association with a 'public monopoly', at the expense of the citizens of the State of Florida. This Court must immediately cease and desist Defendants' negligent conduct at the expense of the citizens of the State of Florida.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, demands that the following relief be granted:

a. Granting Plaintiff judgment against Defendants, and each of them, jointly and severally, for compensatory damages in the amount of Eighty Thousand Dollars (\$80,000.00), with interest at the lawful rate; that Plaintiff have and recover on that judgment at the rate of twenty percent (20%) per annum until paid; and approximately five hundred thousand (500,000) other individuals similarly situated, and the loss to the aforesaid individuals is undetermined at this stage of litigation.

b. Granting Plaintiff judgment against Defendants, and each of them, jointly and severally, pursuant to mental pain and suffering damages, in the SUM of One Million Dollars (\$1,000,000.00); with interest at the lawful rate, until judgment; that Plaintiff have and recover interest on that judgment at the rate of twenty percent (20%) per annum until paid.

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documents with the Florida Public Service Commission to deceive the citizens of the State of Florida; declare that Defendants have acted negligently in operating a major corporation in association with a 'public monopoly', specifically, Defendant GTE Florida, Inc., at the expense of the citizens of the State of Florida, and the said negligent conduct has needless and unnecessarily call for an increase in the basic telephone rates in the State of Florida operated by Defendants GTE Florida, Inc.

e. Awarding Plaintiff cost and reasonable attorneys' fees ('litigating fees') or, in the alternative, time and money spent to prepare, file and present this lawsuit for the reasonable costs and expenses of this action, and in the event of appeal to the United States Court of Appeals and the Supreme Court of the United States, Plaintiff have and recover additional attorneys' fees and reasonable cost and expense of that action.

f. Granting Plaintiff such other and further relief as may be just.

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c. Granting Plaintiff judgment against Defendants, and each of them, jointly and severally, for exemplary damages in the amount of Twenty Million Dollars (\$20,000,000.00); that Plaintiff have and recover interest on that judgment at the rate of twenty percent (20%) per annum until paid.

d. Declare that on each and every proceeding at the Florida Public Service Commission is to cease and desist immediately, and a Blue Ribbon Panel is to be appointed immediately to reformat the Florida Public Service Commission so there are no 'sham procedures' and no 'fraudulent check and balance systems', and so the citizens can gain 'meaningful' 'access' to ensure that rate increases that are requested, are not fraudulent rate increases to take 'undue advantage' of the citizens of the State of Florida and 'unjustly' enrich Defendant GTE Corporation and GTE Florida, Inc., and to ensure that Defendants perform their job function in a proper mode, and not negligently, at the expense of the citizens of the State of Florida, and to ensure the citizens are not denied due process and equal protection of the law, by having FRAUDULENT, CLONE, STATUS QUO DECISIONS issued by 'privilege class - illegal licensed attorneys' for the status quo, pursuant to 'prior agreement and personal motivation' (outside the authority of the 'Hearing Officer' and 'Judicial Review' of the Florida Public Service Commission); declare that each and every citizen has the right to review each and all 'documents' of GTE Florida, Inc., including but not limited to, accounting books, ledgers, operation cost, material cost, equipment cost, personnel cost, since Defendant GTE Florida, Inc. is requesting an increase in the basic telephone rate, and since Defendants have filed fraudulent

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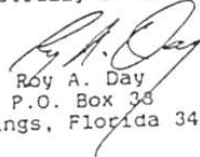
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REQUEST FOR A TRIAL BY JURY

Plaintiff Roy A. Day in the above-entitled and numbered matter demands a trial by jury of all issues so triable in said matter on the grounds that it is entitled to such trial by virtue of having complied with all requisites of the Federal Rules of Civil Procedure, and there exists in this case an adequate and complete remedy at law.

Respectfully submitted,


Roy A. Day
P.O. Box 35
Tarpon Springs, Florida 34688-0033

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ROY. A. DAY,
ON BEHALF OF HIMSELF AND
AS CLASS ACTION ON BEHALF
OF OTHERS SIMILARLY SITUATED,
Plaintiffs

C.A. NO. 92-963-CIV-T-17C

VS.

UNITED STATES OF AMERICA, et al.,
Defendants

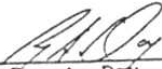
STATE OF FLORIDA
COUNTY OF PINELLAS

BEFORE ME, the undersigned authority, on this day personally appeared Roy A. Day, who being by me duly sworn on his oath deposed and said that he is the Plaintiff in the above-entitled action, that he has read Plaintiff's Supplemental Complaint and that every statement therein is within his personal knowledge true and correct.



I declare under penalty of perjury that the foregoing Supplemental Complaint is true and correct, and I understand that a false statement in this declaration will subject me to penalties for perjury. NOTE: This declaration complies with 28 USC 1746, in lieu of an affidavit - Petitioner is a pauper and cannot afford to pay another notary public to sign this form. Plaintiff is appearing as a citizen-attorney (Pro Se), and such a course has the same weight as an affidavit.

Executed this 21st day of August, 1992.


Roy A. Day

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STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

ROY A. DAY,
V. Intervenor

DOCKET NO. 920939-TL
DOCKET NO. 920188-TL

GTE OF FLORIDA, INCORPORATED

- I. INTERVENOR'S MOTION TO DISQUALIFY THE FLORIDA PUBLIC SERVICE COMMISSION
- II. INTERVENOR'S MOTION TO VACATE ORDER NO. PSC-92-1124-PHO-TL
- III. INTERVENOR'S MOTION FOR RECONSIDERATION OF ORDER NO. PSC-92-1124-PHO-TL
- IV. INTERVENOR'S MOTION FOR EMERGENCY RULING ON OCTOBER 13, 1992.
- V. INTERVENOR'S MOTION TO HOLD ACTION IN ABEYANCE
- VI. INTERVENOR'S MOTION TO CEASE AND DESIST THE HEARINGS SET FOR OCTOBER 13 THROUGH 17, 1992 AND OCTOBER 19, 1992 AND OCTOBER 23, 1992 FOR DOCKET NO. 920188-TL AND DOCKET NO. 920939-TL, AND TRANSFER THE SAID HEARINGS TO TAMPA, FLORIDA, SO THE CITIZEN'S FOURTEENTH AMENDMENT RIGHTS OF DUE PROCESS AND EQUAL PROTECTION OF THE LAW ARE NOT VIOLATED
- VII. INTERVENOR'S MOTION TO RECONSIDER ORDER NO. PSC-92-1140-CFO-TL AND ORDER NO. PSC-92-1141-CFO-TL
- VIII. INTERVENOR'S MOTION TO INTERVENE IN THE ABOVE-ENTITLED AND NUMBERED ACTIONS

ROY A. DAY, Intervenor, files these motions, and Intervenor would respectfully show unto this court the following in support thereof:

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DOCUMENT NUMBER-DATE
11923 OCT 12 1992
FROM RECORDS / DEPT 13

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1. On October 9, 1992, Intervenor Roy A. Day received in the United States Mail a document entitled an "Amended Notice Of Commission Hearing To All Parties And All interested Persons", from Steve Tribble, Director, which "implied" that the above-entitled and numbered action, which pertains to the so-called "long distance calling service" of GTE of Florida, Inc. known as "Extended Calling Service", would be entertained with "GTE's" rate increase request docket. Such a course is FRAUD OF THE FIRST ORDER, and is nothing more than a fraudulent attempt to "railroad" through the rate increase and the extended calling service without a FULL AND COMPLETE HEARING ON EACH AND ALL ISSUES AND EVIDENCE. Further, the hearings are willfully, intentionally, wantonly, maliciously and fraudulently being held in Tallahassee, Florida and not in Tampa, Florida, solely for the purpose to prevent the citizens from offering evidence into the record, specifically, EXHIBITS AND DIRECT TESTIMONY, since ninety-five (95%) of the citizens cannot afford to travel to Tallahassee, Florida, or afford to hire a so-called "licensed attorney" at artificial-monopolistic legal fees of \$300.00 per hour. In addition, Intervenor Roy A. Day is being denied the right to cross-examine the witnesses. Further, the aforesaid "amended" "Notice" implied a "Prehearing Conference" was held on September 18, 1992, and on October 9, 1992, Intervenor Roy A. Day received in the United States Mail an

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"Prehearing Order" which contained "numerous" "falsehoods" and "half-truths". Accordingly, Intervenor Roy A. Day, pursuant to the Florida Administrative Code, moves a "person" or "entity" with competent jurisdiction of Intervenor Roy A. Day's pleadings, to vacate the "Prehearing Order" dated October 6, 1992 (Order No. PSC-92-1124-PHO-TL), since Intervenor Roy A. Day's rights and property, and millions of citizens similarly situated, were adversely affected, by the October 6, 1992 "Prehearing Order". Intervenor Roy A. Day had no personal knowledge of the "Prehearing Conference" on September 18, 1992, even though the face of the record shows clear, strong, convincing, unequivocal uncontroverted evidence that the "FPSC" had full and complete knowledge that Intervenor Roy A. Day had filed a Petition ("new complaint") in "direct opposition" to "GTE's" rate increase on September 11, 1992 - See Docket No. 920620-TL; the "FPSC" engaged in further fraudulent conduct against Intervenor Roy A. Day by stalling and stalling and stalling and stalling and stalling on Intervenor Roy A. Day's Petition, solely for the purpose to deny Intervenor Roy A. Day the right to have "NOTICE" of the Prehearing Conference on September 18, 1992. (The "FPSC" engaged in additional fraudulent conduct against Intervenor Roy A. Day by stalling, and then filing the aforesaid "new complaint" ("Petition") as an amended complaint in Docket No. 920620-TL - this docket involves the "extend

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calling service" issue, "not" the "GTE" rate increase issue; Roy A. Day was forced and coerced to file a "Second Amended Complaint" in Docket No. 920620-TL, to eliminate the "rate increase" issue; subsequently, Roy A. Day filed the "new complaint" ("Petition") in Docket No. 920-188-TL on September 28, 1992; NOTE: If the "FPSC" would not of engaged in fraud on September 11, 1992, Intervenor Roy A. Day should of been given "Notice" of the September 18, 1992 "Prehearing Conference"; Intervenor Roy A. Day's rights and property were adversely affected on September 18, 1992, and on the October 6, 1992 "Prehearing Order".) Accordingly, Intervenor Roy A. Day's Fourteenth Amendment rights violated on September 18, 1992, in that Intervenor Roy A. Day was denied the right to "Notice" and the right to present evidence, specifically, EXHIBITS and DIRECT TESTIMONY, and the right to cross-examine any witnesses or evidence filed. In addition, the "Prehearing Order" dated October 6, 1992 is "VOID" of Intervenor Roy A. Day's "objections" to "GTE's" rate increase request, which the "FPSC" received Intervenor Roy A. Day's "objections" on September 11, 1992. Further, on or about May 22, 1992, Intervenor filed a "complaint" ("Petition") involving the issue of the "long distance calling" service known as "Extended Calling Service". Accordingly, the "FPSC" had full and complete knowledge of Intervenor Roy A. Day's "objections" to the so-called "long distance calling" service known

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as "Extended Calling Service" on or about May 22, 1992, but the "FPSC" refused and continued to refuse to provide Intervenor Roy A. Day "NOTICE" of the September 18, 1992 "Prehearing Conference" on September 18, 1992 pertaining to the extending calling service issue in Docket No. 920939-TL, solely for the purpose to deny Intervenor Roy A. Day "NOTICE" and the right to cross examine evidence and witnesses and place EXHIBITS and DIRECT TESTIMONY on the face of the record. Further, the "FPSC" "conspiring" with "GTE", the "FPSC" permitted "GTE" to have the "Extended Calling Service" issue entertained with the "rate increase" issue, solely for the purpose to deny Intervenor Roy A. Day to object and place evidence on the face of the record, and to "RAILROAD" through the "rate increase" issue and the "extended calling service" issue without Intervenor Roy A. Day, and millions of citizens similarly situated, being HEARD MEANINGFULLY, and TRUE AND CORRECTLY. Accordingly, Intervenor moves entity with competent jurisdiction, to VACATE the October 6, 1992 "Prehearing Order", in the alternative, Reconsider, and STAY each and all proceedings in the above-entitled and numbered actions until Intervenor Roy A. Day's Petitions and Motions have been entertained.

2. For judicial economy, Intervenor Roy A. Day repeats and realleges each and every document and pleading filed by Roy A. Day in Docket No. 920620-TL on file at the "FPSC", and each and every docu-

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ment and pleading filed by Roy A. Day in Docket No. 920188-TL on file at the "FPSC", and each and every document and pleading filed by Roy A. Day in Docket No. 920939-TL, as if the aforesaid documents and pleadings were expressly stated herein.

3. The instant pleading is being filed in a "forma pauperis proceeding".

4. For judicial economy, Intervenor repeats and realleges the Intervenor's Motion To Disqualify Florida Public Service Commission filed on July 7, 1992 in Docket No. 920620-TL, Day v. GTE Florida, Inc., as if the aforesaid Motion To Disqualify Florida Public Service Commission was expressly stated herein. Intervenor Roy A. Day repeats and realleges and each and every correspondence sent to Chairman Thomas M. Beard from Intervenor Roy A. Day which relates, pertains, refers or mentions the action in Docket No. 920620-TL, as if the aforesaid pleadings and correspondence were expressly stated herein. Accordingly, the Florida Public Service Commission is disqualified from proceeding on the above-entitled and numbered action until a time in the future when the federal courts have entered a final decision in the "companion federal lawsuit". Further, the Florida Public Service Commission has a clear right to transfer the above-entitled and numbered action to a federal court with competent jurisdiction. In the alternative, Intervenor moves the Florida Public

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Service Commission to hold the above-entitled and numbered actions in abeyance until a time in the future when a final decision has been entered in C.A. No. 92-963-CIV-T-17C, including each and all appeals, and a ruling from the Supreme Court of the United States. Due to the serious issues involved in the instant action, Intervenor needs an emergency ruling on October 13, 1992 on each and all pleadings filed by Intervenor in the above-entitled and numbered action.

5. On July 14, 1992 Roy A. Day (hereafter, "Intervenor") filed a federal civil action in the United States District Court for the Middle District of Florida, Tampa Division (See C.A. No. 92-963-CIV-T-17C, Roy A. Day v. Thomas M. Beard, et al.) for the course of illegal conduct orchestrated by the Florida Public Service Commission (hereafter, "FPSC"), specifically, Mr. Thomas M. Beard, and his co-conspirators. For judicial economy, Intervenor repeats and realleges Intervenor's C.A. No. 92-963-CIV-T-17C, as if the aforesaid Federal Complaint was expressly stated herein. Since Roy A. Day is proceeding in a forma pauperis mode, the cost is prohibitive to provide a copy of the aforesaid federal complaint. Accordingly, the "FPSC" is to obtain a copy of the aforesaid federal complaint. The "FPSC", pursuant to the above-entitled and numbered action, has orchestrated a "travesty of justice", when in fact, it is FRAUD of the FIRST ORDER on the citizens of the State of Florida. Accordingly,

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Plaintiff moves the "FPSC" to disqualify the "FPSC" from proceeding on the above-entitled and numbered action and transfer to a federal court with competent jurisdiction, in the alternative, hold the above-entitled and numbered action in abeyance to a time in the future when a final decision has been entered in C.A. No. 92-963-CIV-T-17C, including but not limited to, each and all appeals to the United States Court of Appeals for the Eleventh Circuit and the Supreme Court of the United States, in the event an appeal becomes necessary. The issues which the "FPSC" refused and continued to refuse to "timely" entertain in the above-entitled and numbered action, and the issues which the "FPSC" shirked its legal and social responsibility to "timely" entertain in the above-entitled and numbered action, and the associated "companion cases", will be entertained in the aforesaid C.A. No. 92-963-CIV-T-17C. Due to the course of illegal conduct which the "FPSC" has engaged in against Intervenor, and others similarly situated, to violate Intervenor's civil rights, such a course has produced facts and evidence and law which the "FPSC" has now lost competent jurisdiction of Intervenor's "two" (2) complaints before the "FPSC". Intervenor, and those similarly situated, cannot receive a "FAIR HEARING" before the "FPSC". For judicial economy, since Intervenor cannot afford to provide a copy of Intervenor's federal Complaint at this stage of litigation, Interve-

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nor repeats and realleges Intervenor's C.A. No. 92-963-CIV-T-17C, as if the aforesaid Complaint was expressly stated herein.

6. For judicial economy, Intervenor repeats and realleges each and every document sent to Thomas M. Beard from Intervenor Roy A. Day, and Intervenor repeats and realleges each and every document filed by Intervenor in the above-entitled and numbered actions, and the "companion case" (Docket No. 920-620-TL), as if the aforesaid documents were expressly stated herein. Intervenor demands that Thomas M. Beard answer, with full and complete answers, each and every word and sentence and phrase and statement pertaining to each and all Plaintiff's correspondence sent to Thomas M. Beard. Intervenor moves the "FPSC" to transfer the above-entitled and numbered action to federal court, in the alternative, hold the above-entitled and numbered action in abeyance to a time in the future after Intervenor has received each and every full and complete answer from Thomas M. Beard on each and all Intervenor's correspondence to Thomas M. Beard. Intervenor's rights and property, and those similarly situated, are being adversely affected by the delay in receiving the aforesaid answers from Thomas M. Beard. "JUSTICE DELAYED, IS JUSTICE DENIED"! IT IS SELF-EVIDENT THAT INTERVENOR ROY A. DAY CANNOT RECEIVE A "FAIR HEARING" FROM THE "FPSC".

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7. The issues raised in the federal complaint, C.A. No. 92-963-CIV-T-17C, is a multi-count complaint with numerous issues, including but not limited, the issues raised by Intervenor Roy A. Day with the "FPSC". Accordingly, pursuant to judicial economy, justice can be served by permitting the federal court entertain each and all issues, including the issues Intervenor has pending before the "FPSC". The "FPSC" has no jurisdiction to entertain each and all issues in Intervenor Roy A. Day's federal Complaint, C.A. No. 92-963-CIV-T-17C; however, the Federal Court has a right at this stage of litigation to entertain each and all issues of Intervenor, including but not limited, the issues Intervenor Roy A. Day filed with the "FPSC". Judicial economy must be the driving force behind each and all judicial decisions, when the issues are interconnected.

8. The record should reflect for future reference to the ladies and gentlemen of the jury, that the Florida Public Service Commission refused and continued to refuse to entertain Plaintiff's pleadings in a "timely" manner to ensure that the law firm of Ketchey, Horan, Hearn & Neukamm, specifically, [m. eric edington]¹

¹Lower case letters are used to signify a "sleazy, corrupt, dishonest, unethical, illegal licensed attorney (hereafter, "SCDUILA"), and to signify that the citizens have taken so-called licensed attorneys' rights, and their families and supporters' rights, from them, since they do not honor 90% of the citizens' rights.

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received "artificial-monopolistic" legal fees at the rate of \$300.00 per hour in "direct contravention" to Plaintiff's pleadings in the "companion case" (Docket No. 920620-TL).

9. Intervenor demands that NO monies of GTE Corporation (parent company), and its subsidiaries and affiliates and agents and servants and co-conspirators, including but not limited to, GTE of Florida, Inc., and each and all monies of the "Telecommunication Corporations" be spent on each and all actions filed by Intervenor with the Florida Public Service Commission on so-called "licensed attorneys" in the State of Florida, which are employed by so-called "law firms" making artificial-monopolistic legal fees. Roy A. Day, Intervenor, demands that each and all actions filed by Intervenor with the Florida Public Service Commission be handled by "in-house attorneys" only of GTE Florida, Inc., and the "telecommunication corporations". since GTE of Florida, Inc., and the "telecommunication corpora

rights, and have set-up a "two tier system of justice". 90% of the citizens cannot afford a "SCOUTIA" at \$300.00 per hour in artificial-monopolistic legal fees. In addition, it signifies that each and every citizen is held accountable to the law whether the citizen knows the law or not. Accordingly, each and every citizen has the right to be taught primary and secondary legal research and open court litigation skills under the 5th and 14th Amendments, specifically, due process and equal protection of the law. Subsequently, each and every citizen has the right to take a "national-legal-test" and "state-legal-test", and be elected or appointed a "judge".

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tions", are a "public monopoly", and the citizens have a clear right not to pay artificial-monopolistic legal fees for each and all complaints filed with the Florida Public Service Commission.

10. Roy A. Day, Intervenor, is appearing in a "citizen-attorney" mode, and only has five(5) hours each week to work on legal matters. To the contrary, "privilege class - illegal licensed attorneys" have forty (40) hours each week to work on legal matters. The Florida Rules of Civil Procedure which require only ten (10) days for a response are discriminatory against the "ordinary citizen". Accordingly, Intervenor needs forty (40) days to file a response to each and all pleadings filed by Intervenor with the Florida Public Service Commission. Further, in a forma pauperis mode, Intervenor cannot afford to obtain copies of the pleadings filed by Intervenor in C.A. No. 92-963-CIV-T-17C. Accordingly, the "FPSC" is to obtain each and all copies of Intervenor's pleadings in C.A. No. 92-963-CIV-T-17C.

11. On October 10, 1992, Intervenor received in the United States Mail an order dated October 7, 1992 (Order No. PSC-02-1141-CFO-TL) and an order dated October 7, 1992 (Order No. PSC-92-1140-CFO-TL). The aforesaid orders were entered solely for the purpose to conceal and cover-up "GTE's" "fraudulent" request for a rate increase, "when in fact, the evidence which "GTE" is requesting

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to remain confidential is controlling and indispensable evidence, and will show that "GTE" is "NOT" entitled to a rate increase. Accordingly, Intervenor request that the aforesaid orders be vacated, and reconsidered. Further, the face of the record in the instant action shows clear, strong, convincing, unequivocal and uncontroverted evidence that "Thomas M. Beard" has a prejudice for "GTE" and major telecommunication corporations, and against the citizens of the State of Florida, when in fact, "Thomas M. Beard" is disqualified from proceeding on the aforesaid orders.

12. Each and all pleadings filed by Intervenor Roy A. Day at the "FPSC" are written pursuant to judicial economy, and are written as a request to "Intervenor" in the respective action noted on Intervenor's pleading.

WHEREFORE, PREMISES CONSIDERED, Intervenor Roy A. Day request that the following relief be granted:

FOR RECONSIDERATION OF ORDER NO.

PSC-92-1124-PHO-TL a. That Intervenor's Motion To Vac. Order No. PSC-92-1124-PHO is GRANTED; that Order No. PSC-92-1124-PHO-TL is vacated, declare that the "FPSC" engaged in fraudulent conduct against Intervenor to deny Intervenor Roy A. Day the right to receive NOTICE of the September 18, 1992 Prehearing Conference, and the right to cross-examine witnesses and evidence, and

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the right to present EXHIBITS and DIRECT TESTIMONY against the fraudulent rate increase and the fraudulent "long distance service" known as "extend calling service"; declare that "GTE" and "FPSC" have conspired to permit "GTE" to "combine" "GTE's" rate increase request with "GTE's" "extending calling service issue, solely for the purpose to deny Intervenor, and other citizens similarly situated, the right to be heard meaningfully, and to "RAILROAD" through the "fraudulent" rate increase and extended calling service issue, so "GTE" can take "undue advantage" of the citizens, and "unjustly" enrich "GTE" at the citizens expense; that Intervenor's Motion For Reconsideration For Order No. PSC-92-1124-PHO-T1 is GRANTED; that each and all orders that refer, relate, mention or pertain to the September 18, 1992 Pre-hearing Conference is to be reconsidered and vacated, and the above-entitled and numbered actions are held in abeyance until a time in the future when a final decision has been entered in the federal complaint, C.A. No. 92-963-CIV-T-17C.

b. That Intervenor's Motion To Cease and Desist The Hearings Set For October 13 Through 17, 1992 And October 19, 1992 And October 23, 1992 For Docket No. 920188-TL And Docket No. 920939-TL, And Transfer The Said Hearings To Tampa, Florida, So The Citizen's Fourteenth Amendment Rights Of Due Process and Equal Protection Of The Law Are Not Violated is GRANTED; declare that each and all "hearings"

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set for October 13 - 17, 1992, October 19, 1992, and October 23, 1992, for the above-entitled and numbered action, and Docket No. 920188-TL, and each and all future 'hearings' which relate, pertain, mention or refer to 'GTE', are ceased and desisted, since the said hearings violate Intervenor's Fourteenth Amendment rights, and the said hearings are to be held in the Tampa Bay, Florida regions, since that is where the issues originate and consummate and take place, and where ninety-five percent (95%) of the citizens live which will give DIRECT TESTIMONY and entered EVIDENCE on the face of the record, including but not limited to EXHIBITS; declare that Intervenor Roy A. Day, and millions of citizens similarly situated, have been denied their Fourteenth Amendment rights of due process and equal protection of the law by being denied the right to place each and all defenses and issues on the face of the record, including but not limited to, EXHIBITS and DIRECT TESTIMONY, at each and all 'hearings' pertaining to 'GTE', since Intervenor Roy A. Day cannot afford to appear in Tallahassee, Florida as a 'pauper'.

c. That Intervenor Roy A. Day's Motion To Disqualify Florida Public Service Commission for the above-entitled and numbered action is GRANTED; That Intervenor Roy A. Day's Motion For Transfer To Federal Court is GRANTED; declare that the above-entitled and numbered action is transferred to the United States District Court

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for the District of Columbia, in the alternative, to C.A. No. 92-963-CIV-T-17C, so the said federal court can determine a court with competent jurisdiction, and subsequently, entertain the instant motion to hold action in abeyance.

d. In The Alternative: That Intervenor's Motion To Hold Action In Abeyance is GRANTED; that the above-entitled and numbered actions are held in abeyance to a time in the future when a final judgment has been entered in C.A. No. 92-963-CIV-T-17C, including but not limited to, each and all appeals.

e. Declare that since Plaintiff Roy A. Day is proceeding in a forma pauperis mode, and in a "citizen-attorney" mode, and only has five (5) hours each week to spend on legal matters, and since "illegal licensed attorneys" have eight hours a day, seven days a week to spend on legal manners, Intervenor Roy A. Day has a clear right to have forty (40) days to respond to each and all pleadings of the opposing counsel, and each and all orders of the commission or court, even though the Florida Rules of Civil Procedure only permit ten (10) days; declare that each and all Florida Rules of Civil Procedures which require only ten (10) days to respond to pleadings is void, null and illegal, in that the said RULE sets-up a "two tier system of justice", and violates the Florida citizens' Fourteenth Amendment rights of due process and equal protection of the law and

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the basic rights of the Constitution of the State of Florida; declare each and all citizens must be treated the same before the law, and no "privilege class illegal licensed attorney" making artificial-monopolistic legal fees working forty (40) hours a week on legal matters is to take undue advantage of the citizens of the State of Florida; declare that since the Florida Rules of Civil Procedure are void, null and illegal since they are discriminatory against ninety percent (90%) of the Florida citizens, and were written for the "privilege class - illegal licensed attorney", that a "Blue Ribbon Panel" of "citizen-attorneys", who have completed a course in primary and secondary legal research and open court litigation skills, by elected to "re-write" the Florida Rules of Civil Procedure and the Florida Rules of Criminal Procedure and the Florida Rules of Evidence; declare that since Roy A. Day is proceeding in forma pauperis proceeding, that the "FPSC" will obtain each and all pleadings filed by Roy A. Day in C.A. No. 92-963-CIV-T-17C so the record is clear and certain and full and satisfactory.

f. That Roy A. Day's Motion For Emergency Ruling On October 13, 1992 is GRANTED; that the instant pleading will be entertained on October 13, 1992 due to the issues being involved are of GREAT PUBLIC CONCERN.

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g. That Intervenor's Motion To Reconsider Order No. PSC-92-1140-CFO-TL And Order No. PSC-92-1141-CFO-TL is GRANTED; declare that "GTE" is doing nothing more than concealing controlling and indispensable evidence from the citizens to take undue advantage of Intervenor, and millions of similarly situated citizens, by using "fraudulent" documents to conceal the true and correct documents, which show clear, strong, convincing, unequivocal and uncontroverted evidence that "GTE" is not entitled to any rate increase, and is attempting to become "unjustly enriched" at the expense of the citizens of the State of Florida; declare that the two orders dated October 7, 1992 (No. PSC-92-1140-CFO-TL and PSC-1141-CFO-TL) are vacated and reconsidered to the end, and "GTE" is to present each and all documents as requested by the said parties; declare that Thomas M. Beard is disqualified from proceeding on the reconsideration of the two aforesaid orders.

h. That Intervenor's Motion To Intervene In The Above-Entitled And Numbered Actions is GRANTED; declare that Intervenor's Petitions filed in the above-entitled and numbered actions are meritorious, and Intervenor is permitted to proceed in the above-entitled and numbered actions.

i. Granting Roy A. Day such other and further relief as may be just.

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Respectfully submitted,


Roy A. Day

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing motion has been forwarded to Thomas R. Parker, and M. Eric Edgington, GTE Florida Incorporated, P.O. Box 110, MC &, Tampa, Florida 33601, via first class mail on this 9th day of October, 1992.


Roy A. Day

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STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

ROY A. DAY,
V. Intervenor
GTE OF FLORIDA, INCORPORATED

DOCKET NO. 920939-TL
DOCKET NO. 920188-TL
DOCKET NO. 910890-EI

- I. INTERVENOR'S MOTION TO DISQUALIFY THE FLORIDA PUBLIC SERVICE COMMISSION
- II. INTERVENOR'S MOTION FOR LEAVE TO INTERVENE FOR THE ABOVE-ENTITLED AND NUMBERED ACTIONS AND FOR ORDER AUTHORIZING INTERVENTION
- III. INTERVENOR'S MOTION FOR EMERGENCY RULING ON OCTOBER 13, 1992,

ROY A. DAY, Intervenor, files these motions, and Intervenor would respectfully show unto this court the following in support thereof:

1. The instant motion is written pursuant to judicial economy. Intervenor Roy A. Day has filed various pleadings in the above-entitled and numbered actions, and the "FPSC" has refused and continued to refuse to send Intervenor Roy A. Day an "Order Authorizing Intervention", and a "Notice" of the said order to each and all parties of the above-entitled and numbered action that Intervenor Roy A. Day is a "party" as defined by law to the above-entitled and

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numbered actions. Intervenor Roy A. Day's rights and property are being adversely affected, with an overlay that Intervenor Roy A. Day's Fourteenth Amendment rights have been violated, specifically due process and equal protection of the law. The instant motion is the "second" motion requesting leave to proceed as an Intervenor. The "first" motion was filed on October 12, 1992. Further, each and all Intervenor Roy A. Day's pleadings filed in the above-entitled and numbered actions are filed as motions for leave to proceed as an Intervenor and in a forma pauperis proceeding. The "FPSC" has "implied" that Intervenor Roy A. Day's pleadings are "properly" filed as an Intervenor, and the instant motion just makes the record clear and certain and full and satisfactory, if the "FPSC" attempts to engage in further fraudulent conduct against Intervenor Roy A. Day. Accordingly, to prevent Intervenor Roy A. Day's rights and property from being further adversely affected, Intervenor Roy A. Day needs an emergency ruling on the instant motion on October 13, 1992, and an order issued to each and all parties involved that Roy A. Day is an Intervenor for the respective action.

2. For judicial economy, Intervenor Roy A. Day repeats and realleges each and every document and pleading filed by Roy A. Day in Docket No. 920188-TL on file at the "FPSC", and each and every document

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ment and pleading filed by Roy A. Day in Docket No. 920939-TL, and each and every document and pleading filed by Roy A. Day in Docket No. 910890-EI, as if the aforesaid documents and pleadings were expressly stated herein.

3. The instant pleading is being filed in a "forma pauperis proceeding".

4. For judicial economy, Intervenor repeats and realleges the Intervenor's Motion To Disqualify Florida Public Service Commission filed on July 7, 1992 in Docket No. 920620-TL, Day v. GTE Florida, Inc., as if the aforesaid Motion To Disqualify Florida Public Service Commission was expressly stated herein. Intervenor Roy A. Day repeats and realleges and each and every correspondence sent to Chairman Thomas M. Beard from Intervenor Roy A. Day which relates, pertains, refers or mentions the action in Docket No. 920620-TL, as if the aforesaid pleadings and correspondence were expressly stated herein. Accordingly, the Florida Public Service Commission is disqualified from proceeding on the above-entitled and numbered action until a time in the future when the federal courts have entered a final decision in the "companion federal lawsuit". Further, the Florida Public Service Commission has a clear right to transfer the above-entitled and numbered action to a federal court with competent

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jurisdiction. In the alternative, Intervenor moves the Florida Public Service Commission to hold the above-entitled and numbered actions in abeyance until a time in the future when a final decision has been entered in C.A. No. 92-963-CIV-T-17C, including each and all appeals and a ruling from the Supreme Court of the United States. Due to the serious issues involved in the instant action, Intervenor needs a emergency ruling on October 13, 1992 on each and all pleadings filed by Intervenor in the above-entitled and numbered action.

5. On July 14, 1992 Roy A. Day (hereafter, "Intervenor" filed a federal civil action in the United States District Court for the Middle District of Florida, Tampa Division (See C.A. No. 92-963-CIV-T-17C, Roy A. Day v. Thomas M. Beard, et al.) for the course of illegal conduct orchestrated by the Florida Public Service Commission (hereafter, "FPSC"), specifically, Mr. Thomas M. Beard and his co-conspirators. For judicial economy, Intervenor repeats and realleges Intervenor's C.A. No. 92-963-CIV-T-17C, as if the aforesaid Federal Complaint was expressly stated herein. Since Roy A. Day is proceeding in a forma pauperis mode, the cost is prohibitive to provide a copy of the aforesaid federal complaint. Accordingly, the "FPSC" is to obtain a copy of the aforesaid federal complaint. The "FPSC", pursuant to the above-entitled and numbered action, has o

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chestrated a "travesty of justice", when in fact, it is FRAUD of the FIRST ORDER on the citizens of the State of Florida. Accordingly, Plaintiff moves the "FPSC" to disqualify the "FPSC" from proceeding on the above-entitled and numbered action and transfer to a federal court with competent jurisdiction, in the alternative, hold the above-entitled and numbered action in abeyance to a time in the future when a final decision has been entered in C.A. No. 92-963-CIV-T-17C, including but not limited to, each and all appeals to the United States Court of Appeals for the Eleventh Circuit and the Supreme Court of the United States, in the event an appeal becomes necessary. The issues which the "FPSC" refused and continued to refuse to "timely" entertain in the above-entitled and numbered action, and the issues which the "FPSC" shirked its legal and social responsibility to "timely" entertain in the above-entitled and numbered action, and the associated "companion cases", will be entertained in the aforesaid C.A. No. 92-963-CIV-T-17C. Due to the course of illegal conduct which the "FPSC" has engaged in against intervenor, and others similarly situated, to violate Intervenor's civil rights, such a course has produced facts and evidence and law which the "FPSC" has now lost competent jurisdiction of Intervenor's "two (2) complaints before the "FPSC". Intervenor, and those similar

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■ DOC: INTERVENOR-910890-EI ■

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situated, cannot receive a "FAIR HEARING" before the "FPSC". For judicial economy, since Intervenor cannot afford to provide a copy of Intervenor's federal Complaint at this stage of litigation, Intervenor repeats and realleges Intervenor's C.A. No. 92-963-CIV-T-17C, as if the aforesaid Complaint was expressly stated herein.

WHEREFORE, PREMISES CONSIDERED, Intervenor Roy A. Day requests that the following relief be granted:

a. That Intervenor's Motion For Leave To Intervene For The Above-Entitled And Numbered Actions And For Order Authorizing Intervention is GRANTED; that Intervenor Roy A. Day is permitted to proceed as an Intervenor for the above-entitled and numbered actions and each and all parties for the above-entitled and numbered actions are to be furnished a copy of the said order authorizing Roy A. Day to intervene, and declare that since the "FPSC" has engaged in F against Intervenor Roy A. Day, and violated Intervenor Roy A. Day's civil rights, that each and all orders and proceedings for the above-entitled and numbered actions are STAYED pending a full and complete review, including a final decision in C.A. No. 92-963-CIV-T-17C; declare that Docket No. 920620-TL is an active case, and the "FPSC" will send a Notice to Roy A. Day indicating that the case is active, and the case is proceeding on "schedule", and that

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"FPSC" will entertain Roy A. Day's pending motions in Docket No. 920620-TL.

b. That Intervenor Roy A. Day's Motion To Disqualify Florida Public Service Commission for the above-entitled and numbered action is GRANTED; That Intervenor Roy A. Day's Motion For Transfer To Federal Court is GRANTED; declare that the above-entitled and numbered actions are transferred to the United States District Court for the District of Columbia, in the alternative, to C.A. No. 92-963-CIV-T-17C, so the said federal court can determine a court with competent jurisdiction, and subsequently, entertain the instant motion to hold action in abeyance.

c. That Roy A. Day's Motion For Emergency Ruling On October 13, 1992 is GRANTED; that the instant pleading will be entertained on October 13, 1992 due to the issues being involved are of GREAT PUBLIC CONCERN.

d. Granting Roy A. Day such other and further relief as may be just.

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Respectfully submitted,


Roy A. Day

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above an foregoing motion has been forwarded to Thomas R. Parker, and M. Eri Edgington, GTE Florida Incorporated, P.O. Box 110, MC &, Tampa, Florida 33601, via first class mail on this 9th day of October, 1992.


Roy A. Day

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STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

ROY A. DAY,
v. Intervenor

DOCKET NO. 920939-TL
DOCKET NO. 920188-TL
DOCKET NO. 920620-TL
DOCKET NO. 910890-EI

GTE OF FLORIDA, INCORPORATED
FLORIDA POWER CORPORATION

I. INTERVENOR'S MOTION TO DISQUALIFY THE FLORIDA PUBLIC
SERVICE COMMISSION

II. INTERVENOR'S MOTION TO VACATE THE "CASE ASSIGNMENT AND
SCHEDULING RECORD" FOR THE ABOVE-ENTITLED AND NUMBERED ACTIONS

III. INTERVENOR'S MOTION TO CHANGE THE "CASE ASSIGNMENT AND
SCHEDULING RECORD" FOR THE ABOVE-ENTITLED AND NUMBERED ACTIONS

IV. INTERVENOR'S MOTION FOR EMERGENCY RULING
ON OCTOBER 14, 1992,

ROY A. DAY, Intervenor, files these motions, and Intervenor would respectfully show unto this court the following in support thereof:

1. Since Intervenor Roy A. Day filed "Petitions" for the above-entitled and numbered actions, Intervenor Roy A. Day has not been permitted to perform discovery and cross-examine the parties involved in the above-entitled and numbered action. Further, Intervenor Roy A. Day has a federal Complaint filed (See C.A. No. 92-963-CIV-T-17C, in the United States District Court for the Middle District of Florida, Tampa Division, Roy A. Day, et al. vs. Thomas M. Beard, et al.). The aforesaid federal Complaint's "discovery" will produce EXHIBITS and DIRECT TESTIMONY that will be filed for the above-entitled and numbered actions. Accordingly, pursuant to judicial economy, Intervenor Roy A. Day moves the "FPSC" to vacate the

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"Case Assignment and Scheduling Record" for the above-entitled and numbered action, and change the "Case Assignment and Scheduling Record" so that each and all proceedings for the above entitled and numbered actions are set to a time in the future after Intervenor Roy A. Day has completed each and all discovery for the above-entitled and numbered actions, including the discovery in the "companion" federal case, since "judicial economy" should be the driving force, to prevent the discovery process being performed "TWICE". Due to the issues of the instant pleading being of GREAT PUBLIC IMPORTANCE, and affecting millions of citizens, Intervenor Roy A. Day needs an immediate ruling on October 14, 1992, to prevent Intervenor Roy A. Day's rights and property from being adversely affected.

2. For judicial economy, Intervenor Roy A. Day repeats and realleges each and every document and pleading filed by Roy A. Day in Docket No. 920620-TL on file at the "FPSC", as if the aforesaid documents and pleadings were expressly stated herein, and Intervenor Roy A. Day repeats and realleges each and every document and pleading filed by Roy A. Day in Docket No. 920939-TL on file at the "FPSC", as if the aforesaid documents and pleadings were expressly stated herein, and Intervenor Roy A. Day repeats and realleges each and every document and pleading filed by Roy A. Day in Docket No. 920188-TL on file at the "FPSC", as if the aforesaid documents and pleadings were expressly stated herein, and Intervenor Roy A. Day repeats and realleges each and every document and pleading filed by Roy A. Day in Docket No. 910890-EI on file at the "FPSC", as if the aforesaid documents and pleadings were expressly stated herein.

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3. The instant Petition is being filed in a "forma pauperis proceeding".

4. For judicial economy, Intervenor repeats and realleges the Intervenor's Motion To Disqualify Florida Public Service Commission filed on July 7, 1992 in Docket No. 920620-TL, Day v. GTE Florida, Inc., as if the aforesaid Motion To Disqualify Florida Public Service Commission was expressly stated herein. Further, Intervenor repeats and realleges the Intervenor's Petitions filed in the above-entitled and numbered action, as if the aforesaid Intervenor's Petition was expressly stated herein. In addition, for judicial economy, Intervenor repeats and realleges each and every pleading filed by Intervenor in Docket No. 920620-TL, Day v. GTE Florida, Inc., and each and every correspondence sent to Chairman Thomas M. Beard from Intervenor Roy A. Day which relates, pertains, refers or mentions the action in Docket No. 920620-TL, as if the aforesaid pleadings and correspondence were expressly stated herein. Accordingly, the Florida Public Service Commission is disqualified from proceeding on the above-entitled and numbered action until a time in the future when the federal courts have entered a final decision in the "companion federal lawsuit". Due to the serious issues involved in the instant action, Intervenor needs an emergency ruling on October 14, 1992 on each and all pleadings filed by Intervenor in the above-entitled and numbered actions.

5. On July 14, 1992 Roy A. Day (hereafter, "Intervenor") filed a federal civil action in the United States District Court for the Middle District of Florida, Tampa Division (See C.A. No. 92-963-CIV-T-17C, Roy A. Day v. Thomas M. Beard, et al.) for the

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course of illegal conduct orchestrated by the Florida Public Service Commission (hereafter, "FPSC"), specifically, Mr. Thomas M. Beard, and his co-conspirators. For judicial economy, Intervenor repeats and realleges Intervenor's C.A. No. 92-963-CIV-T-17C, as if the aforesaid Federal Complaint was expressly stated herein. Since Roy A. Day is proceeding in a forma pauperis mode, the cost is prohibitive to provide a copy of the aforesaid federal complaint. Accordingly, the "FPSC" is to obtain a copy of the aforesaid federal complaint. The "FPSC", pursuant to the above-entitled and numbered action, has orchestrated a "travesty of justice", when in fact, it is FRAUD of the FIRST ORDER on the citizens of the State of Florida. Accordingly, Plaintiff moves the "FPSC" to disqualify the "FPSC" from proceeding on the above-entitled and numbered actions. The issues which the "FPSC" refused and continued to refuse to "timely" entertain in the above-entitled and numbered actions will be entertained in the aforesaid C.A. No. 92-963-CIV-T-17C. Due to the course of illegal conduct which the "FPSC" has engaged in against Intervenor, and others similarly situated, to violate Intervenor's civil rights, such a course has produced facts and evidence and law which the "FPSC" has now lost competent jurisdiction of Intervenor's "two" (2) complaints before the "FPSC". Intervenor, and those similarly situated, cannot receive a "FAIR HEARING" before the "FPSC". For judicial economy, since Intervenor cannot afford to provide a copy of Intervenor's federal Complaint at this stage of litigation, Intervenor repeats and realleges Intervenor's C.A. No. 92-963-CIV-T-17C, as if the aforesaid Complaint was expressly stated herein. Further, the "evidence" which Intervenor Roy A. Day will produce in the discovery process in the aforesaid

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federal complaint will be used for the above-entitled and numbered actions.

6. The issues raised in the federal complaint, C.A. No. 92-963-CIV-T-17C, is a multi-count complaint with numerous issues, including but not limited, the issues raised by Intervenor Roy A. Day with the "FPSC". Accordingly, pursuant to judicial economy, justice can be served by permitting the federal court entertain each and all issues, including the issues Intervenor has pending before the "FPSC". The "FPSC" has no jurisdiction to entertain each and all issues in Intervenor Roy A. Day's federal Complaint, C.A. No. 92-963-CIV-T-17C; however, the Federal Court has a right at this stage of litigation to entertain each and all issues of Intervenor, including but not limited, the issues Intervenor Roy A. Day filed with the "FPSC". Judicial economy must be the driving force behind each and all judicial decisions, when the issues are interconnected. Accordingly, the discovery performed in the aforesaid federal complaint will generate evidence for the above-entitled and numbered actions. Accordingly, it would be a waste of time and money for the parties to perform discovery "TWICE". The only true and correct procedure is to change the "Case Assignment - and Scheduling Record" for the above-entitled and numbered actions.

WHEREFORE, PREMISES CONSIDERED, Intervenor Roy A. Day request that the following relief be granted:

a. That Intervenor's Motion To Vacate The "Case Assignment and Scheduling Record" For The Above-Entitled And Numbered Actions is GRANTED; that the "Case Assignment and Scheduling Records" for the above-entitled and numbered actions are vacated since Intervenor Roy

A. Day has not been permitted to perform discovery and present evidence and cross-examine witnesses; declare that Intervenor Roy A. Day's Fourteenth Amendment rights have been violated, specifically, due process and equal protection of the law.

b. That Intervenor's Motion To Change The "Case Assignment and Scheduling Record" For The Above-Entitled And Numbered Actions is GRANTED; that the "Case Assignment and Scheduling Records" for the above-entitled and numbered actions are changed to a time in the future when Intervenor Roy A. Day has completed each and all discovery for the above-entitled and numbered actions, including but not limited to, the discovery in the Federal "companion" Complaint (See C.A. No. 92-963-CIV-T-71C); declare that pursuant to judicial economy, the "changed schedule" will prevent the parties from performing discovery "TWICE", once in the federal complaint and once for the above-entitled and numbered actions; declare that the evidence produced in the federal "complaint" Complaint, can be used for the above-entitled and numbered actions, to prevent needless and unnecessary expense and cost for the parties and the TAXPAYERS; declare that Intervenor Roy A. Day has not been permitted to perform discovery in the above-entitled and numbered actions, and Intervenor Roy A. Day's rights and property are being adversely affected; declare that if a scheduling change is not granted, Intervenor Roy A. Day's Fourteenth Amendment rights are being violated, specifically, due process and equal protection of the law.

c. That Intervenor Roy A. Day's Motion To Disqualify Florida Public Service Commission for the above-entitled and numbered action is GRANTED; That Intervenor Roy A. Day's Motion For Transfer

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To Federal Court is GRANTED; declare that the above-entitled and numbered action is transferred to the United States District Court for the District of Columbia, in the alternative, to C.A. No. 92-963-CIV-T-17C, so the said federal court can determine a court with competent jurisdiction, and subsequently, entertain the instant motion to hold action in abeyance.

d. That Roy A. Day's Motion For Emergency Ruling On October 14, 1992 is GRANTED; that the instant pleading will be entertained on October 14, 1992 due to the issues being involved are of GREAT PUBLIC CONCERN, and to prevent Intervenor Roy A. Day's rights and property being adversely affected.

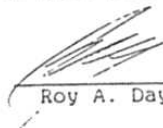
e. Granting Roy A. Day such other and further relief as may be just.

Respectfully submitted,


Roy A. Day

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing motion has been forwarded to Thomas R. Parker, and M. Eric Edgington, GTE Florida Incorporated, P.O. Box 110, MC &, Tampa, Florida 33601, via first class mail on this 13th day of October, 1992.


Roy A. Day

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STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

ROY A. DAY,
Intervenor
V.
GTE OF FLORIDA, INCORPORATED

DOCKET NO. 920188-TL

- I. INTERVENOR'S RESPONSE IN OPPOSITION TO GTE FLORIDA INCORPORATED'S MOTION TO STRIKE, MOTION TO DISMISS
- II. INTERVENOR'S MOTION FOR EMERGENCY RULING ON OCTOBER 16, 1992.
- III. INTERVENOR'S MOTION TO DISQUALIFY THE FLORIDA PUBLIC SERVICE COMMISSION

ROY A. DAY, Intervenor, files these motions, and Intervenor would respectfully show unto this court the following in support thereof:

1. On October 15, 1992, Intervenor Roy A. Day received in the United States Mail from GTE of Florida, Incorporated (hereafter, "GTE") various "fraudulent" pleadings, including a "motion to strike and motion to dismiss. The aforesaid fraudulent motions were filed "untimely", solely for the purpose to deny Intervenor Roy A. Day meaningful "ACCESS" to the Florida Public Service Commission (hereafter, "FPSC").

Intervenor Roy A. Day filed motions to Intervene

2. Intervenor filed a "new complaint" in the above-entitled and numbered action, which pertained to the rate increase of "GTE", on September 11, 1992 with the "FPSC". To deny Intervenor Roy A. Day

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meaningful, true and correct "ACCESS" to the "FPSC", the "FPSC" will-fully, intentionally, wantonly, maliciously and fraudulently placed the "new complaint" of Intervenor Roy A. Day in Docket No. 920620-TL as a "first amended complaint" (docket no. 920620-TL pertains to the so-called "extended calling service", and not the rate increase - Roy A. Day was forced and coerced to file a Second Amended Complaint in docket no. 920620-TL to expose the aforesaid course of fraudulent conduct). Accordingly, on September 28, 1992, Intervenor Roy A. Day was forced and coerced to file another "new complaint" for the above-entitled and numbered action. AT "NO" TIME DID THE "FPSC" NOTIFY INTERVENOR ROY A. DAY THAT THE AFORESAID PETITION FILED ON SEPTEMBER 28, 1992, WAS NOT PROPERLY FILED AND ACCEPTED BY THE "FPSC". Accordingly, Intervenor Roy A. Day's Petition was filed and accepted - NOTE: the "FPSC" did not return the said Petition of Intervenor Roy A. Day. Such a course of conduct by the "FPSC" is a "judicial admission against interest" that Intervenor Roy A. Day's Petition was accepted and filed. For judicial economy, Intervenor Roy A. Day repeats and realleges Roy A. Day's Petition filed in the above-entitled and numbered action on September 28, 1992, as if the aforesaid Petition was expressly stated herein. In addition, Intervenor Roy A. Day repeats and realleges each and every motion filed by Intervenor Roy A. Day for the above-entitled and numbered action, as if the aforesaid motions were expressly stated herein.

3. Even though the "FPSC" did not send any NOTICE indicating that Intervenor Roy A. Day's Petition and Motions were not filed and accepted (and never returned the said Petition), Intervenor Roy A. Day, in a "good faith effort", filed on October 12, 1992 and on Octo-

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ber 13, 1992, Motions To Intervene. Accordingly, 'GTE's' fraudulent statement that Intervenor Roy A. Day had not filed a motion to intervene is a falsehood, when in fact, Intervenor Roy A. Day had no reason to file the said motion, since the 'FPSC's' actions indicated that the said Petition was filed and accepted as an 'intervenor', due to the 'judicial admission against interest'.

Intervenor Roy A. Day Has Standing To Proceed With The 'FPSC'

4. Intervenor Roy A. Day, for judicial economy, repeats and realleges Roy A. Day's Petition filed in the above-entitled and numbered action on September 28, 1992, as if the aforesaid Petition was expressly stated herein. In addition, Intervenor Roy A. Day repeats and realleges each and every motion filed by Intervenor Roy A. Day for the above-entitled and numbered action, as if the aforesaid motions were expressly stated herein. Accordingly, the aforesaid pleadings show clear, strong, convincing, unequivocal, and uncontroverted evidence that Intervenor Roy A. Day has a 'substantial interest' which would give rise to standing to intervene in this proceeding. Intervenor Roy A. Day's aforesaid pleadings state, by way of example but not limitation to:

*NOTE: So-called 'public counsel' 'Jack Shreve' does not represent Intervenor, and 95% of the citizens, since 'Jack Shreve' is a co-conspirator with 'GTE' and the 'FPSC' and other 'un-named' 'Florida illegal licensed attorneys', to put on a 'theatrical-fraudulent-performance' before the citizens that 'Jack Shreve' represents the interest of 95% of the citizens, when in fact, 'Jack Shreve' represents 'illegal licensed attorneys', and their clients, including but not limited to, 'GTE'. 'Jack Shreve' does NOT represent Intervenor Roy A. Day,

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and 95% of the citizens of the State of Florida pertaining to issues involved with the "FPSC". "Jack Shreve" is a FRAUD OF THE FIRST ORDER on the citizens of the State of Florida. "Jack Shreve", and the other public counsels, are "co-conspirators" with "GTE" and the "FPSC" to "railroad" through a rate increases without the citizens being meaningfully heard. The so-called "public counsels" have accepted "cash under the table" and/or "special favors" from "GTE" to place a "false image" to the citizens that their job function was performed properly, when in fact, the so-called "public counsel" does not represent any citizen who cannot afford a "sleazy, corrupt, dishonest, unethical, illegal licensed attorney" (hereafter, "SCDUILA").

Accordingly, Intervenor Roy A. Day has a "standing" to proceed, since "Jack Shreve", and the other so-called "public counsels", are co-conspirators with "GTE" and the "FPSC", to engage in willful, intentional, wanton, malicious and fraudulent conduct against 95% of the citizens of the State of Florida. If Intervenor Roy A. Day is not permitted to proceed, then 95% of the citizens will be denied true and correct and meaningful representation before the "FPSC", with the overlay that Intervenor Roy A. Day has clear, strong, convincing, unequivocal and uncontroverted evidence that "Jack Shreve", and the other so-called "public counsels", have engaged in illegal conduct against 95% of the citizens of the State of Florida pertaining to numerous issues before the "FPSC", including but not limited to, the above-entitled and numbered action. In addition, as stated in the aforesaid "repeated and realleged" pleadings on file by Intervenor Roy A. Day for the above-entitled and numbered action, each and every citizen is held accountable to the law whether the citizen knows the law or not. Accordingly, each and every citizen has the right to proceed in each and all actions, to ensure that the citizens rights are not adversely affected, especially if the so-called "public coun-

sels' have engaged in illegal conduct to ensure that 95% of the citizens right and property are being adversely affected, with the overlay that the entity known as 'public counsel' is 'illegal, null and void' under the Declaration of Independence and the Constitution of the United States and Constitution of the State of Florida - WE HAVE A GOVERNMENT BY AND FOR THE PEOPLE, AND NOT BY AND FOR 'ILLEGAL' LICENSED ATTORNEYS. Accordingly, Intervenor Roy A. Day has a standing to proceed in the above-entitled and numbered action to present evidence that the so-called 'public counsels' have engaged in 'illegal' conduct with 'GTE' and the 'FPSC' to ensure that the said rate increase is 'railroaded' through with 'fraudulent evidence', with the overlay that Intervenor Roy A. Day has the right to present evidence that 'GTE' is using 'fraudulent documents' to deceive the 'FPSC' and the citizens that a rate increase is warranted, with the overlay that the additional evidence shows that the entity known as 'public counsel' is 'illegal, null and void'. Further, Intervenor Roy A. Day has a standing to represent the millions of citizens that are 'paupers' as defined by law, since the fraudulent 'Jack Shreve', and the so-called 'public counsels' represent only citizens who can afford a 'SCDUILA' at artificial-monopolistic legal fees of \$300.00 per hour.

Intervenor Roy A. Day Response To 'GTE's' Motion To Dismiss,
in the alternative, Motion To Strike

5. Intervenor Roy A. Day's Petition shows clear, strong, convincing, unequivocal and uncontroverted evidence that the facts as stated, comply with the Florida Rules of Civil Procedure to the

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"letter of the law", when in fact, the facts show that "GTE" is using "fraudulent documents" to "railroad" through a rate increase. The aforesaid one fact "alone" warrants a cause of action, and the right for Intervenor Roy A. Day to "intervene". To do otherwise, is to further "conspire" with "GTE" to deny the citizens true and correct and meaningful ACCESS to the "FPSC" to present EXHIBITS and DIRECT TESTIMONY and the right to CROSS-EXAMINE witnesses. For judicial economy, Intervenor Roy A. Day repeats and realleges Intervenor Roy A. Day's Petition filed on September 28, 1992 at the "FPSC", as if the aforesaid Petition was expressly stated herein. Accordingly, the aforesaid Petition, and the associated EXHIBIT '1', show numerous facts which state a cause of action under the Florida Rules of Civil Procedure, and most importantly, under the Federal Rules of Civil Procedure, as reflected in the associated EXHIBIT '1' of the said Petition on file in the above-entitled and numbered action. In addition, the relief which Intervenor Roy A. Day has requested is self-evident in Intervenor Roy A. Day's "prayer" of the said Petition, specifically, "That the rate for basic telephone service requested by GTE of Florida, Inc. be denied in its entirety (a zero percent (0%) increase), since the said request is a fraudulent request, and not supported by honest, ethical, true, correct, clear, strong, convincing, unequivocal and uncontroverted evidence". Accordingly, Intervenor Roy A. Day's Petition is meritorious and states a cause of action under the Florida Rules of Civil Procedure, as well as the Federal Rules of Civil Procedures, and the request for relief is sufficient and clear to allow "GTE" to form a defense or properly admit or deny any allegations.

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6. For judicial economy, Intervenor repeats and realleges the Intervenor's Motion To Disqualify Florida Public Service Commission filed on July 7, 1992 in Docket No. 920620-TL, Day v. GTE Florida, Inc., as if the aforesaid Motion To Disqualify Florida Public Service Commission was expressly stated herein. Further, Intervenor repeats and realleges the Intervenor's Petition filed in the above-entitled and numbered action, as if the aforesaid Intervenor's Petition was expressly stated herein. In addition, for judicial economy, Intervenor repeats and realleges each and every pleading filed by Intervenor in Docket No. 920620-TL, Day v. GTE Florida, Inc., and each and every correspondence sent to Chairman Thomas M. Beard from Intervenor Roy A. Day which relates, pertains, refers or mentions the action in Docket No. 920620-TL, as if the aforesaid pleadings and correspondence were expressly stated herein. Accordingly, the Florida Public Service Commission is disqualified from proceeding on the above-entitled and numbered action until a time in the future when the federal courts have entered a final decision in the "companion federal lawsuit". Further, the Florida Public Service Commission has a clear right to transfer the above-entitled and numbered action to a federal court with competent jurisdiction. In the alternative, Intervenor moves the Florida Public Service Commission to hold the above-entitled and numbered action in abeyance until a time in the future when a final decision has been entered in C.A. No. 92-963-CIV-T-17C, including each and all appeals, and a ruling from the Supreme Court of the United States. Due to the serious issues involved in the instant action, Intervenor needs an emergency ruling on October 16, 1992 on each and all pleadings filed by Intervenor in the above-entitled and numbered action.

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7. On July 14, 1992 Roy A. Day (hereafter, "Intervenor") filed a federal civil action in the United States District Court for the Middle District of Florida, Tampa Division (See C.A. No. 92-963-CIV-T-17C, Roy A. Day v. Thomas M. Beard, GTE of Florida, et al.) for the course of illegal conduct orchestrated by the Florida Public Service Commission (hereafter, "FPSC"), specifically, Mr. Thomas M. Beard, and his co-conspirators. For judicial economy, Intervenor repeats and realleges Intervenor's C.A. No. 92-963-CIV-T-17C, as if the aforesaid Federal Complaint was expressly stated herein. Since Roy A. Day is proceeding in a forma pauperis mode, the cost is prohibitive to provide a copy of the aforesaid federal complaint. Accordingly, the "FPSC" is to obtain a copy of the aforesaid federal complaint. The "FPSC", pursuant to the above-entitled and numbered action, has orchestrated a "travesty of justice", when in fact, it is FRAUD of the FIRST ORDER on the citizens of the State of Florida. Accordingly, Plaintiff moves the "FPSC" to disqualify the "FPSC" from proceeding on the above-entitled and numbered action and transfer to a federal court with competent jurisdiction, in the alternative, hold the above-entitled and numbered action in abeyance to a time in the future when a final decision has been entered in C.A. No. 92-963-CIV-T-17C, including but not limited to, each and all appeals to the United States Court of Appeals for the Eleventh Circuit and the Supreme Court of the United States, in the event an appeal becomes necessary. The issues which the "FPSC" refused and continued to refuse to "timely" entertain in the above-entitled and numbered action, and the issues which the "FPSC" shirked its legal and social responsibility to "timely" entertain in the above-entitled and num-

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bered action, and the associated "companion cases", will be entertained in the aforesaid C.A. No. 92-963-CIV-T-17C. Due to the course of illegal conduct which the "FPSC" has engaged in against Intervenor, and others similarly situated, to violate Intervenor's civil rights, such a course has produced facts and evidence and law which the "FPSC" has now lost competent jurisdiction of Intervenor's "two" (2) complaints before the "FPSC". Intervenor, and those similarly situated, cannot receive a "FAIR HEARING" before the "FPSC". For judicial economy, since Intervenor cannot afford to provide a copy of Intervenor's federal Complaint at this stage of litigation, Intervenor repeats and realleges Intervenor's C.A. No. 92-963-CIV-T-17C, as if the aforesaid Complaint was expressly stated herein. Upon information and belief, the "FPSC" has already obtained a copy of the aforesaid "federal Complaint".

8. For judicial economy, Intervenor repeats and realleges each and every document sent to Thomas M. Beard from Intervenor Roy A. Day, and Intervenor repeats and realleges each and every document filed by Intervenor in the above-entitled and numbered action, and the "companion case" (Docket No. 920-620-TL), as if the aforesaid documents were expressly stated herein. Intervenor demands that Thomas M. Beard answer, with full and complete answers, each and every word and sentence and phrase and statement pertaining to each and all Plaintiff's correspondence sent to Thomas M. Beard. Intervenor moves the "FPSC" to transfer the above-entitled and numbered action to federal court, in the alternative, hold the above-entitled and numbered action in abeyance to a time in the future after Intervenor has received each and every full and complete answer from Thomas M. Beard

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on each and all Intervenor's correspondence to Thomas M. Beard. Intervenor's rights and property, and those similarly situated, are being adversely affected by the delay in receiving the aforesaid answers from Thomas M. Beard. "JUSTICE DELAYED, IS JUSTICE DENIED"! IT IS SELF-EVIDENT THAT INTERVENOR ROY A. DAY CANNOT RECEIVE A "FAIR HEARING" FROM THE "FPSC".

9. The issues raised in the federal complaint, C.A. No. 92-963-CIV-T-17C, is a multi-count complaint with numerous issues, including but not limited, the issues raised by Intervenor Roy A. Day with the "FPSC". Accordingly, pursuant to judicial economy, justice can be served by permitting the federal court entertain each and all issues, including the issues Intervenor has pending before the "FPSC". The "FPSC" has no jurisdiction to entertain each and all issues in Intervenor Roy A. Day's federal Complaint, C.A. No. 92-963-CIV-T-17C; however, the Federal Court has a right at this stage of litigation to entertain each and all issues of Intervenor, including but not limited, the issues Intervenor Roy A. Day filed with the "FPSC". Judicial economy must be the driving force behind each and all judicial decisions, when the issues are interconnected.

10. The record should reflect for future reference to the ladies and gentlemen of the jury, that the Florida Public Service Commission refused and continued to refuse to entertain Plaintiff's pleadings in a "timely" manner to ensure that the law firm of Ketchey, Horan, Hearn & Neukamm, specifically, [m. eric edington]'

¹ Lower case letters are used to signify a "sleazy, corrupt, dishonest, unethical, illegal licensed attorney" (hereafter, **■** PAGE 10 of 15 **■** ■ DOC: INTERVENOR-920188-TL **■**

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received 'artificial-monopolistic' legal fees at the rate of \$300.00 per hour in 'direct contravention' to Plaintiff's pleadings in the 'companion case' (Docket No. 920620-TL).

11.. Intervenor demands that NO monies of GTE Corporation (parent company), and its subsidiaries and affiliates and agents and servants and co-conspirators, including but not limited to, GTE of Florida, Inc., be spent on each and all actions filed by Intervenor with the Florida Public Service Commission on so-called 'licensed attorneys' in the State of Florida, which are employed by so-called 'law firms' making artificial-monopolistic legal fees. Roy A. Day, Intervenor, demands that each and all actions filed by Intervenor with the Florida Public Service Commission be handled by 'in-house attorneys' only of GTE Florida, Inc., since GTE of Florida, Inc. is a 'public monopoly', and the citizens have a clear right not to pay artificial-monopolistic legal fees for each and all complaints filed with the Florida Public Service Commission.

"SCDUILA"), and to signify that the citizens have taken so-called licensed attorneys' rights, and their families and supporters' rights, from them, since they do not honor 90% of the citizens' rights, and have set-up a "two tier system of justice". 90% of the citizens cannot afford a "SCDUILA" at \$200.00 per hour in artificial-monopolistic legal fees. In addition, it signifies that each and every citizen is held accountable to the law whether the citizen knows the law or not. Accordingly, each and every citizen has the right to be taught primary and secondary legal research and open court litigation skills under the 5th and 14th Amendments, specifically, due process and equal protection of the law. Subsequently, each and every citizen has the right to take a "national-legal-test" and "state-legal-test", and be elected or appointed a "Judge".

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12. Roy A. Day, Intervenor, is appearing in a "citizen-attorney" mode, and only has five(5) hours each week to work on legal matters. To the contrary, "privilege class - illegal licensed attorneys" have forty (40) hours each week to work on legal matters. The Florida Rules of Civil Procedure which require only ten (10) days for a response are discriminatory against the "ordinary citizen". Accordingly, Intervenor needs forty (40) days to file a response to each and all pleadings filed by Intervenor with the Florida Public Service Commission. Further, in a forma pauperis mode, Intervenor cannot afford to obtain copies of the pleadings filed by Intervenor in C.A. No. 92-963-CIV-T-17C. Accordingly, the "FPSC" is to obtain each and all copies of Intervenor's pleadings in C.A. No. 92-963-CIV-T-17C.

WHEREFORE, PREMISES CONSIDERED, Intervenor Roy A. Day request that the following relief be granted:

a. That Intervenor Roy A. Day's Motion To Disqualify Florida Public Service Commission for the above-entitled and numbered action is GRANTED; That Intervenor Roy A. Day's Motion For Transfer To Federal Court is GRANTED; declare that the above-entitled and numbered action is transferred to the United States District Court for the District of Columbia, in the alternative, to C.A. No. 92-963-CIV-T-17C, so the said federal court can determine a court with competent jurisdiction, and subsequently, entertain the instant motion to hold action in abeyance; IN THE ALTERNATIVE, that "GTE's" Motion To Strike and Motion To Dismiss is denied; declare that "GTE" filed fraudulent motions against Intervenor Roy A. Day solely for the purpose to deny Intervenor Roy A. Day meaningful access, since "GTE"

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is conspiring with "Jack Shreve" and other "public counsels", and various members of the commission, by using FRAUD to "railroad" through a rate increase without permitting true and correct evidence from being placed on the face of the record by Intervenor Roy A. Day which shows that "GTE" filed fraudulent documents with the "FPSC" as a co-conspirator with "Jack Shreve", and other so-called "public counsels"; declare that Intervenor Roy A. Day's Petition states a cause of action and is meritorious, in that Intervenor Roy A. Day has evidence to show that "GTE" is using "fraudulent" documents to obtain a rate increase, and that "GTE" is entitled to zero percent (0%) rate increase; declare that the "FPSC" did not give NOTICE, or return Intervenor Roy A. Day's Petition, and such a course is a "judicial admission against interest" that Intervenor Roy A. Day's Petition was filed and accepted as an forma pauperis Intervenor, in the alternative, declare that Intervenor filed two motions to intervene; declare that Intervenor has standing to proceed due to the course of conspiratorial-fraudulent conduct by "Jack Shreve", and other "public counsels", and the "FPSC", against the citizens of the State of Florida to deny the citizens true and correct meaningful access to the "FPSC" to present evidence on the illegal conduct of "Jack Shreve"; declare that Intervenor Roy A. Day's Petition states a cause of action and is meritorious, and request relief that can be granted, specifically, a zero percent (0%) rate increase; declare that the "FPSC" will entertain each and every motion filed by Intervenor Roy A. Day in the above-entitled and numbered action on October 16, 1992.

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b. Declare that since Plaintiff Roy A. Day is proceeding in a forma pauperis mode, and in a 'citizen-attorney' mode, and only has five (5) hours each week to spend on legal matters, and since 'illegal' licensed attorneys have eight hours a day, seven days a week to spend on legal matters, Intervenor Roy A. Day has a clear right to have forty (40) days to respond to each and all pleadings of the opposing counsel, and each and all orders of the commission or court, even though the Florida Rules of Civil Procedure only permit ten (10) days; declare that each and all Florida Rules of Civil Procedures which require only ten (10) days to respond to pleadings is void, null and illegal, in that the said RULE sets-up a 'two tier system of justice', and violates the Florida citizens' Fourteenth Amendment rights of due process and equal protection of the law and the basic rights of the Constitution of the State of Florida; declare each and all citizens must be treated the same before the law, and no 'privilege class illegal licensed attorney' making artificial-monopolistic legal fees working forty (40) hours a week on legal matters is to take undue advantage of the citizens of the State of Florida; declare that since the Florida Rules of Civil Procedure are void, null and illegal since they are discriminatory against ninety percent (90%) of the Florida citizens, and were written for the 'privilege class - illegal licensed attorney', that a 'Blue Ribbon Panel' of 'citizen-attorneys', who have completed a course in primary and secondary legal research and open court litigation skills, by elected to 're-write' the Florida Rules of Civil Procedure and the Florida Rules of Criminal Procedure and the Florida Rules of Evidence; declare that since Roy A. Day is proceeding in forma pauper-

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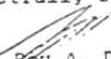
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is proceeding, that the "FPSC" will obtain each and all pleadings filed by Roy A. Day in C.A. No. 92-963-CIV-T-17C so the record is clear and certain and full and satisfactory.

c. That Roy A. Day's Motion For Emergency Ruling On October 16, 1992 is GRANTED; that the instant pleadings will be entertained on October 16, 1992 due to the issues being involved are of GREAT PUBLIC CONCERN.


d. Granting Roy A. Day such other and further relief as may be just.

Respectfully submitted,


Roy A. Day

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing motion has been forwarded to Thomas R. Parker, and M. Eric Edgington, GTE Florida Incorporated, P.O. Box 110, MC &, Tampa, Florida 33601, via first class mail on this 15th day of October, 1992.


Roy A. Day

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STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

ROY A. DAY,
Intervenor
V.
GTE OF FLORIDA, INCORPORATED

DOCKET NO. 920188-TL

- I. INTERVENOR'S MOTION TO DISQUALIFY THE FLORIDA PUBLIC SERVICE COMMISSION AND TRANSFER TO FEDERAL COURT
- II. INTERVENOR'S MOTION TO VACATE ORDER NO. PSC-92-1319-CFO-TL
- III. INTERVENOR'S MOTION FOR RECONSIDERATION OF ORDER NO. PSC-92-1319-CFO-TL
- IV. INTERVENOR'S MOTION FOR EMERGENCY RULING ON NOVEMBER 20, 1992,

ROY A. DAY, Intervenor, files these motions, and Intervenor would respectfully show unto the "FPSC" the following in support thereof:

1. On November 18, 1992, Intervenor Roy A. Day received in the United States Mail an order dated November 13, 1992 (order no. PSC-92-1319-CFO-TL), which granted a confidential treatment of document no. 11872-92. The aforesaid order granting the confidential treatment of the said items in the said document, is nothing more than an attempt to further conceal and cover-up the use of "fraudulent documents" and "falsehoods" and "half-truths" to "railroad" through a rate increase without the citizens being heard meaningfully.

2. The instant pleading is being filed in a "forma pauperis proceeding". For judicial economy, Intervenor repeats and realleges each and every pleading filed by Intervenor Roy A. Day in the above-entitled and numbered action, as if the aforesaid pleadings were expressly stated herein.

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3. After receiving "cash under the table" and/or "special favors" from GTE of Florida, Inc. (hereafter, "GTE"), and "GTE's" agents and servants and co-conspirators, and pursuant to "prior agreement and personal motivation" and "ex parte communications", so-called "Prehearing Officer" Thomas M. Beard entered a willful, intentional, malicious, wanton, and fraudulent order dated November 13, 1992 (No. PSC-92-1319-CFO-TL), granting the confidential treatment to document. The aforesaid order was entered solely for the purpose to ensure that "GTE's" fraudulent rate increase based on fraudulent documents and falsehoods and half-truths, is granted, without ninety-five percent (95%) of the citizens being meaningfully heard, and so "GTE" can take undue advantage of the citizens of the State of Florida and unjustly enrich "GTE".

4. The willful, intentional, malicious, wanton, and fraudulent order dated November 13, 1992 (No. PSC-92-1319-CFO-TL), is covered with numerous falsehoods. By way of example but not in limitation to: the statement that "the competitive toll rate information including the minutes of use for identified toll areas, the number of messages by specific toll route, and the actual MTS revenue by toll route", is not "confidential data", when in fact, the aforesaid data will show clear, strong, convincing and unequivocal and uncontroverted evidence that "GTE" is not entitled to a rate increase, and is only "ROBBING PETER TO PAY PAUL", specifically, "GTE" instituted the "long distance calling service" known as "extended calling service", with the "FRAUDULENT" "goal and objective" to "subsidize" the aforesaid "extended calling service" using a fraudulent rate increase, and by taking undue advantage of "low volume users" by using fraud and a "subsidizing process".

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5. The record should reflect that Intervenor reserves the right to address each and every falsehood in the November 13, 1992 order in a court with competent jurisdiction, specifically, federal court (C.A. No. 92-963-CIV-T-17).

6. For judicial economy, Intervenor repeats and realleges the Intervenor's Motion To Disqualify Florida Public Service Commission filed on July 7, 1992 in Docket No. 920620-TL, Day v. GTE Florida, Inc., as if the aforesaid Motion To Disqualify Florida Public Service Commission was expressly stated herein. Intervenor Roy A. Day repeats and realleges and each and every correspondence sent to Chairman Thomas M. Beard from Intervenor Roy A. Day which relates, pertains, refers or mentions the action in Docket No. 920620-TL, as if the aforesaid pleadings and correspondence were expressly stated herein. Accordingly, the Florida Public Service Commission is disqualified from proceeding on the above-entitled and numbered action until a time in the future when the federal courts have entered a final decision in the "companion federal lawsuit" (C.A. No. 92-963-CIV-T-17, USDC, Tampa Division). Further, the Florida Public Service Commission has a clear right to transfer the above-entitled and numbered action to a federal court with competent jurisdiction. In the alternative, Intervenor moves the Florida Public Service Commission to hold the above-entitled and numbered actions in abeyance until a time in the future when a final decision has been entered in C.A. No. 92-963-CIV-T-17C, including each and all appeals, and a ruling from the Supreme Court of the United States. Due to the serious issues involved in the instant action, Intervenor needs an emergency ruling on November 10, 1992 on the instant pleading, and on each

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and all pleadings filed by Intervenor in the above-entitled and numbered action.

WHEREFORE, PREMISES CONSIDERED, Intervenor Roy A. Day request that the following relief be granted:

a. That Intervenor Roy A. Day's Motion To Disqualify Florida Public Service Commission for the above-entitled and numbered action is GRANTED; That Intervenor Roy A. Day's Motion For Transfer To Federal Court is GRANTED; declare that the above-entitled and numbered action is transferred to the United States District Court for the District of Columbia, in the alternative, to C.A. No. 92-963-CIV-T-17C, so the said federal court can determine a court with competent jurisdiction, and subsequently, entertain the instant motion to hold action in abeyance; In The Alternative: that the above-entitled and numbered action is held in abeyance pending a final ruling in C.A. No. 92-963-CIV-T-17, and the 'GTE' rate increase is held in abeyance pending a final ruling in C.A. No. 92-963-CIV-T-17, since the evidence in the 'companion federal case', will show 'GTE' used fraudulent documents and falsehoods and half-truths to obtain the said rate increase; that the above-entitled and numbered action is held in abeyance to a time in the future when a final judgment has been entered in C.A. No. 92-963-CIV-T-17C, including but not limited to, each and all appeals.

b. That Intervenor's Motion To Vacate Order No. PSC-92-1319-CFO-TL and Motion For Reconsideration Of Order No. PSC-92-1319-CFO-TL is GRANTED; that Order No. PSC-92-1319-CFO-TL is reconsidered, and is vacated, and each and all concerned parties are permitted to view each and all data on the said document no. 11872-92

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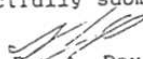
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in the above-entitled and numbered action, since "GTE" is using fraudulent documents to obtain a rate increase to subsidize the so-called long distance service known as "extend calling service", with the overlay to "eliminate" each and all competition and generate a "monopoly" on long distance service in the "GTE" calling area in Florida, and the said issues raised by Intervenor are of GREAT PUBLIC CONCERN, and affect MILLIONS AND MILLIONS of citizens in the State of Florida; declare that the court with competent jurisdiction, in the alternative, the "FPSC", will entertain each and all pending motions of Intervenor Roy A. Day, including but not limited to, Motion To Reconsider And Vacate Order No. PSC-92-1319-CFO-TL Dated November 13, 1992.

c. That Roy A. Day's Motion For Emergency Ruling On November 20, 1992 is GRANTED; that the instant pleading will be entertained on November 20, 1992 due to the issues being involved are of GREAT PUBLIC CONCERN; that each and every pleading filed by Intervenor in the above-entitled and numbered action will be entertained on November 20, 1992, to ensure that Intervenor's rights and property are not further adversely affected.

d. Granting Roy A. Day such other and further relief as may be just.

Respectfully submitted,


Roy A. Day

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CERTIFICATE OF SERVICE

No parties named at this stage of litigation, since the "FPSC" refused and continued to refuse to permit Petitioner to gain meaningful access to the "FPSC". Accordingly, the parties names are "unknown" to Petitioner. The aforesaid course by the "FPSC" was to ensure that the citizens of the State of Florida would NOT receive justice, but FRAUD OF THE FIRST ORDER.



Roy A. Day

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STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

ROY A. DAY,
Intervenor
V.
GTE OF FLORIDA, INCORPORATED

DOCKET NO. 920188-TL

- I. INTERVENOR'S MOTION TO DISQUALIFY THE FLORIDA PUBLIC SERVICE COMMISSION AND TRANSFER TO FEDERAL COURT
- II. INTERVENOR'S MOTION TO VACATE ORDER NO. PSC-92-1380-CFO-TL
- III. INTERVENOR'S MOTION FOR RECONSIDERATION OF ORDER NO. PSC-92-1380-CFO-TL
- IV. INTERVENOR'S MOTION FOR EMERGENCY RULING ON DECEMBER 9, 1992,

ROY A. DAY, Intervenor, files these motions, and Intervenor would respectfully show unto the "FPSC" the following in support thereof:

1. On December 7, 1992, Intervenor Roy A. Day received in the United States Mail an order dated December 2, 1992 (order no. PSC-92-1380-CFO-TL), which granted a confidential treatment of document no. 11152-92 - cross reference document nos. 13321-92, 10156-92, 10157-92. The aforesaid order granting the confidential treatment of the said items in the said document, is nothing more than an attempt to further conceal and cover-up the use of "fraudulent documents" and "falsehoods" and "half-truths" to "railroad" through a rate increase without the citizens being heard meaningfully.

2. The instant pleading is being filed in a "forma pauperis proceeding". For judicial economy, Intervenor repeats and realleges each and every pleading filed by Intervenor Roy A. Day in the

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above-entitled and numbered action, as if the aforesaid pleadings were expressly stated herein.

3. After receiving "cash under the table" and/or "special favors" from GTE of Florida, Inc. (hereafter, "GTE"), and "GTE's" agents and servants and co-conspirators, and pursuant to "prior agreement and personal motivation" and "exparte communications", so-called "Prehearing Officer" Thomas M. Beard entered a willful, intentional, malicious, wanton, and fraudulent order dated December 2, 1992 (No. PSC-92-1380-CFO-TL), granting the confidential treatment to document. The aforesaid order was entered solely for the purpose to ensure that "GTE's" fraudulent rate increase based on fraudulent documents and falsehoods and half-truths, is granted, without ninety-five percent (95%) of the citizens being meaningfully heard, and so "GTE" can take undue advantage of the citizens of the State of Florida and unjustly enrich "GTE".

4. The willful, intentional, malicious, wanton, and fraudulent order dated December 2, 1992 (No. PSC-92-1380-CFO-TL), is covered with numerous falsehoods. By way of example but not in limitation to: FRAUDULENT STATEMENT: "GTEFL asserts that the information at issue relates to unregulated affiliates of GTEFL. Specifically, the Company argues that the material in Mr. Scudder's testimony for which confidential classification is sought contains detailed information regarding GTE data Services GTEDS pricing, vendor pricing, and GTEDS' relative pricing position within the industry. GTEFL contends that the material in Mr. Barrett's testimony contains information regarding GTE Communications Corporation (GTECC) revenues/expenses associated with its services and operations." The aforesaid data will show

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clear, strong, convincing and unequivocal and uncontroverted evidence that "GTE" is not entitled to a rate increase, and is only "ROBBING PETER TO PAY PAUL", specifically, "GTE" instituted the "long distance calling service" known as "extended calling service", with the "FRAUDULENT" "goal and objective" to "subsidize" the aforesaid "extended calling service" using a fraudulent rate increase, and by taking undue advantage of "low volume users" by using fraud and a "subsidizing process". In addition, GTE of Florida, Inc. and GTE Corporation (parent company) have conspired with GTE Communications Corporation to engage in "monopolistic practices" to ensure that GTE Communications Corporation takes undue advantage of the citizens of the State of Florida, and unjustly enriches GTE of Florida, Inc. and GTE Communications Corporation. Intervenor has established FRAUD at GTE Communications Corporation in the past month (See EXHIBIT "1" which EXHIBIT "1" is attached hereto and by reference incorporated herein). Based on the aforesaid EXHIBIT "1", it is self-evident that the so-called "confidential documents" of GTEFL will show uncontroverted evidence that GTEFL and GTE Communications Corporation and GTE Corporation have conspired to take undue advantage of the citizens of the State of Florida, and unjustly enrich GTE of Florida, Inc. and GTE Communications Corporation and GTE Corporation.

5. The record should reflect that Intervenor reserves the right to address each and every falsehood in the December 2, 1992 order in a court with competent jurisdiction, specifically, federal court (C.A. No. 92-963-CIV-T-17).

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6. For judicial economy, Intervenor repeats and realleges the Intervenor's Motion To Disqualify Florida Public Service Commission filed on July 7, 1992 in Docket No. 920620-TL, Day v. GTE Florida, Inc., as if the aforesaid Motion To Disqualify Florida Public Service Commission was expressly stated herein. Intervenor Roy A. Day repeats and realleges and each and every correspondence sent to Chairman Thomas M. Beard from Intervenor Roy A. Day which relates, pertains, refers or mentions the action in Docket No. 920620-TL, as if the aforesaid pleadings and correspondence were expressly stated herein. Accordingly, the Florida Public Service Commission is disqualified from proceeding on the above-entitled and numbered action until a time in the future when the federal courts have entered a final decision in the "companion federal lawsuit" (C.A. No. 92-963-CIV-T-17, USDC, Tampa Division). Further, the Florida Public Service Commission has a clear right to transfer the above-entitled and numbered action to a federal court with competent jurisdiction. In the alternative, Intervenor moves the Florida Public Service Commission to hold the above-entitled and numbered actions in abeyance until a time in the future when a final decision has been entered in C.A. No. 92-963-CIV-T-17C, including each and all appeals, and a ruling from the Supreme Court of the United States. Due to the serious issues involved in the instant action, Intervenor needs an emergency ruling on December 9, 1992 on the instant pleading, and on each and all pleadings filed by Intervenor in the above-entitled and numbered action.

WHEREFORE, PREMISES CONSIDERED, Intervenor Roy A. Day request that the following relief be granted:

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a. That Intervenor Roy A. Day's Motion To Disqualify Florida Public Service Commission for the above-entitled and numbered action is GRANTED; That Intervenor Roy A. Day's Motion For Transfer To Federal Court is GRANTED; declare that the above-entitled and numbered action is transferred to the United States District Court for the District of Columbia, in the alternative, to C.A. No. 92-963-CIV-T-17C, so the said federal court can determine a court with competent jurisdiction, and subsequently, entertain the instant motion to hold action in abeyance; In The Alternative: that the above-entitled and numbered action is held in abeyance pending a final ruling in C.A. No. 92-963-CIV-T-17, and the "GTE" rate increase is held in abeyance pending a final ruling in C.A. No. 92-963-CIV-T-17, since the evidence in the "companion federal case", will show "GTE" used fraudulent documents and falsehoods and half-truths to obtain the said rate increase; that the above-entitled and numbered action is held in abeyance to a time in the future when a final judgment has been entered in C.A. No. 92-963-CIV-T-17C, including but not limited to, each and all appeals.

b. That Intervenor's Motion To Vacate Order No. PSC-92-1380-CFO-TL and Motion For Reconsideration Of Order No. PSC-92-1380-CFO-TL is GRANTED; that Order No. PSC-92-1380-CFO-TL is reconsidered, and is vacated, and each and all concerned parties are permitted to view each and all data on the said document no. 11152-92 (and cross reference document, nos. 13321-92, 10156-92, 10157-92), in the above-entitled and numbered action, since "GTE" is using fraudulent documents to obtain a rate increase to subsidize the so-called long distance service known as "extend calling service", with the

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overlay to "eliminate" each and all competition and generate a "monopoly" on long distance service in the "GTE" calling area in Florida, and to conspire with GTE Communications Corporation to use "fraudulent practices" to conceal and cover-up the "fraudulent rate increase" that is not warranted or justified, and the said issues raised by Intervenor are of GREAT PUBLIC CONCERN, and affect MILLIONS AND MILLIONS of citizens in the State of Florida; declare that the court with competent jurisdiction, in the alternative, the "FPSC", will entertain each and all pending motions of Intervenor Roy A. Day, including but not limited to, Motion To Reconsider And Vacate Order No. PSC-92-1380-CFO-TL Dated December 2, 1992.

c. That Roy A. Day's Motion For Emergency Ruling On December 9, 1992 is GRANTED; that the instant pleading will be entertained on December 9, 1992 due to the issues being involved are of GREAT PUBLIC CONCERN; that each and every pleading filed by Intervenor in the above-entitled and numbered action will be entertained on December 9, 1992, to ensure that Intervenor's rights and property are not further adversely affected.

d. Granting Roy A. Day such other and further relief as may be just.

Respectfully submitted,


Roy A. Day

CERTIFICATE OF SERVICE

No parties named at this stage of litigation, since the "FPSC" refused and continued to refuse to permit Petitioner to gain meaningful access to the "FPSC". Accordingly, the parties names are "unknown" to Petitioner. The aforesaid course by the "FPSC" was to ensure that the citizens of the State of Florida would NOT receive justice, but FRAUD OF THE FIRST ORDER.

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Roy A. Day
P.O. Box 33
Tarpon Springs, Florida 34688-0033

December 3, 1992

Mr. Allen McCook
GTE Communications Corporation
1907 U.S. Highway 301 North
Tampa, Florida 33619

RE: Fraud by GTE Communications Corporation as co-conspirators
with GTE of Florida, Inc. and GTE Corporation
RE: Telephone Number (813) 9378398; 652 Bayshore Drive, Tarpon
Springs, Florida 34689-2456.

Dear Mr. McCook:

IF AN AGENT AND SERVANT OF ALLEN MCCOOK, YOU ARE TO CEASE AND
DESIST READING THE INSTANT LETTER AND GIVE TO ALLEN MCCOOK, AND ALLEN
MCCOOK ONLY. IN ADDITION, ALLEN MCCOOK IS TO PROVIDE A COPY OF THE
INSTANT LETTER TO CHARLES R. LEE, CHAIRMAN OF THE BOARD OF GTE CORPO-
RATION, AND GTE OF FLORIDA, INCORPORATED'S CHIEF EXECUTIVE OFFICER, ACCORD-
AND GTE COMMUNICATIONS CORPORATION'S CHIEF EXECUTIVE OFFICE. ACCORD-
INGLY, FOR THE PURPOSE OF THE INSTANT LETTER, "YOU" AND "GTECC" RE-
PERS, RELATES AND PERTAINS TO THE EACH AND ALL OF THE AFORESAID PER-
SONS AND INDIVIDUALS AND CORPORATIONS AND SUBSIDIARIES AND AFFILI-
ATES, AND THEIR EMPLOYEES AND AGENTS AND SERVANTS AN
CO-CONSPIRATORS.

"FACTS" FOR THE LADIES AND GENTLEMEN OF THE JURY

1. It has been established that GTE Communications Corpora-
tion (hereafter, GTECC), as a co-conspirator with GTE of Florida Inc.
and GTE Corporation (parent company), have instituted a course of
fraudulent conduct against the citizens of the State of Florida,
specifically, to harass and intimidate the said citizens to use the
"monopolistic services" of GTECC by having the "central equipment
office" of GTE of Florida, Inc. "set-up" a "fraudulent short circuit"
on a said customer's telephone line to create a so-called "short
ring" on a customer's telephone line, solely for the purpose to
force, coerce and threaten the said customer to "obtain" the
"monopolistic services" of GTECC. MILLIONS AND MILLIONS AND MILLIONS
OF CITIZENS IN THE STATE OF FLORIDA ARE BEING SUBJECTED TO THE AFORE-
SAID COURSE OF ILLEGAL CONDUCT. By way of example, but not limitation
to: Roy A. Day dropped GTE Communications Corporation's "monthly
service charge" which appeared on the monthly GTE of Florida, Inc.
telephone bill. Subsequently, GTECC began a "thinly disguised" course
of fraudulent conduct to harass, intimidate, force, coerce and threat-
en Roy A. Day to "sign-up again" with GTECC, by subjecting Roy A.
Day's telephone to a so-called "short ring" by "short circuiting" the
central office equipment of GTE of Florida, Inc. when it pertained to
Roy A. Day's telephone line. The "first impression", when Roy A. Day
dropped GTECC "monopolistic services", was that Roy A. Day was

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receiving telephone calls which a person just "hung-up" very quickly, without completing the said telephone call. The said "short ring" started after Roy A. Day dropped GTECC "monopolistic services". Roy A. Day never had the said problem prior to Roy A. Day dropping the "monopolistic service" of GTECC. The "short ring" continued, and Roy A. Day had the "impression" that a person was not completing the said telephone call, and just "hung-up". It was after Roy A. Day was expecting a "specific telephone call" on December 2, 1992, that Roy A. Day determined that GTECC had "instituted" the so-called "short ring" as a "thinly disguised" harassment, intimidation, coercion and threat for "dropping" GTECC "monopolistic service".

2. Accordingly, on December 2, 1992, Roy A. Day reported the so-called "short ring" by calling 1-800-4831313 (the person who accepted the report, stated they were in Dothan, Alabama), and on December 3, 1992, at or about 12:32 P.M., when Roy A. Day returned to the above-entitled and numbered address, Roy A. Day found a note attached to Roy A. Day's front door stating that the said problem for the so-called "short ring" was "originating from" Roy A. Day's "telephone equipment or wiring". The aforesaid statement is FRAUD OF THE FIRST ORDER, and is a fraudulent statement, meant to deceive each and all persons who read the said note, when in fact, the true and correct source for the so-called "short ring" is due to the telephone equipment in the GTE of Florida, Inc.'s central office. ROY A. DAY STATES THAT ROY A. DAY'S TELEPHONE EQUIPMENT AND WIRING ARE FUNCTIONING ONE HUNDRED PERCENT (100%) TO THE TRUE AND CORRECT STATUS AND OPERATION OF THE SAID EQUIPMENT AND WIRING AS DESIGNATED BY SAID THE MANUFACTURE.

3. Subsequently, Roy A. Day called the said number on the note (1-800-2334948) left on Roy A. Day's front door, and spoke with a "Marco", which Roy A. Day had "Marco" call Roy A. Day's telephone number to see if the said problem was correct. It was not. Subsequently, Roy A. Day ask to speak to the highest manager in the said operation. A "Herb Bishop" came on the line and spoke to Roy A. Day. Roy A. Day demanded that the said so-called "short ring" be corrected by 5:00 P.M. on December 3, 1992. "Herb Bishop" refused and continued to refuse to correct the said problem, and stated "Herb Bishop" would do nothing. Roy A. Day stated to Herb Bishop that each and all statements pertaining to Roy A. Day's "repair report" on December 2, 1992 and December 3, 1992, are to be placed in writing, and each and all contact is to be placed in writing. Roy A. Day demanded that information be provided to Roy A. Day pertaining to the said repair reported on December 2, 1992 and December 3, 1992.

4. Roy A. Day demands the following information:
a. The names of each and all persons and individuals at GTE of Florida, Inc. and GTECC and GTE Corporation who received and documented Roy A. Day's repair notice on December 2, 1992 and December 3, 1992.

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b. The names of each and all persons and individuals at GTE of Florida, Inc. and GTECC and GTE Corporation who have any personal knowledge that refers, relates, mentions or pertains to the so-called "repair" of Roy A. Day's telephone number at the above-entitled and numbered address in reference to the so-called "short ring".

c. The names of each and all persons and individuals at GTE of Florida, Inc. and GTECC and GTE Corporation who have any personal knowledge that refers, relates, mentions or pertains to the so-called "repair" of the "central office equipment" of GTE of Florida, Inc. in connection to the "short ring" on Roy A. Day's telephone at the above-entitled and numbered address.

d. The name of the Chief Executive Officer of GTECC and GTE of Florida, Inc.

5. The aforesaid course of illegal conduct by GTECC, and its co-conspirators (GTE of Florida, Inc. and GTE Corporation), has needlessly and unnecessarily cost Roy A. Day time, money and effort on not receiving telephone calls in a timely manner in the SUM CERTAIN of One Hundred Thousand Dollars (\$100,000.00).

6. You (Allen McCook and GTE of Florida, Inc. and GTE Corporation) consider \$5,000.00 per day in sanctions to be a fair and equitable SUM CERTAIN for each and every day that you (Allen McCook and GTECC and GTE of Florida, Inc. and GTE Corporation) did not correct the so-called "short ring" problem past the day of December 3, 1992, at 5:00 P.M., and for each and every day that you do not send Roy A. Day a response to the instant letter by the date indicated infra. Further, you (Allen McCook and GTE of Florida, Inc. and GTE Corporation), consider your course of conduct of not responding to Roy A. Day's letter as a course of willful, intentional and malicious and illegal conduct, specifically, negligence and fraud, and as a co-conspirator with other employees and agents and servants of GTECC and GTE of Florida, Inc. and GTE Corporation. In addition, your (Allen McCook and GTECC and GTE of Florida, Inc. and GTE Corporation) silence is interpreted that you (Allen McCook and GTECC and GTE of Florida, Inc. and GTE Corporation) have a duty imposed upon you (Allen McCook and GTECC and GTE of Florida, Inc. and GTE Corporation) to correct Roy A. Day's "short ring", since the "true and correct source of the problem" is at the GTE of Florida, Inc. "so-called" "central equipment office".

7. CAVEAT: NOTE: The instant letter pertaining to Allen McCook and GTECC and GTE of Florida, Inc. and GTE Corporation (and their employees and agents and servants and co-conspirators), is written as a stipulation and agreement (specifically, a "written contract") between Roy A. Day and Allen McCook and GTECC and GTE of Florida, Inc. and GTE Corporation, in reference to, and in connection to, Roy A. Day's "repair notice" on the so-called "shot ring" at the above-entitled and numbered address and telephone number. Allen McCook and GTECC and GTE of Florida, Inc. and GTE Corporation's silence

(P.9) (EX. 11)

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is interpreted that each and every word and sentence and statement and phrase not addressed in the instant letter is stipulated and agreed between Roy A. Day and Allen McCook and GTECC and GTE of Florida, Inc. and GTE Corporation, as TRUE AND CORRECT.

8. YOUR (ALLEN MCCOOK AND GTECC AND GTE OF FLORIDA, INC. AND GTE CORPORATION) SILENCE IS INTERPRETED THAT ROY A. DAY IS ENTITLED TO ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) IN COMPENSATORY DAMAGES, AND FIFTY THOUSAND DOLLARS (\$50,000.00) IN PAIN AND SUFFERING DAMAGES, AND ONE MILLION DOLLARS (\$1,000,000.00) IN PUNITIVE DAMAGES, FOR THE COURSE OF ILLEGAL CONDUCT OF ALLEN MCCOOK AND GTECC AND GTE OF FLORIDA, INC. AND GTE CORPORATION, AND THEIR EMPLOYEES AND AGENTS AND SERVANTS AND CO-CONSPIRATORS, AGAINST ROY A. DAY.

END FACTS.

NOTE: IF AN AGENT AND SERVANT RESPONDS ON BEHALF OF ALLEN MCCOOK AND CHARLES R. LEE AND THE CHIEF EXECUTIVE OFFICE OF GTE OF FLORIDA, INC. AND GTECC'S CHIEF EXECUTIVE OFFICER, AND IF THE WRITTEN RESPONSE (SENT CERTIFIED MAIL ONLY) IS NOT RECEIVED ON OR BEFORE DECEMBER 9, 1992, THEN ALLEN MCCOOK AND CHARLES R. LEE AND THE CHIEF EXECUTIVE OFFICE OF GTE OF FLORIDA, INC. AND GTECC'S CHIEF EXECUTIVE OFFICER'S SILENCE IS INTERPRETED THAT THE AFORESAID WORDS AND SENTENCES AND STATEMENTS AND PHRASES ARE TRUE AND CORRECT IN THE AFORESAID "FACTS".

IN ADDITION, YOUR (ALLEN MCCOOK AND CHARLES R. LEE AND THE CHIEF EXECUTIVE OFFICER OF GTE OF FLORIDA, INC. AND GTECC'S CHIEF EXECUTIVE OFFICER) SILENCE IS INTERPRETED THAT YOU (ALLEN MCCOOK AND CHARLES R. LEE AND THE CHIEF EXECUTIVE OFFICER OF GTE OF FLORIDA, INC. AND GTECC'S CHIEF EXECUTIVE OFFICER) ARE THE ONLY EMPLOYEE OR PERSONS OR INDIVIDUALS OF GTECC AND GTE OF FLORIDA, INC. AND GTE CORPORATION, THAT HAS THE AUTHORITY:

(a) TO FILE EACH AND ALL RESPONSES TO ROY A. DAY'S WRITTEN CORRESPONDENCE TO ALLEN MCCOOK AND CHARLES R. LEE AND THE CHIEF EXECUTIVE OFFICER OF GTE OF FLORIDA, INC. AND GTECC'S CHIEF EXECUTIVE OFFICER, AND EACH AND ALL RESPONSES ON YOUR (ALLEN MCCOOK AND CHARLES R. LEE AND THE CHIEF EXECUTIVE OFFICER OF GTE OF FLORIDA, INC. AND GTECC'S CHIEF EXECUTIVE OFFICER) BEHALF ARE "FRAUDULENT" RESPONSES, AND MEANT TO DECEIVE THE LADIES AND GENTLEMEN OF THE JURY OF THE TRUE AND CORRECT FACTS. SPECIFICALLY, YOU (ALLEN MCCOOK AND CHARLES R. LEE AND THE CHIEF EXECUTIVE OFFICER OF GTE OF FLORIDA, INC. AND GTECC'S CHIEF EXECUTIVE OFFICER) HAVE NOT AUTHORIZED ANY PERSON OR INDIVIDUAL OR EMPLOYEE OF GTECC AND GTE OF FLORIDA, INC. AND GTE CORPORATION, TO RESPOND TO ROY A. DAY'S WRITTEN CORRESPONDENCE TO ALLEN MCCOOK AND CHARLES R. LEE AND THE CHIEF EXECUTIVE OFFICER OF GTE OF FLORIDA, INC. AND GTECC'S CHIEF EXECUTIVE OFFICER. NOTE: EACH AND ALL OF THE AFORESAID "FRAUDULENT" RESPONSES ON YOUR (ALLEN MCCOOK AND CHARLES R. LEE AND THE CHIEF EXECUTIVE OFFICER OF GTE OF FLORIDA, INC. AND

(P.10) (Ex. "1")

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GTECC'S CHIEF EXECUTIVE OFFICER) BEHALF, EVEN THOUGH NOT AUTHORIZED, HAVE ADMITTED EACH AND EVERY WORD AND STATEMENT AND SENTENCE AND PHRASE IN ROY A. DAY'S WRITTEN CORRESPONDENCE TO ALLEN MCCOOK AND CHARLES R. LEE AND THE CHIEF EXECUTIVE OFFICE OF GTE OF FLORIDA, INC. AND GTECC'S CHIEF EXECUTIVE OFFICER.

(b) TO NEGOTIATE WITH ROY A. DAY PERTAINING TO THE ISSUE TO COMPROMISE AND SETTLE, AND THE ISSUE OF THE NECESSITY TO FILE A CIVIL ACTION AGAINST GTECC AND GTE OF FLORIDA, INC. AND GTE CORPORATION, AND THE ISSUE PERTAINING TO THE ADMITTED DAMAGES AND SANCTIONS IN THE AFORESAID PARAGRAPHS "5" AND "6" AND "8", SUPRA, AND THE ISSUE TO FILE A COMPLAINT WITH THE FLORIDA PUBLIC SERVICE COMMISSION.

THE AFORESAID NOTE IS WRITTEN FOR THE LADIES AND GENTLEMEN.

I am sure there is a simple solution. Thank you for your cooperation and assistance in this matter.

Very truly yours,


Roy A. Day

RAD/rr
Sent UPS Next Day Air
Shipper Number N 349 - X85
Tracking Number 1991 9568 090

GOOD FAITH OFFER TO COMPROMISE AND SETTLE

9. Roy A. Day will compromise and settle the aforesaid issues if the said "short ring" is corrected, and for a sum of one thousand dollars (\$1,000.00), and a statement that GTECC and GTE of Florida, Inc. and GTE Corporation will cease and desist the course of illegal conduct of using a so-called "short ring" to harass, intimidate, force, threaten and intimidate citizens to use the "monopolistic services" of GTECC.

If the aforesaid "short ring" is not corrected on or before December 9, 1992, and if the one thousand dollars (\$1,000.00) is not received on or before December 9, 1992, then the aforesaid offer to compromise and settle is rescinded and withdrawn.

NOTE: EACH AND ALL RESPONSES TO THE INSTANT LETTER ARE TO BE SENT CERTIFIED MAIL TO THE ABOVE-ENTITLED AND NUMBERED POST OFFICE BOX.

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James L. Lindero
Area Vice President - General Counsel

Attorneys

John H. Abeck
Timothy Caswell
Pamela M. Deak
M. Eric Edgington

Joe W. Foster
Ernesto Mavor, Jr.
Thomas R. Parker
Leslie Reon Stein

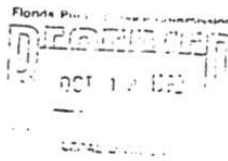


GTE Florida
Incorporated

One Tampa City Center
Post Office Box 110, MC 7
Tampa, Florida 33601-0110
813 224-4001
813 228-5257 (Facsimile)

October 13, 1992

Mr. Steve C. Tribble, Director
Division of Records & Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32399-0865



Re: Docket No. 920188-TL
Application for a rate increase by
GTE Florida Incorporated 1992

Dear Mr. Tribble:

Please find enclosed for filing the original and 15 copies of
GTE Florida Incorporated's Motion to Strike, Motion to Dismiss
and Response to Petition of Roy A. Day in the above matter.

Service has been made on the parties indicated below.

Very truly yours,

/s/

M. Eric Edgington

MEE:tas
Enclosures

c: Division of Legal Services
Division of Water and Wastewater
Division of Consumer Affairs
Office of Public Counsel
Roy A. Day

A part of GTE Corporation

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate increase)	Docket No. 920188-TL
by GTE Florida Incorporated 1992)	Filed: 10-13-92
<hr/>		

GTE FLORIDA INCORPORATED'S MOTION TO STRIKE,
MOTION TO DISMISS AND RESPONSE TO
PETITION OF ROY A. DAY

Comes now GTE Florida Incorporated ("GTEFL"), pursuant to the provisions of Commission Rule 25-22.037(2)(a), Fla. Admin. Code, and moves the Commission to dismiss and or strike the Petition of Roy A. Day ("Petition") and states as follows:

Failure to Intervene

1. Roy A. Day has filed no petition to intervene in this docket. Without the granting of a petition to intervene, Mr. Day lacks standing to proceed, either in person or through the filing of pleadings. Mr. Day's Petition makes no request for intervention and is, therefore, deficient as a petition for intervention. Any party wishing to proceed in a pending matter must file a Petition for Leave to Intervene which must include allegations sufficient to demonstrate that the Intervenor is entitled to participate in the proceeding as a matter of constitutional right or pursuant to Commission rule or that the substantial interests of the Intervenor are subject to determination or will be affected through the proceeding. 25-22.039 Fla. Admin. Code. Any attempt to intervene as of the date of this response would be untimely.

Lack of Standing

2. Should the Commission deem Mr. Day's Petition to be a petition for intervention or should Mr. Day attempt to intervene at any time subsequent to this response, GTEFL would point out that Mr. Day lacks standing to intervene in this docket. Fla. Stat. Section 350.0611 (1991). Mr. Day has failed to establish a "substantial interest" which would give rise to standing to intervene in this proceeding. Mr. Day's Petition appears to indicate that he has suffered an economic injury or will suffer an economic injury of some sort as a result of GTEFL's actions. The allegation of economic injury is insufficient to confer standing for purposes of establishing substantial interest under Section 120.57(1) Fla. Stat. Shared Services, Inc. v. State Department of Health and Rehabilitation Services, 426 So.2d 56 (Fla. 1st DCA 1983); Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2nd DCA 1981). Mr. Day, as well as all citizens of the State of Florida, are represented by Public Counsel in matters before the Public Service Commission. Therefore, Mr. Day has no legal or equitable basis to assert standing in this docket.

Motion to Dismiss or, in the Alternative, Motion to Strike

3. Mr. Day's Petition in this matter fails to make a clear and plain statement of Mr. Day's cause of action in order to allow GTEFL to form a response. Mr. Day apparently alleges some sort of fraud action but fails to allege fraud with particularity as is required by Rule 1.130(b) Fla. R. Civ. P. (1992).

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4. Mr. Day's Petition fails to state a cause of action for which relief can be granted. Rule 1.140 Fla. R. Civ. P. (1992). Indeed, the Petition fails to set out a claim for relief in sufficient clarity to allow GTEFL to form defenses or properly admit or deny any allegations.

WHEREFORE, GTE Florida Incorporated moves to strike, or in the alternative, dismiss the Petition of Roy A. Day for failure to intervene, lack of standing to intervene and failure to plead a cause of action for which relief can be granted.

Respectfully submitted this 13th day of October, 1992.

THOMAS R. PARKER
JOE W. FOSTER
KIMBERLY CASWELL
M. ERIC EDGINGTON

By: /s/ M. Eric Edgington
Thomas R. Parker
M. Eric Edgington
Post Office Box 110, MC 7
Tampa, Florida 33601
Telephone: 813-228-3087

Attorneys for
GTE Florida Incorporated

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of GTE Florida Incorporated's Motion to Strike, Motion to Dismiss and Response to Petition of Roy A. Day in Docket No. 920188-TL has been furnished via hand delivery and/or U.S. Mail on this the 13th day October, 1992, to the parties listed below.

/s/ M. Eric Edgington
M. Eric Edgington
Post Office Box 110, MC7
Tampa, Florida 33601
Telephone: 813-228-3087

Attorney for
GTE Florida Incorporated

Division of Legal Services
101 East Gaines Street
Tallahassee, FL 32399-0865

Division of Water and Waste
101 East Gaines Street
Tallahassee, FL 32399-0865

Division of Consumer Affairs
101 East Gaines Street
Tallahassee, FL 32399-0865

Office of Pub. Counsel
c/o The FLA. Legislature
101 West Madison Street
Rm 812
Tallahassee, FL 32399-1400

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James V. Candelo
Area Vice President-General Counsel

Attorneys

Lynn H. Albeck	Joe W. Foster
Kimberly Caswell	Ernesto Mayor, Jr.
Frederic H. Deak	Thomas R. Parker
M. Eric Edgington	Leslie Reichen Steen



GTE Florida
Incorporated

One Tampa City Center
Post Office Box 110, MC 7
Tampa, Florida 33601-0110
813 224-4001
813 228-5257 (Facsimile)

October 12, 1992

Mr. Steve C. Tribble, Director
Division of Records & Reporting
Florida Public Service Commission
101 E. Gaines Street
Tallahassee, FL 32399-0865

Dear Mr. Tribble:

Re: Docket No. 920620-TL
Complaint by Roy A. Day Against GTE Florida
Incorporated Regarding Extended Calling Service

Please find enclosed for filing the original and fifteen
copies of GTE Florida Incorporated's Motion to Dismiss the
Amended Complaint of Roy A. Day.

Service has been made as indicated on the Certificate of
Service. If there are any questions with regard to this
matter, please contact the undersigned at 813-228-3085.

Very truly yours,

M. Eric Edgington

MEE:tas
Enclosures

c: Division of Legal Services
Division of Water and Wastewater
Division of Consumer Affairs
Office of Public Counsel
Roy A. Day

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Roy A. Day Against) Docket No. 920620-TL
GTE Florida Incorporated Regarding) Filed: October 13, 1992
Extended Calling Service)

GTE FLORIDA INCORPORATED'S MOTION TO DISMISS
AMENDED COMPLAINT OF ROY A. DAY

COMES NOW GTE Florida Incorporated ("GTEFL"), by its undersigned counsel, and files its Motion to Dismiss the Amended Complaint of Roy A. Day. Mr. Day has filed a Second Amended Complaint in this docket on September 25, 1992 which moots Mr. Day's Amended Complaint. However, out of an abundance of caution, GTEFL responds to Mr. Day's Amended Complaint as follows:

1. The Amended Complaint ("Amended Complaint") filed in this docket by Roy A. Day ("Day") seeks an award of monetary damages against GTEFL.¹ While it is unclear to GTEFL as to what the specific basis is for Mr. Day's request for damages, his claim apparently arises out of GTEFL's implementation of Extended Calling Service ("ECS") which was approved by the Florida Public Service Commission ("Commission") after hearing in Docket No. 910179-TL through the issuance of Order No. PSC-92-0323-FOF-TL. Mr. Day's Amended Complaint also seeks legal advice from the Commission as to whether Mr. Day has exhausted his administrative remedies.

¹ GTEFL appears only on its own behalf and not on behalf of any other individuals or entities (including affiliates of GTEFL) named in Mr. Day's Amended Complaint. While the Commission does have jurisdiction over GTEFL as a certificated telecommunications company operating in the State of Florida, the Commission has no jurisdiction, and Mr. Day has alleged no basis for the Commission's jurisdiction, over the individuals and entities listed in Mr. Day's Amended Complaint, other than GTEFL.

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2. Jurisdiction over claims against telecommunications companies for monetary damages rests with the Circuit Courts of Florida and not with the Commission. Southern Bell Telephone and Telegraph Company v. Mobile America Corporation, Inc., 291 So.2d 199 (Fla. 1974). Mr. Day has alleged no Florida statute or Commission rule enacted pursuant to statute which indicates that the Commission can award monetary damages in this proceeding. Petition of Florida Power Corporation to Resolve Territorial Dispute With Tri-County Electric Cooperative, Inc., Docket No. 890465-EI; Order No. 23037 (June 6, 1990). Accordingly, the Commission is without jurisdiction in this matter and must dismiss the Amended Complaint.

3. GTEFL reserves and has not waived any rights it has or may have to assert the appropriateness of a primary jurisdiction referral to the Commission from any tribunal in which a subsequent action may be brought.

4. To the extent Mr. Day seeks counsel from the Commission as to whether he has exhausted his administrative remedies, the Commission is without jurisdiction to render such legal advice, and Mr. Day has stated no statutory law, administrative rule, or Commission Order permitting such comment by the Commission. To the extent that Mr. Day's Amended Complaint is a Request for a Declaratory Statement, it is improperly pled and is defective on its face.

5. Docket No. 910179-TL, respecting implementation of ECS, was heard by the full Commission after statewide notice was given

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to the using and consuming public. Three local hearings were held in the Tampa Bay area plus a full technical hearing in Tallahassee. As such, any questions of fact or law regarding this service should have been raised in the hearing held in that docket.

WHEREFORE, GTE Florida Incorporated moves to dismiss the Amended Complaint of Roy A. Day for failure to state a cause of action over which the Florida Public Service Commission has jurisdiction.

Respectfully submitted this 13th day of October, 1992.


Thomas R. Parker
M. Eric Edgington
GTE Florida Incorporated
P. O. Box 110 MC 7
Tampa, FL 33601
813/228-3087
813/228-3085

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of GTE Florida Incorporated's Motion to Dismiss the Amended Complaint of Roy A. Day in Docket No. 920620-TL has been furnished via hand delivery and/or U.S. Mail on this the 13th day October, 1992, to the parties listed below.

/s/ M. Eric Edgington
M. Eric Edgington
Post Office Box 110, MC7
Tampa, Florida 33601
Telephone: 813-228-3087

Attorney for
GTE Florida Incorporated

Division of Legal Services
101 East Gaines Street
Tallahassee, FL 32399-0865

Division of Water and Waste
101 East Gaines Street
Tallahassee, FL 32399-0865

Division of Consumer Affairs
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Office of Pub. Counsel
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate increase) Docket No. 920188-TL
by GTE Florida Incorporated 1992) Filed: 12-08-92

REPLY, MOTION TO STRIKE, AND MOTION TO DISMISS THE
NOVEMBER 18, 1992 MOTIONS FILED BY ROY A. DAY,
AND REQUEST FOR SANCTIONS AGAINST ROY A. DAY

Comes now GTE Florida Incorporated ("GTEFL or Company") and files its Reply, Motion to Strike, and Motion to Dismiss the November 18, 1992 Motion filed by Roy A. Day, and Request for Sanctions Against Roy A. Day and says:

1. Roy A. Day ("Mr. Day") filed numerous motions in this docket on or around November 18, 1992 ("November 18th filing"). These motions were not served on any party of record and are therefore improper under Rule 25-22.028(2) F.A.C., Rule 25-22.028(3) F.A.C., and Fla. R. Civ. P. 1.080.

2. The Florida Rules of Civil Procedure govern proceedings before the Commission except where those rules are superseded by or conflict with the Florida Administrative Code. Rule 25-22.035(3) F.A.C.

3. GTEFL moves to strike the November 18th filing of Mr. Day as being impertinent and scandalous in its content pursuant to Fla. R. Civ. P. 1.130(f), and as being a sham pleading pursuant to Fla. R. Civ. P. 1.150(a). Mr. Day's November 18th filing alleges, without any basis in fact, ex parte communications, co-conspiracy, and fraudulent activity involving members of the Florida Public Service Commission and GTEFL. Significantly, Mr. Day alleges that

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

members of the Commission received "cash under the table" and/or "special favors" from GTEFL, and that GTEFL has perpetrated a fraud against its customers relating to this rate proceeding and Extended Calling Service (ECS). Such allegations are libelous in nature and go beyond the qualified privilege against liability for such statements which is afforded parties in filing pleadings. Such allegations are nothing short of shocking and an insult to both GTEFL and the Commission.

4. As set out in Paragraph 3, the allegations contained in Mr. Day's November 18th filing are conclusory in nature and devoid of any supporting specific factual allegations. The filing only contains a series of unsupported generalizations. Furthermore, Mr. Day's filing does not give GTEFL notice of Mr. Day's claim nor the specific grounds on which it rests. For this reason, to the extent that Mr. Day seeks relief of any kind through his November 18th filing, Mr. Day has failed to state a claim upon which relief can be granted. Fla. R. Civ. P. 1.140(b) (1992).

5. Mr. Day's November 18th filing alleges that he has standing as an intervenor in this docket. Mr. Day has not been granted status as intervenor and, therefore, has no standing to file any of the motions set out in his November 18th filing. Rule 25-22.039 F.A.C.

6. Mr. Day is required by Section 120.57(b) Fla. Stat. (1991) to sign his pleadings as an indication that "to the best of his knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purposes or

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needless increase in the cost of litigation." Section 120.57(b)5 Fla. Stat. (1991). Mr. Day has made numerous unfounded allegations in his November 18th filing including allegations of fraud, offerings of "cash under the table and/or special favors" from GTEFL to members of the Commission, and fraudulent filings of rate proceedings as well as fraudulent billing efforts by GTEFL. All of these conclusory allegations are made without any supporting allegations of fact whatsoever or any indication that a reasonable inquiry was made by Mr. Day in order to form a belief that such conclusory allegations are true. Mr. Day has made numerous filings before this Commission both in this docket and other dockets using similar groundless allegations against GTEFL and members of the Commission. As with the November 18th filing in this docket, all of Mr. Day's previous filings have been conclusory and without any foundation or indication of any inquiry to form a belief that the allegations are true. Mr. Day has caused the Commission and GTEFL considerable expense in responding to what can only be characterized as a frivolous and wasteful abuse of the administrative process.

This Commission can no longer allow this activity to go on and, in response to Mr. Day's continued frivolous filings, GTEFL requests that this Commission impose sanctions pursuant to Section 120.57(b)5 Fla. Stat. (1991), including the payment of costs and attorney's fees incurred by GTEFL in responding to this motion. GTEFL also suggests that Mr. Day be prohibited from making future filings of any sort without first obtaining the permission of the Commission.

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7. Mr. Day's conduct in this proceeding is typical of the tactics he uses regarding the judicial process. Quite simply, Mr. Day's blatant abuse of the judicial system has been well documented. For example, in Day v. Allstate Insurance Co., 788 F.2d 1110 (5th Cir. 1986), the Fifth Circuit Court of Appeals dismissed Mr. Day's case on the grounds that the Plaintiff's actions constituted willful misconduct, bad faith, harassing tactics and an abuse of the judicial system. In so doing the Court awarded Allstate its attorneys' fees.¹ The Court stated:

Day's "actions have been willful, in bad faith, and 'in callous disregard for the obligations of any party in litigation.'" [citing the District Court opinion]

... the procedural history of Day's lawsuits ... attests to Day's blatant abuse of the judicial system. Day v. Allstate, at 1111-12.

After reviewing the record below in detail the Court reached the following conclusion:

... we simply cannot escape the conclusion that Day's original lawsuits, and now these appeals, are utterly without merit. His briefs are filled not with argument or authority, but with vituperative harangue. He has now had his day ... and he has done nothing to dispel the district court's findings that these suits are baseless and vexatious. Day v. Allstate, at 1114.

The Appeal Court even went so far to point out that even stronger sanctions were available in the form of an injunction to prohibit Mr. Day from using the court system in Texas without first obtaining leave to do so from the Court. Day v. Allstate, at 1115.

¹ Indeed, Mr. Day's conduct was so outrageous that the Court assessed double costs against Mr. Day even though he was an in forma pauperis litigant. Day v. Allstate, at 1114.

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The Court put other litigants and courts on notice that this stronger sanction was available. Day v. Allstate, at 1114.

8. Another illustrative proceeding is In Re: Roy Anderson Day, Nos. 86-2767 and 86-9247 (5th Cir. Feb. 10, 1987). In the Day case, Mr. Day's abuse of the judicial system and the harassment of its personnel reached such a level that he was confined for criminal contempt. The District Court of the Southern District of Texas sentenced him to thirty days confinement. The Government requested that Mr. Day's mental state be determined and on June 6, 1986, the District Court found Mr. Day to be suffering from a mental disease and he was committed to an appropriate facility for care and treatment for six months. Mr. Day appealed the order. Mr. Day was released on November 6, 1986, being found to no longer suffer from a defect that required his physical confinement. In its order, the District Court directed the Bureau of Prisons to transport Mr. Day to his home in Florida. In affect, the Texas Court eliminated Mr. Day as a source of trouble by removing him from the physical boundaries of Texas and taking him to the state of Florida.²

9. A partial listing of Mr. Day's litigation history is attached hereto as Appendix B. As can be seen, Mr. Day is a prolific user of the judicial and administrative process without any success. GTEFL requests that the Commission take judicial notice of these proceedings.

² Copies of the pleading and order regarding this matter are attached hereto as Appendix A.

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WHEREFORE, GTE Florida Incorporated moves the Commission to dismiss, or in the alternative, strike the pleadings filed by Mr. Day on or about November 18, 1992 which include Intervenor's Motion to Disqualify the Florida Public Service Commission and to Transfer to Federal Court; Intervenor's Motion to Vacate Order No. PSC-92-1319-CFO-TL; Intervenor's Motion for Reconsideration Order No. PSC-92-1319-CFO-TL; Intervenor's Motion for Emergency Ruling on November 20, 1992. GTE Florida Incorporated also requests that this Commission issue sanctions against Mr. Day pursuant to Section 120.57(b)5, Fla. Stat. (1991), including but not limited to costs and attorney's fees incurred by GTE Florida Incorporated in responding to Mr. Day's motions filed on or before November 18, 1992, and prohibiting Mr. Day from filing any further pleadings or actions with the Commission without the Commission first authorizing the filing of such documents.

Respectfully submitted this 8th day of December, 1992.

THOMAS R. PARKER
JOE W. FOSTER
KIMBERLY CASWELL
M. ERIC EDGINGTON

By: 

M. Eric Edgington
Thomas R. Parker
Post Office Box 110, MC 7
Tampa, Florida 33601
Telephone: 813-228-3085

Attorneys for
GTE Florida Incorporated

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Appendix A

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT
U.S. COURT OF APPEALS
FILED

FEB 10 1987

No. 86-2767
86-9247
(USDC No. Misc. H-86-110)

GILBERT E. GANUCHEAU
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
FILED

Misc. H-86-110

In Re: ROY ANDERSON DAY,

MAR 10 1987

Appellant.

JESSE E. CLARK, CLERK
BY DEPUTY: *B. Wright*

Appeal from the United States District Court
for the Southern District of Texas

Before JOHNSON and DAVIS, Circuit Judges.

BY THE COURT:

The district court found Roy A. Day in criminal contempt and sentenced him to 30 days confinement. The order was entered May 27, 1986. The Government moved, under 18 U.S.C. § 4244(a), to determine Day's present mental condition. After a hearing, the district court found Day to be suffering from a mental disease or defect and committed him for a maximum period of six months. This order was filed June 6, 1986. Day filed a notice of appeal from it on June 11, 1986. The notice of appeal specifies that the appeal is taken from the June 6 commitment order; the notice of appeal does not mention the order finding contempt.

On November 10, 1986, the district judge ordered Day discharged and released from the commitment order of June 6, 1986, and the judge ordered the Bureau of Prisons to transport Day to his home in Florida.

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EXHIBIT "B"

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Because Day did not appeal from the contempt order, the appeal, taken only from the order of commitment, is now moot. There is no reasonable expectation that Day will be subjected to the same action again, particularly now that he has been returned to Florida and unconditionally released from the commitment order. See *Pierce v. Winograd*, 757 F.2d 714, 715-16 (5th Cir. 1986).

APPEAL DISMISSED AS MOOT.

ALL MOTIONS DENIED.

Ellen C. Bunker

FEB 10 1987

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IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

FILED

JAN 8 1997

IN RE: ROY A. DAY

v.

JESSE E. CLARK, CLERK
BY DEPUTY: *M. Coyle*

MISC.C.A. NO. H-86-110

ORDER TO SEND ENTIRE CASE FILE TO
THE U. S. COURT OF APPEALS FOR THE FIFTH CIRCUIT AT THEIR REQUEST

It appearing that the Clerk of the District Court for the Southern District of Texas has received a letter of request from the Clerk of the Court of Appeals for the Fifth Circuit, that at the direction of the said Court of Appeals, the entire case file of the above styled and numbered case be forwarded to the Court of Appeals for its use in connection with the Plaintiff-Petitioner's Motion now pending before the Circuit Court, and it appearing that the file should be forwarded to that Court for the said purpose; it is therefore

ORDERED that the Clerk of the Court for the Southern District of Texas at Houston forward to the Clerk of the Court for the Fifth Circuit Court of Appeals at New Orleans, the entire case file in this cause and the Clerk of the said Court of Appeals shall acknowledge receipt of same. It is further

ORDERED that when the file has served its purpose, the entire case file shall be returned to the Clerk of the Court for the Southern District of Texas who shall acknowledge its return.

A certified copy of the Order shall accompany the file to the Court of Appeals.

Done at Houston, Texas, this 8th day of Jan,
1987.

Norman W. Black

United States District Judge

NORMAN W. BLACK

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
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NOV 10 1986

JESSE E. CLARK, CLERK
BY DEPUTY: *A. Reynolds*

UNITED STATES OF AMERICA

V.

MISC. NO. H-86-110

ROY A. DAY

ORDER

On June 6, 1986, the Court committed ROY A. DAY, a convicted defendant, to the custody of the Attorney General pursuant to Title 18, United States Code, Section 4244(c), after finding that defendant Day suffered from a mental disease or defect and required care and treatment. Defendant was designated to the Medical Center for Federal Prisoners at Springfield, Missouri. The Court is now apprised through defendant Day's case worker at Springfield that Mr. Day no longer suffers from a mental disease or defect to the extent that he requires further care or treatment at that facility. Accordingly, it is ORDERED that defendant ROY A. DAY is hereby discharged and released from the Order of Commitment of June 6, 1986.

It is further ORDERED that the Bureau of Prisons provide ROY A. DAY with transportation upon his release to his bona fide residence in the State of Florida, consistent with Title 18, United States Code, Section 3624(d)(3).

DONE this 10th day of November, 1986.


UNITED STATES DISTRICT JUDGE

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CLERK'S OFFICE
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
FILED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

JUN 06 1986

HOUSTON DIVISION

JESSE E. CLARK, CLERK
BY DEPUTY: B. Reynolds

UNITED STATES OF AMERICA

vs.

ROY A. DAY

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MISCELLANEOUS NUMBER H-86-110

O R D E R

The Court having held a hearing on June 6, 1986, pursuant to Title 18, United States Code, Section 4244(c) to determine the present mental condition of Roy Day, a convicted defendant, finds by a preponderance of the evidence, pursuant to Title 18, U.S.C. 54244(d), that defendant Day is presently suffering from a mental disease or defect and that he should be committed to a suitable facility for care and treatment for a maximum period of six (6) months.

DONE at Houston, Texas this 6th day of June,
1986.


UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION Filed 5th day of June, 1986
Jesse E. Clark, Clerk

IN RE: ROY A DAY

S BY [Signature] Deputy

S Miscellaneous No. H-86-110

O R D E R

The Court has considered the Government's Motion To Determine Present Mental Condition Of Convicted Defendant and believes that it should be GRANTED.

An evidentiary hearing on this Motion shall be held on Friday, 1986 at 9:00 a.m./~~10:00~~

[Signature]
UNITED STATES DISTRICT JUDGE

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SOUTHERN DISTRICT OF TEXAS
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MAY 22 1986

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
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MAY 22 1986

United States of America

vs

Roy A. Day


JESSE E. CLARK, CLERK
BY DEPUTY: J. R. RAYMOND
Misc. No. 88-110

ORDER FOR LOCAL PSYCHOLOGICAL EVALUATION

To aid this Court in arriving at an appropriate sentence in this cause,
it is ordered, adjudicated and decreed that the defendant be scheduled by the
U. S. Probation Officer for a psychological evaluation pursuant to Title 5,
United States Code, Section 3109, to be conducted locally by Sallye L. Webster,
Ph.D., 2501 McDuffie, Houston, Texas 77019. Dr. Webster is to report her findings
in writing to the Court.

It is further ordered that the Clerk of the Court deliver a certified copy
of this order to the defendant, the defendant's counsel, Dr. Sallye Webster,
and the United States Probation Office, Houston, Texas.

DONE in Houston, Texas on this 22nd day of May, 1986.


UNITED STATES DISTRICT JUDGE

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

FILED

MAY 21 1986

HOUSTON DIVISION

JESSE E. CLARK, CLERK
BY DEPUTY: B. Remondo

IN RE: ROY A. DAY,
Criminal Contempt
Defendant


§
§ MISCELLANEOUS NO. H-86-110
§
§

ORDER APPOINTING COUNSEL

Assistant Federal Public Defender Tom Berg is hereby
reappointed to represent Defendant Roy A. Day in the above case.

Done at Houston, Texas, this 21st day of May,

1986.


NORMAN W. BLACK
UNITED STATES DISTRICT JUDGE

ATTACHMENT 10

ATTACHMENT 10 U.S. DISTRICT COURT
Page 15 SOUTH DISTRICT OF TEXAS

FILED

MAY 15 1986

JESSE E. CLARK, CLERK
BY DEPUTY: B. Reynolds

ORDER

Done at Houston, Texas, this 15th day of May

Norman Black
NORMAN W. BLACK
UNITED STATES DISTRICT JUDGE

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

APR 9 1986

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JESSE E. CLARK, CLERK
BY DEPUTY: *B. Ryndels*

IN RE: ROY A. DAY,

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MISCELLANEOUS NO. H-86-110

Criminal Contempt
Defendant

ORDER

At a hearing on April 7, 1986, this Court set hearing of its citation for criminal contempt against Defendant Roy A. Day for 9:30 a.m., May 19, 1986. That setting shall constitute the final hearing on the question of whether Defendant Roy A. Day has violated the Court's order of November 1, 1985, issued in Civil Action No. H-85-3746, by harassing Court personnel by telephoning them excessively. Witnesses shall be heard at that time, and evidence offered to establish whether Defendant Roy A. Day should be held in criminal contempt pursuant to 18 U.S.C. § 401(3). The case will be tried to the Court alone, not to a jury, because the Court will not impose a penalty in excess of six (6) months imprisonment to serve if it finds the Defendant in criminal contempt.

At the April 7 hearing, Defendant asserted that this Court is not competent to exercise jurisdiction over him in this cause because Defendant has filed pro se lawsuits naming this Court as a defendant. The Court construes this assertion as a motion to disqualify, and denies said motion. The Rules of Criminal Procedure require a judge to disqualify himself from presiding at a trial or hearing on criminal contempt if "the contempt charge involves disrespect to or criticism of a

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judge. . ." Rule 42, Fed. R. Crim. P. Because the contempt charge against Defendant Roy A. Day does not involve either disrespect or criticism within the meaning of Rule 42, disqualification is not required by that rule. Neither is disqualification required by the general statutes governing disqualification of federal judges.

It does not follow from Defendant's assertion that he has filed lawsuits against this Court that the Court must disqualify itself from hearing this case. First, Defendant has not shown any bias or prejudice against him because of those suits. Second, if there were any bias or prejudice, it would stem from "judicial action," rather than from an extra-judicial source, and therefore would not be disqualifying. United States v. Quimby, 636 P.2d 86 (5th Cir. 1981). For these reasons, it is

ORDERED that Defendant's motion to disqualify is DENIED. It is further

ORDERED that the United States Attorney for the Southern District of Texas, or such Assistant United States Attorneys as he shall designate, is hereby appointed to prosecute this action.

IT IS SO ORDERED.

Done at Houston, Texas, this 9th day of April,
1986.


NORMAN W. BLACK
UNITED STATES DISTRICT JUDGE

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

FILED

4-7-86

JESSE E. CLARK, CLERK
BY DEPUTY B. Reynolds

IN RE: ROY DAY

MISC. NO. H-86-110

ORDER APPOINTING COUNSEL

Because the above named defendant has testified under oath or has otherwise satisfied this court that he or she (1) is financially unable to employ counsel, and (2) does not wish to waive counsel, and because the interests of justice so require, the Federal Public Defender is hereby appointed to represent this person in the above designated case.

If the appointment is made by a magistrate and the case subsequently proceeds to U.S. District Court, the appointment shall remain in effect until terminated or a substitute attorney is appointed.

Date: -


UNITED STATES DISTRICT JUDGE

or BY ORDER OF THE COURT

Deputy Clerk

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1. Roy A. Day, petitioner, v. J. Evans Attwell, et al., 476 U.S. 1173, 106 S.Ct. 2900, 90 L.Ed. 2d 986 (June 9, 1986). Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit. Denied.
2. Roy A. Day, petitioner, v. Allstate Insurance Company, 476 U.S. 1173, 106 S.Ct. 2900, 90 L.Ed. 2d 986 (June 9, 1986). Petition for writ of certiorari to the United States Court of Appeals for the Eighth Circuit. Denied.
3. Roy A. Day, petitioner, v. United States Court of Appeals for the Fifth Circuit, et al., 476 U.S. 1161, 106 S.Ct. 2285, 90 L.Ed. 2d 726 (June 2, 1986). Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit. Denied.
4. Roy A. Day, petitioner, v. Continental Insurance Companies, 475 U.S. 1120, 106 S.Ct. 1984, 90 L.Ed. 2d 666 (May 19, 1986). Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit. Denied.
5. Roy A. Day, petitioner, v. CMC Corporation, 476 U.S. 1122, 106 S.Ct. 1988, 90 L.Ed. 2d 669 (May 19, 1986). Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit. Denied.
6. Roy A. Day, petitioner, v. Jack Pope, Chief Justice, et al., 476 U.S. 1107, 106 S.Ct. 1954, 90 L.Ed. 2d 362 (May 5, 1986). Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit. Denied.
7. Roy A. Day, petitioner, v. Continental Insurance Companies, 475 U.S. 1126, 106 S.Ct. 1652, 90 L.Ed. 2d 195 (April 21, 1986). Petition for writ of certiorari to the United States Court of Appeals for the Eighth Circuit. Denied.
8. Roy A. Day, petitioner, v. Amoco Chemicals Corporation, 474 U.S. 1065, 106 S.Ct. 818, 88 L.Ed. 2d 791 (January 13, 1986). Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit. Denied.
9. Roy Anderson Day, petitioner, v. Bruce Wettman, Judge, et al., 474 U.S. 1035, 106 S.Ct. 600, 88 L.Ed. 2d 579 (December 16, 1985). Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit. Denied.
10. In re Roy A. Day, petitioner, 474 U.S. 943, 106 S.Ct. 340, 88 L.Ed. 2d 325 (November 4, 1985). Petition for common law writ of certiorari is denied.

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11. Roy A. Day, petitioner, v. Norman W. Black, Judge, United States District Court for the Southern District of Texas, et al., 474 U.S. 922, 106 S.Ct. 255, 88 L.Ed. 2d 262 (October 21, 1985). Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit. Denied.
12. In re Roy Anderson Day, petitioner, 474 U.S. 814, 106 S.Ct. 212, 88 L.Ed. 2d 181 (October 7, 1985). The motion of petitioner to defer consideration of the petition for mandamus is denied. The petition for writ of mandamus is denied.
13. In re Roy Anderson Day, petitioner, 474 U.S. 813, 106 S.Ct. 210, 88 L.Ed. 2d 180 (October 7, 1985). Petition for writ of common law certiorari denied.
14. Roy Anderson Day, petitioner, v. Reagan Cartwright, et al., 471 U.S. 1145, 105 S.Ct. 2692, 86 L.Ed. 2d 709 (June 3, 1985). The petition for rehearing is denied.
15. Roy Anderson Day, petitioner, v. Amoco Chemicals Corporation, 471 U.S. 1132, 105 S.Ct. 2667, 86 L.Ed. 2d 234 (May 28, 1985). The petition for rehearing is denied.
16. Roy Anderson Day, petitioner, v. Amoco Chemicals Corporation, 471 U.S. 1095, 105 S.Ct. 2171, 85 L.Ed. 2d 527 (April 29, 1985). The petition for rehearing is denied.
17. Roy Anderson Day, petitioner, v. Reagan Cartwright, et al., 471 U.S. 1056, 105 S.Ct. 2119, 85 L.Ed. 2d 484 (April 22, 1985). The petition for writ of certiorari to the Supreme Court of Texas. Denied.
18. Roy Anderson Day, petitioner, v. Amoco Chemicals Corporation, 471 U.S. 1056, 105 S.Ct. 2121, 85 L.Ed. 2d 485 (April 22, 1985). Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit. Denied.
19. Roy Anderson Day, petitioner, v. James DeAnda, Judge, et al., 471 U.S. 1050, 105 S.Ct. 2045, 85 L.Ed. 2d 343 (April 15, 1985). The petition for rehearing is denied.
20. Roy Anderson Day, petitioner, v. Amoco Chemicals Corporation, 470 U.S. 1086, 105 S.Ct. 1849, 85 L.Ed. 2d 147 (March 25, 1985). Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit. Denied.
21. Roy Anderson Day, petitioner, v. James DeAnda, Judge, et al., 470 U.S. 1030, 105 S.Ct. 1401, 84 L.Ed. 2d 788 (March 4,

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1985). Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit. Denied.

22. Roy Anderson Day, petitioner, v. Supreme Court of Texas, et al., 470 U.S. 1039, 105 S.Ct. 1415, 84 L.Ed. 2d 800 (March 4, 1985). The petition for rehearing is denied.

23. Roy Anderson Day, petitioner, v. James DeAnda, Judge, et al., 469 U.S. 1206, 105 S.Ct. 1165, 84 L.Ed. 2d 318 (February 19, 1985). The motion of petitioner to expedite consideration of the petition for writ of certiorari or in the alternative issue a temporary restraining order is denied.

24. Roy Anderson Day, petitioner, v. Supreme Court of Texas, et al., 469 U.S. 1194, 105 S.Ct. 974, 83 L.Ed. 2d 976 (January 21, 1985). Petition for writ of certiorari to the Court of Civil Appeals of Texas. Denied.

25. Roy Anderson Day, petitioner, v. Allstate Insurance Co., 788 F.2d 1110 (5th Cir. 1986). The Court affirmed the district court's dismissal of his suit and assessment of attorney's fees and also assessed double costs against Mr. Day, remanded the case for a determination of additional fees due the defendant, and warned Mr. Day that further behavior of the type he displayed may result in more severe sanctions.

26. Roy A. Day, plaintiff v. Amoco Chemicals Corporation, defendant, 595 F.Supp. 1120, 40 Fed.R.Serv.2d 529 (1984). Defendant moved to amend judgment to award attorney fees and costs. Motion granted. Appeal dismissed, Fifth Circuit, 747 F.2d 1462.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of GTE Florida Incorporated's Reply, Motion to Strike, and Motion to Dismiss the November 18, 1992 Motions filed by Roy A. Day, and Request for Sanctions Against Roy A. Day in Docket No. 920188-TL has been furnished by U.S. mail this the 8th day of December, 1992, to the parties listed below:

Division of Legal Services
Division of Water and Wastewater
Division of Consumer Affairs
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32399-0865

Office of the Public Counsel
c/o The Fla. Legislature
111 W. Madison Street
Room 812
Tallahassee, FL 32399-1400

Roy A. Day
P.O. Box 33
Tarpon Springs, FL 34688-0033


M. Eric Edgington

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even sent with a lighter. Whether the duty can be performed by two men, however, depends upon the number of the days in which the operation has to be performed. The consignee must supply enough men to complete the operation within the lay-days; and if two men are not enough, he must supply more. Here the evidence shewed that at one time there was only one man, and afterwards there were two men, sent with the lighters, and that the delivery was delayed beyond the lay-days because the consignees did not send enough men. The captain complained, and then he did what he was not bound to do—he put some of his own men on to the lighters in order to help to do the work which it was the duty of the consignee to do. By so doing, no doubt, he saved additional demurrage; but it is now contended that he was bound to put his own men on to the lighters, because his duty was to complete the whole operation of getting the spars out of the ship and delivering them into the lighters. I am of opinion that on the true construction of the charterparty it was not his duty. The delivery, under the charterparty, was to be a delivery in the ordinary way a joint operation in which each was to take his part. The lay-days were exceeded because the consignee had not sufficient men on the lighters to perform their part in that operation.

[1895] 2 Q.B. at 297-98.

In the best of American maritime traditions, we adopt this well-reasoned rule of law. Torm Denmark was obligated to remove the pipe from the HIGH SEAS PROMISE's cargo hold and place it on McDermott's barges alongside within the reach of McDermott's stevedores. But Torm Denmark was not obligated to place the pipe in the most efficient configuration aboard the barges nor was it obligated to provide the means to reposition the pipe joints once aboard the barges. Indeed, Sabild testified that there were several ways the pipe could have been stowed aboard the barges to avoid the problems experienced by McDermott, but it was not Torm Den-

mark's responsibility to achieve those configurations.

Whether McDermott ought have contracted more specifically concerning Torm Denmark's duties in unloading the HIGH SEAS PROMISE, we need not decide. As we stated above, the District Court found no evidence of an agreement regarding a 36-foot boom outreach, and we are unable to say that this finding is clearly erroneous. The District Court was correct in ruling that McDermott take nothing on its counterclaim.

AFFIRMED.



Roy Anderson DAY, Plaintiff-Appellant.

v.

ALLSTATE INSURANCE COMPANY,
Allstate Enterprises Financial
Corporation, Defendants-Appellees.

Nos. 85-2303, 85-2304, 85-2551 and 85-2552
Summary Calendar.

United States Court of Appeals,
Fifth Circuit.

May 5, 1986.

Plaintiff brought suit against two defendants. The United States District Court for the Southern District of Texas, George E. Cire and Norman W. Black, JJ., dismissed for failure to comply with numerous discovery orders. On appeal, the Court of Appeals, Randall, Circuit Judge, held that (1) dismissal was not an abuse of discretion for plaintiff's repeated refusals to comply with discovery orders; (2) plaintiff was subject to \$5,000 in attorney fees for his vexatious litigation; and (3) monetary sanctions would be imposed notwithstanding

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DAY v. ALLSTATE INS. CO.
Cite as 755 F.2d 1111 (5th Cir. 1986)

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that plaintiff was an in forma pauperis litigant.

Affirmed.

1. Federal Civil Procedure \Rightarrow 1741

Dismissal of a plaintiff's lawsuit for failing to comply with the district court's orders is an extreme sanction which is warranted only where a clear record of delay or contumacious conduct by plaintiff exists.

2. Federal Civil Procedure \Rightarrow 1278

Deliberate, repeated refusals to comply with discovery orders can justify dismissal.

3. Federal Civil Procedure \Rightarrow 1278

Dismissal of plaintiff's lawsuit for repeated refusals to comply with discovery was not an abuse of discretion where dismissal came after at least three warnings.

4. Federal Civil Procedure \Rightarrow 2737.5

District court did not abuse its discretion in awarding \$5,000 in attorney fees to defendant due to plaintiff's vexatious litigation.

5. Federal Civil Procedure \Rightarrow 2734

Although a court should be reluctant to impose monetary sanctions against an in forma pauperis litigant for abusive tactics, that status is not a license to harass.

6. Federal Civil Procedure \Rightarrow 2747

In forma pauperis plaintiff was subject to attorney fees and double costs for filing frivolous appeal to harass good-faith litigants.

Roy Anderson Day, pro se.

J. Clifford Gunter, III, Michael Kuhn, Houston, Tex., Bracewell & Patterson, Gayle A. Boone, Houston, Tex., for defendants-appellees.

Appeals from the United States District Court for the Southern District of Texas.

Before GEE, RANDALL and W. EUGENE DAVIS, Circuit Judges.

RANDALL, Circuit Judge:

These consolidated appeals involve suits initiated by Roy A. Day against the defendants. The district court dismissed the suits for Day's failure to comply with numerous orders of the court. We affirm the judgment dismissing the suits as well as the judgment awarding attorney's fees against Day. In addition, we impose further sanctions against Day.

I.

In 1983, Roy A. Day filed lawsuits in state court in Texas against Allstate Enterprises Financial Corp. ("AE"), and Allstate Insurance Company ("AI"). (The defendants will be referred to collectively as "Allstate.") Allstate removed both suits to federal court. The suit against AE alleged that AE had wrongfully taken possession of Day's automobile, which secured a promissory note made by Day to AE. AE denied Day's allegations and counterclaimed, alleging that Day sought to avoid being held in default on his loan payments by fraudulently claiming a physical disability. Day's suit against AI alleged that AI had refused to pay benefits owed Day under an insurance policy purchased by Day from AI. AI denied liability, arguing that the policy had never become effective because Day had made fraudulent misrepresentations.

Once the two suits were removed to federal court, Allstate began conducting—more accurately, attempting to conduct—discovery. Allstate attempted to depose Day and to examine various documents. Day would not submit. His tactics of evasion ranged, and continue to range, from dilatory to devious. Day has not merely refused to cooperate with the district court and Allstate; he has defied or disregarded numerous court orders. Day has used the federal courts, and the leniency afforded to pro se litigants like him, as instruments to harass and badger. As the district court found, Day's "actions have been willful, in bad faith, and in callous disregard for the obligations of any party to the litigation" (quoting *Eastway General Hospital v.*

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Eastway Women's Clinic, 737 F.2d 503, 505 (5th Cir.1984)). Day's suits against Allstate, and now this appeal, clog the courts, waste Allstate's money, waste the government's money, and divert judicial attention from far more important matters.

A brief chronology of the procedural history of Day's lawsuits, characterized most prominently by his repeated disregard for the district court's discovery orders, attests to Day's blatant abuse of the judicial system. After Allstate removed the suits to federal court, Allstate, in accordance with Rules 33 and 34, served requests for documents and written interrogatories. Day gave them no heed. Day claimed that everything Allstate sought was protected under the attorney-client privilege, but he did not seek a protective order under Rule 26(c). Allstate filed a motion to compel, explaining that the answers which Day did provide to various interrogatories were either unintelligible or circumlocutory. The district court ordered Day to answer the interrogatories forthrightly and to produce the requested documents. In addition, the court warned Day that a failure to comply could result in a dismissal of the suit (warning number one). Day was nonplussed. He remained reticent, so Allstate filed another motion to dismiss. Day responded that the documents Allstate wanted had been stolen from him, and that even if they had not been, they were protected by the attorney-client privilege. The district court denied Day's claim of privilege (in an order which is not appealed from and which is clearly correct), and ordered Day to list the stolen documents, provide the remaining documents, and answer the interrogatories. Once again, the district court reminded Day that failure to comply could result in dismissal (warning number two). A similar order directing Day to produce documents and answer interrogatories with regard to his suit against AE also met with Day's silence. Allstate filed another motion to dismiss.

Allstate submitted affidavits to the district court alleging that throughout the futile efforts at discovery, Day persisted in contacting directly various employees of

Allstate, including secretaries and directors. Allstate moved for a protective order to prevent this harassment, and the district court ordered Day to refrain from contacting Allstate employees and instructed Day to deal directly with the attorneys of record. As had become usual, Day disregarded this order and continued to contact and harass Allstate employees, prompting Allstate to move once again for sanctions. In response, the district court simply repeated its order that Day refrain from contacting Allstate employees. Unmoved by this leniency, Day continued to act as he had.

On December 13, 1984, Allstate noticed Day for deposition, scheduling the deposition for January 24, 1985. On January 24, without having filed a motion for protection or anything else, Day did not show up. On February 7, 1985, Allstate filed another motion for sanctions. Day was apparently unconcerned, and continued not to comply with the numerous discovery orders which had been issued. On March 4th and 5th, 1985, Allstate filed new motions for sanctions in both cases. On March 8, 1985, the district court ordered Day to comply with the previous discovery orders by March 20 or risk sanctions, including dismissal (warning number three). Day did virtually nothing. He did appear for his deposition, but he used the appearance as still another opportunity for chicanery. As the district court noted, "the transcript [of the deposition] indicates that for over an hour [Day] refused to allow Allstate's attorney to question him, instead using the time to introduce non-sensical evidence and exhibits into the record, verbally abusing the defendant's attorney and generally wasting everyone's time and defendant's money." On March 26, nearly a week after the court's "deadline" had passed, Allstate again moved for sanctions. The district court's patience had finally worn thin, and the court dismissed Day's suits with prejudice, awarding attorney's fees to Allstate. The district court observed:

It is clear that this case in general and [Day's] tactics in particular have gone on

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Cite as 788 F.2d 1110 (5th Cir. 1986)

far too long. This Court, in consideration of [Day's] pro se status has unfortunately allowed [Day] to not only waste the Court's time and energy (and indirectly taxpayer money), but has allowed [Allstate's] money to be needlessly expended.... In the case before the Court it is impossible to conclude [that Day's] refusal to comply with the discovery orders was anything other than willful and in bad faith. This conclusion of willfulness would be reached if for no other reasons than the Court has given [Day] numerous opportunities to comply and yet [Day] has continuously failed to even attempt compliance. Moreover, [Day] has a history of non-compliance in virtually all of the various suits he has filed in this District.

II.

Rule 37 provides that the district court may impose sanctions against parties who fail to comply with the district court's discovery orders. Fed.R.Civ.P. 37(b), (d). Day has attacked the district court's order—not to mention the district judge himself, the judge's law clerks, and various other court officials—raising along the way a plethora of objections to the dismissal of the suit and the imposition of sanctions. Day also argues that the district judge erred in not recusing himself. On appeal, Day argues for the first time that this case raises a question under the Clayton Act (the question it supposedly raises is not specified). In addition, he vilifies the judges of this court, requesting that the entire Fifth Circuit recuse itself and send this action to the D.C. Circuit. We decline this request.

[1-3] Dismissal of a plaintiff's lawsuit is a tool which, while available to the district court, must be used only with caution, for dismissal "is an extreme sanction which is warranted only where 'a clear record of delay or contumacious conduct by the plaintiff exists.'" *Anthony v. Marion County General Hospital*, 617 F.2d 1164, 1167 (5th Cir.1980) (quoting *Gonzalez v. Firestone Tire & Rubber Co.*, 610 F.2d 241 (5th Cir.

1980)). In *Anthony*, we noted that "[d]eliberate, repeated refusals to comply with discovery orders have been held to justify the use of the ultimate sanction of dismissal under Rule 37(b)." 617 F.2d at 1167 n. 3; see also *Jones v. Louisiana State Bar Ass'n*, 602 F.2d 94 (5th Cir.1979); *Bona-venture v. Butler*, 593 F.2d 625 (5th Cir. 1979). When a district court resorts to this extreme sanction, our inquiry, upon review, is whether the court abused its discretion. *National Hockey League v. Metropolitan Hockey Club*, 427 U.S. 639, 96 S.Ct. 2778, 49 L.Ed.2d 747 (1976); *Anthony*, 617 F.2d at 1167. In *Martin-Trigona v. Morris*, 627 F.2d 680 (5th Cir.1980), this court, in affirming a district court's dismissal for want of prosecution (Fed.R.Civ.P. 41(b)), noted that the plaintiff's failure to respond to court orders was "attributable only to himself." 627 F.2d at 682. Day's obstreperous behavior is likewise attributable solely to Mr. Day. The short chronology we have recapitulated in Part I attests to the district court's Job-like patience. The order of dismissal, coming when it did and after at least three warnings, was not an abuse of discretion.

[4] The district court also awarded attorney's fees to Allstate. The final paragraph of Rule 37(b) provides as follows:

In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or the attorney advising him or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

Allstate's attorneys, in requesting attorney's fees for Allstate, submitted adequate documentation to the district court of the hours and materials they had expended on this vexatious litigation. The documentation was sufficient to permit the district court to assess attorney's fees in accordance with the criteria set forth in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir.1974). We review the

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district court's award of \$5,000 in attorney's fees under the abuse of discretion standard. This award was clearly not an abuse of discretion.

III.

In the proceedings below, Day acted as his own lawyer and was certified as an in forma pauperis ("IFP") litigant. However, his motion to appeal to this court IFP was denied by the district court, which found "it impossible to certify that [Day's] appeal is taken in good faith." Under 28 U.S.C. § 1915(a), an appeal "may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." See also Fed.R.App.P. 24(a). Nevertheless, this court granted Day's motion to proceed IFP not only to address these appeals but also to alert Day, other potential victims of his behavior, and the district courts to the possibility of more severe sanctions. Having given Day the benefit of the doubt, and having examined this record quite closely, we simply cannot escape the conclusion that Day's original lawsuits, and now these appeals, are utterly without merit. His briefs are filled not with argument or authority, but with vituperative harangue. He has now had his day in this Court of Appeals, and he has done nothing to dispel the district court's finding that these suits are baseless and vexatious.

[5, 6] We are extremely reluctant to impose monetary sanctions against an IFP litigant. We are even more reluctant, however, to condone or treat lightly Day's abusive tactics. IFP status is not a license to harass. As the Tenth Circuit has noted:

a person who is an indigent has no constitutional right to access to the courts to prosecute an action that is frivolous and malicious. And although he has obtained leave to prosecute such an action without prepayment of costs or giving security therefor, if after he has commenced the action the court becomes satisfied that the action is frivolous and malicious, it may dismiss the action and adjudge that the costs of the action shall be assessed against him. That necessarily follows,

because such indigent person had no right to prostitute the processes of the court by bringing a frivolous and malicious action.

Duhart v. Carlson, 469 F.2d 471, 478 (10th Cir.1972), cert. denied, 410 U.S. 958, 93 S.Ct. 1431, 35 L.Ed.2d 692 (1973); see also *Chevrette v. Marks*, 558 F.Supp. 1133 (M.D.Pa.1983). Imposing costs on IFP plaintiffs is rare, but not unheard of. See, e.g., *Flint v. Haynes*, 651 F.2d 970 (4th Cir.1981), cert. denied, 454 U.S. 1151, 102 S.Ct. 1018, 71 L.Ed.2d 306 (1982) (affirming taxation of costs against an IFP litigant with a monthly disposable income of \$20); *Toner v. Wilson*, 102 F.R.D. 275 (M.D.Pa. 1984) (awarding expenses against an IFP plaintiff for violation of Rule 37). Sanctions under Rule 37 serve the dual function of reimbursing the moving party and deterring the violator of the discovery orders (as well as other potential violators). See *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 763-64, 100 S.Ct. 2455, 2462-63, 65 L.Ed.2d 488 (1980); *Remington Products, Inc. v. North American Philips Corp.*, 107 F.R.D. 642, 644 (D.Conn.1985); *Toner*, 102 F.R.D. at 276; see generally 4A *Moore's Federal Practice* 137.02. Sanctions may be necessary because often dismissal alone will not faze a venemous litigant bent on disrupting the judicial system and committed to employing the legal process as a means to torment his enemies. As the court observed in *Toner*, the "deterrent purpose of Rule 37 would not be served by dismissal of this suit alone." 102 F.R.D. at 275. Thus, in accordance with Allstate's motion and supplemental motion for sanctions, we will remand this case to the district court so that it may calculate the additional amount of attorney's fees due Allstate from Day as a result of this frivolous appeal. In addition, we further assess double costs against Day for his persistence in using clearly frivolous appeals to harass good faith litigants. Fed.R. App.P. 38; 28 U.S.C. § 1912; see *Hagerty v. Succession of Clement*, 749 F.2d 217, 221-23 (5th Cir.1984).

Although we hold that Allstate is entitled to recovery of attorney's fees, we recog-

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GEORGE v. U.S. DEPT. OF LABOR, O.S.H.A.

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Cite as 753 F.2d 1115 (5th Cir. 1984)

nize that Day's ostensible "poverty may present [Allstate] with a problem in collecting any award." *Toner*, 102 F.R.D. at 275. Nevertheless, Day's indigency "does not make an award of expenses unjust." *Id.* He has defied numerous court orders; he has abused court personnel; he has directed calumnies at judges, law clerks, administrators, and litigants. It is difficult to imagine a more appropriate case for sanctions.

Given the potential inefficacy of such sanctions, however, we briefly mention, for Day's own benefit, the possibility of additional, more severe, action. The district judge in this case did consider holding Day, in contempt, a sanction expressly provided for under Rule 37. Day's poverty, even if genuine, would not interfere with the potency of such recourse. In addition, Day is dangerously close to, and perhaps he has already reached, the level of vexatiousness held sufficient to justify the imposition of an injunction against another perennial plaintiff, the effect of which was to bar that plaintiff from filing any additional actions without first obtaining leave to do so from the district court. See *In re Martin-Trigona*, 737 F.2d 1254 (2d Cir.1984), *aff'd*, 573 F.Supp. 1245 (D.Conn.1983). We hope these sanctions will prove unnecessary; but if necessary, they are available.

For the foregoing reasons, we grant Allstate's motion for sanctions, assess double costs against Day, remand for a determination of the amount of additional attorney's fees due Allstate, and warn Day that further behavior of the sort chronicled in this opinion may result in more severe sanctions. The judgment dismissing Day's suits and assessing attorney's fees is AFFIRMED.

Charles A. GEORGE,
Plaintiff-Appellant.

v.

U.S. DEPARTMENT OF LABOR, OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION, et al., Defendants-Appellees.

No. 35-2758

Summary Calendar.

United States Court of Appeals,
Fifth Circuit.

May 5, 1986.

Action was brought against United States. The United States District Court for the Southern District of Texas, Carl O. Bue, Jr., J., dismissed action for ineffective service of process, and appeal was taken. The Court of Appeals held that District Court did not abuse its discretion in dismissing action inasmuch as defendant failed to serve Attorney General as required by Federal Rules of Civil Procedure.

Affirmed.

1. Federal Civil Procedure §1751

District court enjoys broad discretion in determining whether to dismiss action for ineffective service of process.

2. Federal Civil Procedure §1751

District court did not abuse its discretion in dismissing action against United States for effective service of process, where plaintiff failed to serve Attorney General as required by Federal Rules of Civil Procedure. Fed.Rules Civ.Proc.Rule 4(d)(4), 28 U.S.C.A.

Charles A. George, pro se.

Henry K. Oncken, U.S. Atty., Nancy K. Pecht, James R. Gough, Linda M. Cipriani, Frank A. Conforti, Asst. U.S. Attys., Houston, Tex., for defendants-appellees.

Appeal from the United States District Court for the Southern District of Texas.



ORDER NO. PSC-92-1469-FOF-TL
DOCKETS NOS. 920188-TL & 920939-TL
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DECEMBER 14, 1992

ATTACHMENT 12

ATTACHMENT 12
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State of Florida

Commissioners:
THOMAS M. BEARD, CHAIRMAN
BETTY EASLEY
J. TERRY DEASON
SUSAN F. CLARK
LUIS J. LAUREDO



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(904) 487-2740

Public Service Commission

June 17, 1992

Mr. Roy A. Day
P.O. Box 33
Tarpon Springs, Florida 34688-0033

Dear Mr. Day:

This letter is to inform you as to the status of your complaint as contained in your letter to Chairman Beard dated March 31, 1992. Pursuant to the direction of the Chairman, the Clerk of the Public Service Commission is in the process of opening a docket to address matters raised in your letter. In accordance with Rule 25-22.036, Florida Administrative Code, the matters raised in your letter will be treated as a petition for modification of GTE Florida, Inc.'s (GTEFL's) Extended Calling Service. Once the docket is opened, GTEFL will be served with a copy of the letter stating the basis of your concerns and will be allowed 20 days to file a response. In addition, a case assignment and scheduling record (CASR) will be created and provided to you. The CASR will set forth each of the procedural steps and the associated times for the processing of your complaint/petition. The CASR will also list each of the Commission staff members that will be involved in processing your case.

Please note that the opening of the docket will initiate a formal legal proceeding. You, as well as GTEFL, will be parties to your proceeding. You will be expected to comply with all procedural requirements contained in Chapter 25-22, Florida Administrative Code, the Florida Rules of Civil Procedure and any procedural orders issued by the Prehearing Officer. The scope of the proceeding will be limited to the allegations raised in your March 31, 1992, letter to Chairman Beard. In the course of the proceeding you will have the opportunity to discover all information relevant to the disposition of the issues raised in your letter. Also note that, as a party, GTEFL is entitled to conduct formal discovery on you to test the sufficiency of the allegations in your letter to support your requested relief.

If you have any questions, please do not hesitate to call me at (904) 487-2740.

Sincerely,

Tracy Hatch
Tracy Hatch
Staff Counsel

TWH/ttl
cc: Chairman Thomas M. Beard
Kay Flynn

STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

ROY A. DAY,
Intervenor
V.

DOCKET NO. 920188-TL

GTE OF FLORIDA, INCORPORATED

I. INTERVENOR'S RESPONSE IN OPPOSITION TO GTE FLORIDA
INCORPORATED'S MOTION TO STRIKE, MOTION TO DISMISS,
AND MOTION FOR SANCTIONS

II. INTERVENOR'S MOTION FOR EMERGENCY RULING
ON DECEMBER 11, 1992,

III. INTERVENOR'S MOTION TO DISQUALIFY THE FLORIDA PUBLIC
SERVICE COMMISSION

IV. INTERVENOR'S MOTION FOR EXPERT WITNESSES TO TESTIFY AND
INTERVENOR'S MOTION FOR AN ORAL HEARING

V. INTERVENOR'S MOTION FOR SANCTIONS

ROY A. DAY, Intervenor, files these motions, and responses. Intervenor would respectfully show unto this court the following in support thereof:

1. On December 10, 1992, Intervenor Roy A. Day received in the United States Mail from GTE of Florida, Incorporated (hereafter, "GTE") various "fraudulent" pleadings, including a "motion to strike, motion to dismiss and motion for sanctions. The aforesaid fraudulent pleadings received on December 10, 1992, show clear strong, convincing, unequivocal and uncontroverted evidence that GTE has full and complete knowledge that Roy A. Day's cause of action is meritorious and states a cause of action, and has relief which can be granted. Solely in an attempt to conceal and cover-up the course of illegal conduct for the "FPSC for "accepting cash under the table" and/or

"special favors" from GTE, and to conceal and cover-up the course of illegal conduct of GTE Communications Corporation to engage in a course of illegal conduct against Roy A. Day (hereafter, "RAD"), as more fully stated in a pleading filed by Roy A. Day on December 9, 1992 in the above-entitled and numbered action, and to conceal and cover-up the course of illegal conduct of GTE Communication Corporation with GTE as more fully stated in a "new complaint" filed on December 11, 1992, and to prevent the aforesaid "new complaint" from being filed on December 11, 1992, GTE and its "sleazy, corrupt, dishonest, unethical, illegal, licensed attorneys" (hereafter, "SCDUILA"), and their co-conspirators, have decided to "NOT ADDRESS" the issue that GTE is not entitled to a rate increase, and that GTE "channelled cash under the table" and/or "special favors" to the "FPSC" so GTE could use fraudulent documents and falsehoods and half-truths to obtain a fraudulent rate increase, but have now elected to engage in CHARACTER ASSASSINATION AGAINST ROY A. DAY TO CREATE A FALSE IMAGE ON ROY A. DAY, AND A FALSE IMAGE ON THE TRUE AND CORRECT FACTS, specifically, GTE is using fraudulent documents and falsehoods and half-truths to obtain a fraudulent rate increase, after channelling cash under the table and/or special favors to the "FPSC" members.

2. Roy A. Day exposed the course of illegal conduct of GTE's co-conspirator, GTE Communication Corporation, against Roy A. Day, as more fully stated in a "new complaint" filed on December 11, 1992 at the "FPSC", via UPS Next Day Air (shipper no. N 349 - X85, tracking number 1991 9568 045). GTE and GTE Communication Corporation received notice of the aforesaid course of illegal conduct, and GTE, and GTE's co-conspirators, immediately began an additional course of illegal

conduct against Roy A. Day by filing GTE's "sham pleadings", which are nothing more than "character assassination pleadings" to deny Roy A. Day the right to file the true and correct facts on GTE, and GTE Communication Corporation's, course of illegal conduct against Roy A. Day.

3. Roy A. Day will now address the fraudulent-sham pleading and "assassination pleading" of GTE, and its co-conspirators, infra.

4. Roy A. Day has not served any party of record, because this corrupt and illegal "FPSC" has refused and continued to refuse to timely entertain Roy A. Day's Pleadings, solely for the purpose to conceal and cover-up the course of illegal conduct of the "FPSC" and "GTE", and its co-conspirators, against the citizens of the State of Florida. Roy A. Day does not know who the true and correct parties are at this stage of litigation. Until the "FPSC" ceases and desist its course of illegal conduct against Roy A. Day, Roy A. Day has no obligation to send any party a pleading, since no parties have been identified to Roy A. Day. Further, GTE's motion to dismiss and motion for sanctions and motion to strike are nothing more than FRAUD OF THE FIRST ORDER, since the true and correct reason for the motion to strike and motion to dismiss and motion for sanctions, and to prevent Roy A. Day from filing the "new complaint" against GTE Communications Corporation on December 11, 1992, since GTE has full and complete knowledge that Roy A. Day has evidence that GTE, and its co-conspirators, engaged in a course of illegal conduct against Roy A. Day, and MILLIONS AND MILLIONS AND MILLIONS AND MILLIONS of citizens in the State of Florida, using "fraudulent monopolistic practices of GTE Communication Corporation". Each and every fact and state-

ment and word and sentence and phrase in Roy A. Day's pleadings in the above-entitled and numbered action, are true and correct, and not libelous and slanderous. Roy A. Day demands the right to perform discovery, and present each and all real evidence, and have the right to cross-examine witnesses, and have direct testimony presented on the face of the record by Roy A. Day's witnesses, and have Roy A. Day's expert witnesses testify. It has been one hundred twenty (120) days since Roy A. Day has filed a complaint for the above-entitled and numbered action, but the "FPSC" has refused and continued to refuse permit Roy A. Day to have meaningful access to the "FPSC" to show that each and all facts as stated by Roy A. Day in Roy A. Day's pleadings are true and correct, and are not libelous, slanderous, unsupported generalizations and conclusory. IT IS SELF-EVIDENT THAT THE "FPSC" IS BENT ON DENYING THE TRUE AND CORRECT FACTS AND LAW AND EVIDENCE FROM BEING PLACED ON THE FACE OF THE RECORD. Even though the "FPSC" has denied Roy A. Day due process and equal protection of the law, and refused to entertain Roy A. Day's pleadings in a timely matter, Roy A. Day still has a standing in the above-entitled and numbered action.

In School Board of Boward County v. Constant, 363 So.2d 859 (App 1978), the Court held:

"Parties aggrieved by school boundaries fixed by school board were 'parties' within meaning of section 120.52 and thus had standing to pursue review of school board decision via the Administrative Procedure Act."

In State Dept. of Health and Rehabilitative Services v. Barr, 359 So.2d 503 (App 1978), the Court held:

"Although persons were not parties to agency's declaratory statement proceeding and who therefore were not in position to seek judicial review of resulting declaratory statements, may be adversely affected by agency's enforcement against them of its interpretation of law, thus announced, such rule is stare decisis, not res judicata, and if such persons' substantial interests are to be determined in light of prior agency order or declaratory statement, statutory proceedings will afford him opportunity to attack agency's position by appropriate means and by judicial review in due course."

In 4245 Corp, Mother's Lounge, Inc. v. Division of Beverage, 348 So.2d 934 (App 1977), the Court held:

"Party whose substantial interests are determined in agency enforcement proceedings may timely seek judicial review of final agency order and therein challenge an underlying rule; in that event the party's prior failure to institute administrative rule challenging proceedings does not constitute failure to exhaust administrative remedies."

In Zimmerman v. Civil Service of City of Boca Raton, 366 So.2d 24 (App 1978), the Court held:

"Municipality was an indispensable party where certiorari was sought to review quasi-judicial order or municipal civil service board ruling on the propriety of an administrative decision of city."

Roy A. Day, and MILLIONS AND MILLIONS AND MILLIONS of citizens of the State of Florida, have been "aggrieved" and "adversely affected", and have a "substantial interest", in the above-entitled and numbered action, due to the fraudulent request for a rate increase by using fraudulent documents and falsehoods and half-truths, with the overlay that the "FPSC is receiving cash under the table and/or special favors, to railroad through a rate increase. Accordingly, Roy A. Day, and on behalf of MILLIONS AND MILLIONS AND MILLIONS of citizens, has a standing as enumerated in the above-cited 4245 Corp, Mother's

Lounge, Inc. case and the Zimmerman case and the State Dept. of health and rehabilitative case and the School Board of Boward County case.

5. As stated supra, the real motive for GTE for filing to instant motion to dismiss and motion to strike and motion for sanctions, is to prevent Roy A. Day from filing the "new complaint" against GTE Communications Corporation, since GTE has full and complete knowledge of the said course of illegal conduct against Roy A. Day by GTE Communication Corporation, as a co-conspirator with GTE. Accordingly, Roy A. Day is entitled to sanctions under Section 120.57(b), Florida Statutes, since GTE has signed a pleading which is a sham pleading, and interposed for an improper purpose, specifically, to deny Roy A. Day the right to file the "new complaint" on December 11, 1992 against GTE Communication Corporation. Roy A. Day demands sanctions against GTE and GTE Communication Corporation and GTE Corporation (parent company), in the sum of one million dollars (\$1,000,000.00). The aforesaid large sum is needed, since we are dealing with billion dollar corporations, and it will be a deterrent to other public utilities, to cease and desist the fraudulent course of business against the citizens of the State of Florida, and the use of "sham pleadings" to conceal and cover-up the a course of illegal conduct against the citizens.

6. RAD's Response to GTE's paragraphs "7" and "8" and "9" of the sham pleading, and character assassination pleading, filed solely for the purpose to deny Roy A. Day to file a "new complaint" on December 11, 1992, and to conceal and cover-up the course of illegal conduct of GTE and the "FPSC" "railroad" through a fraudulent rate

increase, Roy A. Day files the following true and correct facts. Roy A. Day (hereafter, "RAD") is a "citizen-attorney" - each and every citizen is a citizen-attorney, and has the right to equal access to this "FPSC" and other agencies and departments in the State of Florida. The "SCDUILA" Eric Edgington, as well as other "SCDUILA", have created "illegal terms" pertaining to the legal field, which give the "false impression" that the entity known as "licensed attorney" is "legal, when in fact, the entity known as "licensed attorney" is illegal - we have a government by and for the people, and not by and for "illegal" licensed attorneys to make artificial-monopolistic legal fees of \$300.00 per hour. The aforesaid "illegal terms", by way of example but not limitation, are "paralegal, legal assistant, Pro Se. The aforesaid "illegal terms" have established a "two tier system of justice", and ensure that the "illegal" "licensed attorneys" maintain an artificial-monopolistic legal fee rate of \$300.00 per hour, with the overlay to control and direct each and all departments and agencies in the various States, including Florida. To further usurp the judicial branch of government, and various departments and agencies, from the people, the "illegal licensed attorneys" have created an "illegal entity" known as "The Florida Bar", solely for the purpose to ensure that "clone, fraudulent, privilege class citizen's who support an artificial-monopolistic legal fee rate of \$300.00 per hour", are the only citizens who can gain meaningful access to the judicial branch of government to protect the said citizens' rights and property. The FRAUDULENT MENTALITY of Eric Edgington, and his co-conspirators, is that citizen-attorneys (illegal Pro Se term of Eric Edgington, has no right to gain meaningful entry into the judi-

cial branch of government to protect the said citizen's rights and property, unless a citizen is represented by an "illegal" licensed attorney at \$300.00 per hour, including a presentation before the "FPSC". RAD has exercised RAD's rights in various Courts in the United States and the various States, but what the "SCDUILA" Eric Edgington, and other "SCDUILA" as co-conspirators of Eric Edgington, "fraudulently present" in Eric Edgington's motion to dismiss, motion to strike and motion for sanctions, is that RAD had no right to file the said complaints to protect RAD's rights and property as reflected in Eric Edgington Appendix "A". NOTE: If RAD would have been able to hire a "SCDUILA" at \$300.00 per hour, then RAD's pleadings would not have been raised in Eric Edgington's "Appendix A". What Eric Edgington Appendix "A" shows is that RAD was denied meaningful access to the United States Courts because RAD was a citizen-attorney and not represented by a "SCDUILA" at \$300.00 per hour, and the "SCDUILA" have set-up a "monopoly" in the judicial branch of government to ensure no citizen-attorney gains meaningful access to the courts. NO CITIZEN IN THE STATE OF FLORIDA, OR THE VARIOUS STATES, OR THE UNITED STATES, CAN GAIN MEANINGFUL ACCESS TO THE AFORESAID COURTS, UNLESS THE SAID CITIZEN IS REPRESENTED BY A "SCDUILA" AT ARTIFICIAL-MONOPOLISTIC LEGAL FEES OF \$300.00 PER HOUR. The "SCDUILA" "illegal licensed attorneys - federal judges", and the various "illegal licensed attorneys - state court judges", have willfully, intentionally, maliciously, wantonly, and fraudulently, pursuant to "prior agreement and personal motivation" and "outside the respective court's authority (not a judicial act), entered various "fraudulent paper trails of orders" on RAD to give the "false impression" that

RAD was not entitled to the said relief, when in fact, the face of the record of the respective pleadings of RAD show clear, strong, convincing, unequivocal and uncontroverted evidence that RAD was entitled to relief as requested. Accordingly, to ensure that RAD's rights and property are not adversely affected, and so the citizens of the State of Florida can see the TRUE AND CORRECT EVIDENCE AND FACTS AND LAW on the pleadings reflected in the Appendix "A" of Eric Edgington, and his co-conspirators, on RAD, RAD needs "expert witnesses" to testify on the pleadings in Appendix "A" of Eric Edgington, and a Writ Of Certiorari be issued to obtain each and all pleadings reflected in the Appendix "A" of Eric Edgington. Accordingly, RAD needs the following expert witnesses to testify at an oral hearing on the instant pleading: Four law school professors from Harvard Law School; Four law school professors from Yale Law School; Four law school professors from University of Florida Law School; Four law school professors from Florida State Law School. The aforesaid "expert witness" testimony will show clear, strong, convincing, unequivocal and uncontroverted evidence that RAD has never filed a frivolous pleading, and each and all pleadings filed by RAD are meritorious and state a cause of action, and RAD has a clear right to "freedom of speech" to show that the said "judges" are "sleazy, corrupt, dishonest, unethical and illegal", and that RAD has been denied meaningful access to the said courts because the "SCDUILA" refuse and continue to refuse to admit the law and facts and evidence exist when it pertains to citizen-attorneys and/or paupers, solely for the purpose to ensure that "SCDUILA" maintain an artificial-monopolistic legal fee rate of \$300.00 per hour. In the instant action, RAD's

pleading are meritorious and state a cause of action, and are not slanderous and libelous, but the "SCDUILA" of the "FPSC", will conspire with the members of the "FPSC" and the "SCDUILA" of the public utilities counsels, and the "SCDUILA" of the so-called public counsels office, to illegally dismiss the instant action to ensure that the "SCDUILA" continue to make artificial-monopolistic legal fees of \$300.00 per hour, and to ensure that public utilities continue to gouge the citizens of the State of Florida with fraudulent rate increases by using fraudulent documents and falsehoods and half-truths, and the use of "CHARACTER ASSASSINATION PLEADINGS" which do not pertain to the instant action.

In U.S. v. Shubert, 348 US 222 (1955), the Court held:

"Denial of Certiorari by federal Supreme Court does not constitute an expression on the merits, and this rule is particularly appropriate where decision sought to be reversed is essentially a factual determination."

The cases cited in Appendix "A" of Eric Edgington's pleading, even though non-applicable to the instant action, except to show that the "SCDUILA" deny citizen-attorneys meaningful access to the courts if the citizen is appearing as a citizen-attorney, RAD presents the following issue. The said cases in Appendix "A" cannot operate as res judicata and does not constitute an expression on the merits as enumerated in the above-cited U.S. case. The record should reflect that the cases cited in Appendix "A" will be heard in the future, when the "SCDUILA" have been replaced and "... by the citizen-attorneys, and the "citizen-attorneys ...", and we once again have a government by and for the people, and NOT by and for "illegal" licensed attorneys. THE LEGAL BOOK IS A CALL TO ARMS! Further, the "SCDUILA" Eric Edgington, as expected, attempted to engage in character assassination against RAD by presenting the a false image on the true and correct Roy A. Day by mentioning the false arrest and imprisonment. The true and correct facts are stated in a complaint filed in federal court: see Roy A. Day v. "SCDUILA" [norman w. black (three foot little runt)], et al, In The United States District Court, For The Middle District Of Florida, Tampa Division, C.A. No. 90-290-CIV-T-10(B) (See EXHIBIT "1", which EXHIBIT "1" is attached hereto and by reference incorporated herein). As reflected in the aforesaid EXHIBIT "1", the "SCDUILA" had Roy A. Day falsely arrested and imprisoned to attempt to "keep RAD quiet" on the course of illegal conduct of "SCDUILA" to

make artificial-monopolistic legal fees of \$300.00 per hour, after RAD filed charges with the F.B.I. in violation of the Clayton Act and Sherman Act, with the overlay that RAD was dating a "federal judges secretary" and an "opposing counsel" at the same time. RAD refused and continued to refuse to pay a "SCDUILA", or permit RAD's parents, to pay, a ten thousand dollars (\$10,000.00) retainer fee to have RAD release, and to have the false arrest and imprisonment expunge from the record. The sole purpose of the false arrest and imprisonment of RAD, was to harass, intimidate and force and coerce RAD to become a "co-conspirator" with the "SCDUILA" to make artificial-monopolistic legal fees of \$300.00 per hour, and to generate a "fraudulent federal government computer database file" on RAD. Ninety percent (90%) of the citizens in the United States and the State of Florida, have been subjected to the various degrees of harassment, intimidation, force, coercion and threats as RAD has been subjected, but with different sets of facts (millions have also been falsely arrested and imprisoned, or subjected to a fraudulent sting operations or a false entrapment). What the aforesaid fact show, is that the judicial branch of government, and the various departments and agencies in the United States, and the various States, are TOTALLY CORRUPT, and must "... at all cost", and rebuilt by honest and ethical citizens, and not "SCDUILA". The present system no longer works, since the present system is controlled and orchestrated by a privilege class only, specifically, "SCDUILA" - 90% of the citizens are "locked-out" of the present system. Accordingly, THE LEGAL BOOK is a call to arms. THE LEGAL PARTY is the only answer to return the judicial branch of government, and the various departments and agencies, back to the people, and out of the hands of the "SCDUILA", and their co-conspirators, so we once again have a government by and for the people, and not by and for the "illegal" licensed attorneys. IT IS SELF-EVIDENT THAT GTE, AND ITS CO-CONSPIRATORS, ARE NOW ATTEMPTING TO CONCEAL AND COVER-UP THE FRAUDULENT RATE INCREASE REQUEST, BY DENYING ROY A. DAY THE RIGHT TO PRESENT THE TRUE AND CORRECT FACTS AND EVIDENCE AND LAW, BY DENYING ROY A. DAY THE RIGHT TO PERFORM DISCOVERY AND CROSS-EXAMINE WITNESSES AND PRESENT EVIDENCE AND PRESENT ROY A. DAY'S EXPERT WITNESSES AND ROY A. DAY WITNESSES. Roy A. Day trust that a court with competent jurisdiction, will not be DUPED by GTE's, and GTE's "SCDUILA'S" SHAM PLEADINGS, to railroad through a fraudulent rate increase by attacking RAD with a "sham pleading", and deceiving a court with competent jurisdiction of the TRUE AND CORRECT FACTS, as stated by Roy A. Day's pleadings.

7. RAD reserves the right to address each and all issues not addressed in the instant pleading by RAD in reference to GTE's pleading, at an oral hearing before this court. For judicial economy, RAD repeats and realleges each and all pleadings filed by RAD in the above-entitled and numbered action, as if the aforesaid pleadings were expressly stated herein.

8. RAD repeats and realleges RAD's Motion To Disqualify The "FPSC" on file in the above-entitled and numbered action, as if the aforesaid motion was expressly stated herein. Accordingly, the "FPSC"

is qualified from proceeding on the above-entitled and numbered action.

WHEREFORE, PREMISES CONSIDERED, Intervenor RAD request that the following relief be granted:

a. That Intervenor Roy A. Day's Motion To Disqualify Florida Public Service Commission for the above-entitled and numbered action is GRANTED; That Intervenor Roy A. Day's Motion For Transfer To Federal Court is GRANTED; declare that the above-entitled and numbered action is transferred to the United States District Court for the District of Columbia, in the alternative, to C.A. No. 92-963-CIV-T-17C, so the said federal court can determine a court with competent jurisdiction, and subsequently, entertain the instant motion to hold action in abeyance.

b. That Roy A. Day's Motion For Expert Witnesses To Testify And Roy A. Day's Motion For An Oral Hearing is GRANTED; declare that to prevent Appellant's rights and property from being adversely affected, and MILLIONS AND MILLIONS AND MILLIONS AND MILLIONS of citizens' rights and property from being adversely affected, and so the true and correct evidence and facts and law is presented on the "fraudulent and libelous and slanderous statements" of Eric Edgington, and his co-conspirators, in connection with the "Appendix 'A'", Roy A. Day's expert witnesses can testify at an oral hearing for the instant action; declare that in connection with the "fraudulent orders" entered by "SCDUILA" "federal judges" and "state court judges", pursuant to "prior agreement and personal motivation" and "outside the court's authority" (not a judicial act), against Roy A. Day as reflected in Eric Edgington's Appendix "A", RAD's expert witnesses

can testify at an oral hearing; declare that RAD is entitled to have RAD's expert witnesses testify at an oral hearing on the following matters to prevent RAD's Fourteenth Amendment right from being violated: (1) the fraudulent orders entered in the cases as reflected in Eric Edgington's Appendix "A" have created a "false image" on Roy A. Day to the citizens of the various States and the United States, (2) Roy A. Day has been denied meaningful access to the Courts as a citizen-attorney since Roy A. Day was seeking a large and meaningful sum certain as a citizen-attorney and a pauper as reflected in Eric Edgington's Appendix "A", (3) Roy A. Day's pleadings are meritorious and state a cause of action, and are not libelous and slanderous, and once Roy A. Day is permitted to present evidence and cross-examine witnesses and perform discovery, the true and correct evidence will appear on the face of the record at the "FPSC"; declare that Roy A. Day is entitled to have the following expert witnesses testify on Roy A. Day's behalf at an oral hearing: that four law school professors from Harvard Law School and four professors from Yale Law School and four professors from the University of Florida Law School and four professors from Florida State Law School; declare that the aforesaid expert witnesses are to testify on Roy A. Day's behalf to show that each and all pleadings filed by Roy A. Day in Eric Edgington's Appendix "A" state a cause of action and is meritorious, and that each and all pleadings filed in the instant action are meritorious and state a cause of action, and to show that Roy A. Day has been denied "due process" at the "FPSC"; declare that if Roy A. Day's expert witnesses are denied the right to testify on Roy A. Day's behalf, Roy A. Day's, and MILLIONS AND MILLIONS AND MILLIONS of citizens, Fourteenth Amend-

ment right of due process and equal protection of the law have been violated by this the "FPSC", and co-conspirator, "GTE", to use fraudulent documents and falsehoods and half-truths to grant a fraudulent rate increase, and to attempt to engage in "character assassination" against Roy A. Day to attempt to conceal and hide the true and correct issue pertaining to GTE's fraudulent rate increase, and deny Roy A. Day the right to file a "new complaint" against GTE Communication Corporation, as a co-conspirator with "GTE"; declare that the "FPSC", or a court with competent jurisdiction, will issue a writ of certiorari to the various courts involving the cases mentioned in Eric Edgington's Appendix "A" pertaining to Roy A. Day, and direct the said courts to produce each and all pleadings of the said cases mentioned in the Appendix "A" of Eric Edgington, so the said expert witnesses can testify on the true and correct facts and law and evidence, and so that Roy A. Day will not be subjected to FRAUD OF THE FIRST ORDER and violation of Roy A. Day's civil rights, with the overlay of adversely affecting MILLIONS AND MILLIONS AND MILLIONS of citizens' rights and property in the State of Florida.

c. That Intervenor's Motion For Emergency Ruling On December 11, 1992 is GRANTED; that the issues raised in the instant pleading is of GREAT PUBLIC CONCERN, and will adversely affect MILLIONS AND MILLIONS AND MILLIONS AND MILLIONS of citizens rights and property in the State of Florida, if the "FPSC delays to issue a ruling on the instant pleading; that the instant pleading will be entertained on December 11, 1992.

d. That Intervenor's Motion For Sanctions is GRANTED; that GTE's course of illegal conduct to file a "sham pleading" in direct violation of Section 120.57(b), solely for the improper purpose to deny Roy A. Day the right to file a "new complaint" on December 11, 1992, against GTE Communications Corporation, as a co-conspirator with "GTE", adversely affected Roy A. Day's rights and property, and MILLIONS AND MILLIONS AND MILLIONS of citizens rights and property; declare that GTE filed the said "sham pleading" to deny Roy A. Day the right to expose GTE Communications Corporations course of illegal conduct against Roy A. Day as reflected in the "new complaint" filed on December 11, 1992 via "UPS Next Day Air, shipper no. N 349 - X85 - tracking no. 191 9568 045), and to conceal and cover-up the course of illegal conduct of GTE to request for a rate increase by using fraudulent documents and falsehoods and half-truths; declare as a deterrent against other public utilities engaging in similar conduct as GTE, Roy A. Day is entitled to sanctions in the sum of one million dollars (\$1,000,000.00); declare that since GTE is a billion dollar corporation, a large sum certain is needed to deter GTE and GTE Communication from filing "sham pleadings" to deny the citizens the true and correct facts, and to cease and desist monopolistic practices; declare that GTE's motion to dismiss and motion to strike and motion for sanctions, are denied, and that GTE filed a "sham pleading" solely for the purpose to deceive the "FPSC", and a court with competent jurisdiction of the true and correct facts, and to engage in character assassination against Roy A. Day, and to attempt to change the true and correct issue, specifically, that GTE is entitled to no rate increase, since the said rate increase is based on fraudulent docu-

ments and falsehoods and half-truths, with the overlay that the "FPSC" received cash under the table and/or special favors to railroad through a fraudulent rate increase.


e. Granting Petitioner such other and further relief as may be just.

Respectfully submitted,


Roy A. Day

CERTIFICATE OF SERVICE

No parties served at this stage of litigation, since the "FPSC" refused and continued to refuse to entertain RAD's pending motions, and denied RAD meaningful access to the "FPSC", solely for the purpose to ensure that the said fraudulent rate increase would be "railroaded" through the "FPSC" with no true and correct evidence. I hereby certify that a true and correct copy of the above and foregoing motions have been forwarded to Eric Edgington, P.O. Box 110, MC 7, Tampa, Florida 33601, via first class mail on this 10th day of December, 1992.



Roy A. Day

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ATTACHMENT 13

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ROY A. DAY,
Plaintiff

VS.

C.A. NO. 90-290-CIV-T-10(B)

UNITED STATES DISTRICT JUDGE
NORMAN W. BLACK,

ASSISTANT FEDERAL PUBLIC
DEFENDER THOMAS S. BERG,
Defendants

COMPLAINT

NOW COMES ROY A. DAY, PLAINTIFF herein, and for his Complaint against the above named Defendants, respectfully represents unto this Court as follows:

COUNT ONE

1. Plaintiff Roy A. Day is a citizen of the United States of America and a resident of the City of Tarpon Springs, County of Pinellas, State of Florida.

2. Defendant Norman W. Black now is, and at all times herein mentioned was, duly appointed, employee, and acting United States District Judge. Each and all of the acts of Defendant Norman W. Black set forth herein were done by him acting individually and in concert, under the pretense of the statutes, ordinances, regulations, customs, and usages of the United States of America, and by virtue of, and under the authority of, his office as United States District Judge. Each and all of the acts of Defendant Norman W. Black set forth herein were done by him, acting individually and in concert, pursuant to "prior agreement" and "personal motivation" and in bad faith and outside his authority, and in a willful, intentional, malicious and corrupt manner.

3. Defendant Thomas S. Berg now is, and all times mentioned

was, duly appointed, employeeed, and acting Assistant Federal Public Defender. Each and all of the acts of Defendant Thomas S. Berg set forth herein were done by him acting individually and in concert, under the pretense of the statutes, ordinances, regulations, customs, and usages of the United States of America, and by virtue of, and under the authority of, his office as Assistant Federal Public Defender. Each and all of the acts of Defendant Thomas S. Berg set forth herein were done by him, acting individually and in concert, pursuant to "prior agreement" and "personal motivation" and in bad faith and outside his authority and in a willful, intentional, malicious and corrupt manner. At all times pertinent to this Complaint, Defendant Thomas S. Berg was a "principal co-conspirator" with Defendant Norman W. Black in a course of illegal conduct against Plaintiff Roy A. Day. At all times pertinent to this Complaint, Defendant Norman W. Black and Defendant Thomas S. Berg, now are, and at all times mentioned were, highly sophisticated, informed and experienced Licensed Attorneys and thoroughly familiar with primary and secondary legal research and Federal Statutory Law and the supporting case law and the United States Constitution. In effecting the unlawful conduct complained of hereinafter, the aforesaid Defendants acting in concert and conspiracy with other Federal employees and agents and servants of the Federal employees, whose names and identities are not at this time know to Plaintiff, which said persons are hereinafter referred to as "co-conspirators".

4. This is a civil action brought for preliminary and permanent injunctions to prevent deprivations of certain rights, privileges, and immunities secured to Plaintiff, by the Constitution of the United States; for an order declaring unconstitutional the discriminatory acts of Defendants and "co-conspirators",

and for money damages to redress the deprivation of Plaintiff's rights by the unconstitutional and illegal acts of Defendants and "co-conspirators"; a civil action for fraud and negligence.

5. This action is brought pursuant to Title 28, United States Code, Section 2201 and 2202. This Court has jurisdiction under Title 28, United States Code, Section 1331.

6. Plaintiff had filed various civil actions in the Federal Courts, specifically, Houston Division, in a forma pauperis and Pro Se proceeding. The licensed attorneys could not compete with Plaintiff in the civil actions at the monopolistic legal fee rate of \$300.00 per hour. Accordingly, the District Court Judges began a course of illegal conduct to illegally dismiss Plaintiff's civil actions by refusing and continuing to refuse to admit the law and facts and evidence exist when it pertained to Plaintiff. Since Plaintiff had excellent legal aptitudes and skills and was able to appeal all the way to the Supreme Court of the United States, the District Court Judges realized that another course of action had to be taken to deny Plaintiff "ACCESS" to the Federal Courts since Plaintiff property was due and payable as a Pro Se and pauper litigant. Defendant Norman W. Black and his "co-conspirators" confected and devised, carried out, a plan, scheme, practice and course of illegal conduct which operated to deny Plaintiff his Constitutional Rights of due process and equal protection of the law and the right to be secure in his effects against unreasonable search and seizure and the rights reserved and retained in a democracy and the right to a trial by jury and the right to obtain witnesses in his favor and to be informed of the nature and cause of the accusation against Plaintiff and the right to have the law and evidence and facts as being admitted in existence when it pertains to Plaintiff,

A. Defendant Norman W. Black entered an order directing Plaintiff not to contact any court personnel for the civil action in which Plaintiff was involved with Defendant Norman W. Black, or Plaintiff would be held in contempt of court. The aforesaid order was vague, ambiguous and unreasonable since Plaintiff had to contact the court personnel to ascertain dates for hearings. Further, the order was for a specific court, specifically, Defendant Norman W. Black's court. Plaintiff was dating a Federal Judge's secretary at the time and also a licensed attorney who was opposing counsel on a civil action involving Plaintiff. Further, Plaintiff had other civil actions before other courts which Plaintiff had to contact to ascertain dates for hearings. Plaintiff complied with Defendant Norman W. Black's contempt order and did not place any telephone calls to any court personnel.

B. Since Plaintiff had complied with the court order and not called any court personnel, Defendant Norman W. Black became frustrated since Defendant Norman W. Black could not "entrap" Plaintiff by using the "fraudulent contempt order" and began an orchestrated campaign with "co-conspirators" to have Plaintiff "falsely imprisoned" since Plaintiff had filed criminal charges against the licensed attorneys for having a monopoly and charging \$300.00 per hour in legal fees; also for dating the Federal Judge's secretary and the opposing counsel-licensed attorney at the same time.

C. The "false imprisonment" of Plaintiff was orchestrated by Defendant Norman W. Black and the "co-conspirators" solely for the purpose to generate a "fraudulent federal computer database file" on Plaintiff that was "character assassination and libelous and slanderous" against Plaintiff so Plaintiff would be forced into economic starvation due to Plaintiff not being able to locate

(P. 20) (Ex. 11)

gainful employment because anyone who reads the "fraudulent computer database file" on Plaintiff would not hire Plaintiff.

D. Without issuing a search warrant and after illegally obtaining a door key from the apartment manager, two United States Marshals and one Houston Policemen illegally entered Plaintiff's apartment, number 2004, Broadway Square Apartments, Houston, Texas. Plaintiff had a SECURITY LOCK on the door so the three aforesaid individuals could not legally enter but the three aforesaid individuals BROKE THE SECURITY LOCK and illegally searched Plaintiff's apartment and seized Plaintiff (The record reflects that Plaintiff filed a civil action against the three aforesaid individuals and Defendant Norman W. Black for the illegal search and seizure in a Federal Court and the said action will be used as evidence in this action since Plaintiff was not permitted to entertain the action - Plaintiff filed the action to document the illegal search and seizure since Plaintiff knew that Plaintiff would probably be placed in a "false imprisonment" and not be permitted to activate the Complaint and proceed to expose the course of illegal conduct).

E. Plaintiff had no personal knowledge why Plaintiff was "falsely imprisoned" and Plaintiff was finally handed a copy of a court order entered by Defendant Norman W. Black which stated

Plaintiff was arrested for contempt of court (See Miscellaneous Number H-86-110, In The United States District Court, For The Southern District Of Texas, Houston Division, IN RE: Roy A. Day, Criminal Contempt).

F. Plaintiff was denied a timely arraignment hearing and when the arraignment hearing was finally held, Plaintiff was not permitted to say a word even when asked a question by the "co-conspirators". The Federal Rules of Criminal Procedure pertaining

to the arraignment hearings were "non-existent" for Plaintiff, when in fact, Plaintiff never knew what Plaintiff was charged with until the United States Marshal handed Plaintiff a copy of the contempt order days later.

G. Since it is one hundred percent (100%) impossible for a litigant to handle a criminal lawsuit from the Harris County Jail since the law library is willfully and intentionally missing essential legal books and one is not permitted proper time to research the legal materials necessary to defend oneself and because no adequate typing facility exist, Plaintiff had to accept as Plaintiff's legal counsel Defendant Thomas S. Berg.

H. Defendant Norman W. Black and Defendant Thomas S. Berg, with the "co-conspirators", began the "main phase" of the plan and scheme to generate a "fraudulent" "federal computer database file", specifically, Plaintiff "falsely imprisoned". With Plaintiff's "rent money" being due on Plaintiff's apartment, Plaintiff requested Defendant Thomas S. Berg to have Plaintiff released from the "false imprisonment" long enough to remove Plaintiff's personal property so Plaintiff would not lose Plaintiff's household goods and furnishings, furniture, fixtures, wearing apparel, and other personal property. Defendant Thomas S. Berg and Defendant Norman W. Black and the "co-conspirators" said if Plaintiff completed a battery of test, Plaintiff would be released, to save Plaintiff's personal property. Once Plaintiff, in a "good faith" effort, completed the battery of test, Plaintiff was denied the release from the false imprisonment and Plaintiff lost Plaintiff's personal property, including but not limited to, "invaluable pictures of Plaintiff's daughter" with a value of ONE BILLION DOLLARS (Plaintiff will never be able to recover the said pictures).

(P. 22) (EX. "1")

I. Plaintiff then requested that Defendant Thomas S. Berg be removed as the Plaintiff's legal counsel but Defendant Norman W. Black would not remove Defendant Thomas S. Berg.

J. Plaintiff requested a trial by jury and was denied a trial by jury. Once again, the Federal Rules of Criminal Procedures were "thrown out the window" when they pertained to Plaintiff and Plaintiff had no personal knowledge what the charges were against Plaintiff since the arraignment hearing was a "travesty of justice". Defendant Norman W. Black had a trial by judge once Plaintiff was denied a trial by jury and Defendant Norman W. Black and "co-conspirators" began a "trial by ambush", specifically, Plaintiff had a clear right pursuant to the Federal Rules of Criminal Procedure to know the general scope of testimony and evidence being presented against Plaintiff in advance so that Plaintiff had time to prepare Plaintiff's defense. Plaintiff was denied a trial by jury, the nature of the charges against Plaintiff, the scope of the testimony and evidence being presented against Plaintiff, the right to prepare a defense, the right to have witnesses testify, the right to have Plaintiff's witnesses sworn in to give testimony.

K. Plaintiff having been "ambushed" by Defendant Norman W. Black and Defendant Thomas S. Berg and the "co-conspirators", Plaintiff was subjected to "character assassination" and libel and slander solely for the purpose to generate the the "fraudulent federal computer database file" on Plaintiff, and Plaintiff was then subjected to the Federal Prison environment with a hospital overlay to give a "false image" on the true and correct facts on Plaintiff, and factual misrepresentation to anyone who reads the "fraudulent federal computer database file" on Plaintiff. To further conceal the aforesaid illegal search and seizure and the travesty of

(p. 23) (Ex. 111)

justice at the arraignment hearing and the "no trial by jury", Defendants and their "co-conspirators" had no grand jury review any of the facts or evidence or law.

L. Since Defendant Norman W. Black would not remove Defendant Thomas S. Berg, Plaintiff requested Defendant Thomas S. Berg to immediately have Plaintiff released on bail pending an appeal but Defendant Thomas S. Berg would not file an appeal on behalf of Plaintiff and would never answer Plaintiff's telephone calls.

M. Once Plaintiff was placed in a Federal Prison, Plaintiff requested the legal counsel to file an appeal to have Plaintiff released from the "false imprisonment" but the legal counsel at the Federal Prison refused to file an appeal on Plaintiff's behalf.

N. Plaintiff was threatened on numerous occasions with death if Plaintiff continued to file pleadings against the United States Government for the "false imprisonment". Plaintiff had to "tacitly" agree not to file a lawsuit against the United States Government before Plaintiff would be released from the "false imprisonment". The instant Complaint is placing Plaintiff in a "dangerous position" since Plaintiff has now decided to abnegate the agreement and now file the instant Complaint to protect Plaintiff's rights and property.

O. Plaintiff was threatened in Federal Prison with further "false imprisonment" if Plaintiff attempted to appeal the "false imprisonment". Plaintiff did file some pleadings solely for the purpose for Plaintiff's expert witnesses to view at a later date when Plaintiff filed the instant action so the expert witnesses could see the true and correct state of Plaintiff at the time of the "false imprisonment". To further engage in "character assassination" and libel and slander against Plaintiff, Defendants

(P. 24) (Ex. 11)

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and the "co-conspirators" altered and changed Plaintiff's "answers" on the battery of test that Plaintiff answered in a "good faith" effort to be released long enough to save Plaintiff's personal property, and then Defendants had a "co-conspirator" place nothing but "numerous falsehoods" on the face of the record at the "fraudulent trial by judge (Defendant Norman W. Black)" against Plaintiff, and then Defendant Norman W. Black and Defendant Thomas S. Berg conspired to deny Plaintiff's expert witnesses testify on Plaintiff's behalf, to ensure Plaintiff was "falsely imprisoned" in a Federal Prison hospital so the "federal computer database file" on Plaintiff would reflect the libel and slander.

P. Because the judicial branch of government is now illegally controlled by the illegal licensed attorneys, the only way a citizen can receive justice, if at all, is to pay an illegal licensed attorney \$300.00 per hour in legal fees. Plaintiff was requested to pay an illegal licensed attorney a \$10,000.00 retainer fee so Plaintiff would be released from the "false imprisonment" but Plaintiff refused, and Defendants and the "co-conspirators" continued the scheme and plan to ensure the "fraudulent federal computer database file" against Plaintiff was generated on schedule.

Q. To further prevent Plaintiff from having "freedom of speech" by forcing and coercing Plaintiff into economic starvation since no employer would hire an individual after receiving information on the "fraudulent federal computer database file" on Plaintiff, Defendants and the "co-conspirators" threatened Plaintiff with further "false imprisonment" if Plaintiff filed any more federal criminal charges against the licensed attorneys for maintaining a monopoly on legal fees in direct violation of the Clayton Act and Sherman Act. Plaintiff had to "tacitly" agree not to speak to the public about the licensed attorneys monopoly in the judicial

(P.25) (EX. 11)

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branch of government and the "false imprisonment" and the violation of Plaintiff's right to freedom of speech before Defendants and the "co-conspirators" would release Plaintiff from the "false imprisonment". Plaintiff repeats and realleges each and every Federal Civil Action Complaint and the various State Civil Action Complaints filed by Plaintiff in the United States of America and the various States and the associated appellate court pleadings in the United States of America and the various States, as if the pleadings were expressly stated herein. Plaintiff repeats and realleges each and every criminal charge filed by Plaintiff at the Federal Bureau of Investigation and the Department of Justice and each and every criminal charge filed in Harris County, Texas by Plaintiff as if the aforesaid criminal charge documents were expressly stated herein. It is self-evident that Defendants and the "co-conspirators" had Plaintiff "falsely imprisoned" to generate the "fraudulent federal computer database file" on Plaintiff to prevent Plaintiff from freedom of speech on the monopoly by the licensed attorneys so Plaintiff would be presented to the public in a "false image" with "character assassination" and libel and slander and not to be accepted as true and correct facts from Plaintiff, when in fact, Plaintiff has been denied Plaintiff's property and rights by the licensed attorneys to ensure that Plaintiff is coerced and forced to hire an illegal licensed attorney at the monopolistic legal fee rate of \$300.00 per hour. The aforesaid has an overlay of a course of "fraudulent" conduct by Defendants and the "co-conspirators" pertaining to Plaintiff dating the Federal Judge's secretary and the licensed attorney-opposing counsel at the same time, and Defendants and the "co-conspirators" in the Federal Court House in the Houston Division ensured Plaintiff was "railroaded" to the "false imprisonment"

(p. 28) (ex. 17)

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without due process and equal protection of the law.

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7. By reason of the illegal search and seizure and the "false imprisonment", Plaintiff lost Plaintiff's personal property in the SUM of ONE BILLION THIRTY-FIVE THOUSAND DOLLARS (\$1,000,035,000.00).

8. The aforesaid course of illegal conduct by Defendants and the "co-conspirators" in the aforesaid paragraphs 6-A through 6-Q deprived Plaintiff of the following rights, privileges and immunities secured to Plaintiff by the Constitution of the United States:

a. The right of Plaintiff to be secure in his effects against unreasonable search and seizure under the Fourth Amendment to the Constitution of the United States.

b. The right of Plaintiff not to be deprived of life, liberty, or property without due process and equal protection of the law, secured by the Fifth Amendment to the Constitution of the United States.

c. The right of Plaintiff to a trial by jury secured by the Seventh Amendment to the Constitution of the United States.

d. The rights of Plaintiff to be reserved or retained under the Ninth Amendment to the Constitution of the United States.

e. The right of Plaintiff to freedom of speech secured by the First Amendment to the Constitution of the United States.

f. The right of Plaintiff to be informed of the nature and cause of the accusation and the right to have compulsory process for obtaining witnesses in Plaintiff's favor and the right to have honest and ethical counsel for defense and the right to know the general scope of testimony and evidence being presented against Plaintiff in advance so that Plaintiff had time to prepare Plaintiff's defense secured by the Sixth Amendment to the

g. The right of Plaintiff to have the United States Judge, bound by oath, to support the Constitution, secured by Article VI, Clause 3 to the United States Constitution.

9. In doing the acts and things complained of, Defendants and the "co-conspirators" were engaged in a scheme and conspiracy designed and intended to deny and deprive Plaintiff of rights guaranteed to Plaintiff under the Constitution and Laws of the United States, as hereinabove enumerated.

10. Throughout the occurrences described above in paragraphs 6 through 9, Plaintiff, as a direct and proximate result of the aforementioned willful, intentional, malicious and corrupt action by Defendants pursuant to "prior agreement" and "personal motivation" and outside their authority, has suffered severe discrimination and mental pain and suffering with extreme nervousness, depression, distractability, weight loss, fright, fear, humiliation, embarrassment, nausea, nightmares, difficulty sleeping and his social life destroyed, in the SUM of FIVE BILLION DOLLARS (\$5,000,000,000.00), and will continue to suffer damages.

11. The wrong done by Defendants pursuant to "prior agreement" and "personal motivation" and outside their authority was aggravated by that kind of willfulness, wantonness and malice for which the law allows the imposition of exemplary damages. Plaintiff shows that an award of substantial exemplary damages would serve not only to deter these Defendants from again engaging in the aforesaid actions, but it would also serve as a warning or deterrent to others similiarly situated. Accordingly, Plaintiff hereby sues for exemplary damages in the SUM of TEN BILLION DOLLARS (\$10,000,000,000.00).

12. Money damages, however, cannot remedy the irreparable

harm done by the deprivation of Plaintiff's rights secured by the Constitution and Laws of the United States since Defendants' course of unlawful conduct against Plaintiff resulted by the Defendants "tearing-up" the Constitution and Laws of the United States into scrap paper and denying Plaintiff due process and equal protection of the law, trial by jury, freedom of speech, Plaintiff's personal effects from unreasonable search and seizure, the right to know the accusations against Plaintiff and the right to prepare a defense and have witnesses testify. No adequate remedy exists at law for redress of those deprivations which continue to occur and will occur in the future unless enjoined by this court.

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands that the following relief be granted:

- a. Setting a prompt hearing for a preliminary injunction wherein Defendants shall show cause why they, and those in active concert or participation with them or any of them, should not be enjoined during pendency of this action from continuing to engage in discriminatory and constitutional violations of the citizens of the United States.
- b. Issue a permanent injunction restraining Defendants and those in active concert or participation with them or any of them, from engaging in discriminatory and constitutional violations of the citizens of the United States.
- c. Declare that Defendant Norman W. Black's course of illegal conduct is to be referred to the House Judiciary Committee to begin impeach proceeding for violation of the Constitution of the United States.
- d. Declare that Defendant Thomas S. Berg is to be removed from his employment on the Federal Government payroll; declare

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that Defendant Thomas S. Berg and Defendant Norman W. Black are to be removed from practicing law, and each and all law licenses are to be abnegated which are presently held by Defendants.

e. Declare that Plaintiff's Constitutional Rights have been violated; that Plaintiff was denied due process and equal protection of the law, freedom of speech, the right to Plaintiff's personal effects, trial by jury, the right to know the accusations against Plaintiff and the right to have witnesses testify and the right to prepare a timely defense, the rights reserved and retained in a democracy, the right to have the law and facts and evidence as being admitted as being in existence when it pertains to Plaintiff, the right to have a honest and ethical attorney, the right to choose Plaintiff's counsel of record and to have a honest and ethical counsel of record and to have the counsel of record handle Plaintiff's "false imprisonment" and "fraudulent trial by judge" as if Plaintiff had paid the counsel of record a million dollar legal retainer fee as any millionaire in the United States would do; declare that two systems of criminal justice have been established in the United States, one for citizens who have millions of dollars to have the law and facts and evidence as being admitted when it pertains to the millionaires, the other system is for citizens who are Pro Se and a pauper to have the law and facts and evidence as being denied in existence when it pertains to Pro Se and pauper litigants.

f. Declare that the "fraudulent federal computer database file" and the "Harris County, Texas fraudulent computer database file" on Plaintiff be expunged of each and all "bits" of information which refer, relate and mention the Plaintiff Roy A. Day's "false imprisonment"; that each and every written document that refers, relates (P. 30) (P. 11) and mentions Plaintiff Roy A. Day's

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"false imprisonment" is to be destroyed; declare that if any person in the future indicates to Plaintiff Roy A. Day that the aforesaid "bits" of data or documents were not destroyed or expunged, Plaintiff is entitled to damages in the SUM of FIFTY MILLION DOLLARS (\$50,000,000.00).

g. Declare that each and every criminal charge filed by Plaintiff with the Federal Bureau of Investigation or the Department of Justice is to be processed and presented to a grand jury; declare that the licensed attorneys have set-up a "thinly disguised private corporation" in the judicial branch of government to ensure that the monopolistic-artificial legal fee rate of \$300.00 per hour is maintained in direct violation of the Clayton Act and Sherman Act.

h. Declare that for the licensed attorneys in the judicial branch of government to maintain the monopolistic-artificial legal fee rate of \$300.00 per hour, the Federal Judges (licensed attorneys) refuse and continue to refuse to admit the law and facts and evidence exist when it pertains to Pro Se and pauper litigants solely for the purpose to force and coerce Pro Se and pauper litigants to hire an illegal licensed attorney at the monopolistic-artificial legal fee rate of \$300.00 per hour.

i. Declare that each and every criminal charge filed by Plaintiff in Harris County, Texas must be processed and presented to a grand jury.

j. Declare that Plaintiff's "false imprisonment" has defrauded the United States taxpayers; declare that Defendants are to pay the United States government the time and money spent to have Plaintiff "falsely prosecuted" and "falsely imprisoned".

K. Granting Plaintiff judgment against Defendants, and each of them, jointly and severally, pursuant to "prior agreement"

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and "personal motivation" and outside their authority, for

compensatory damages in the amount of ONE BILLION THIRTY-FIVE

THOUSAND DOLLARS (\$1,000,035,000.00) with interest at the lawful

rate from the date of the illegal search and seizure, until

judgment; that Plaintiff have and recover interest on that judgment

at the rate of ten percent (10%) per annum until paid. (NOTE:

THE AFORESAID COMPENSATORY DAMAGES ARE TO BE PLACED IN AN ENTITY

DESIGNATED AS F.J.B.O.G. (Free Judicial Branch Of Government)

and the money is to be used by the citizens of the United States

of America to return the judicial branch of government back to

the people and out of the hands of the illegal licensed attorneys.)

l. Granting Plaintiff judgment against Defendants, and each of them, jointly and severally, pursuant to "prior agreement" and "personal motivation" and outside their authority, pursuant to mental pain and suffering damages, in the amount of FIVE BILLION DOLLARS (\$5,000,000,000.00); with interest at the lawful rate from the date of the illegal search and seizure, until judgment;

that Plaintiff have and recover interest on that judgment at the lawful rate until paid. (NOTE: THE AFORESAID MENTAL PAIN

AND SUFFERING DAMAGES ARE TO BE PAID IN AN ENTITY DESIGNATED

AS F.J.B.O.G. (Free Judicial Branch Of Government) and the money

is to be used by the citizens of the United States of America

to return the judicial branch of government back to the people

and out of the hands of the illegal licensed attorneys.)

m. Granting Plaintiff judgment against Defendants, and each of them, jointly and severally, pursuant to "prior agreement" and "personal motivation" and outside their authority, for exemplary damages in the amount of TEN BILLION DOLLARS (\$10,000,000,000.00);

that Plaintiff have and recover interest on that judgment at the lawful rate until paid. (NOTE: THE AFORESAID EXEMPLARY DAMAGES

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ARE TO BE PAID IN AN ENTITY DESIGNATED AS F.J.B.O.G. (Free Judicial Branch Of Government) and the money is to be used by the citizens of the United States of America to return the judicial branch of government back to the people and out of the hands of the illegal licensed attorneys.)

n. Awarding Plaintiff cost and reasonable attorneys' fees ("litigating fees") or, in the alternative, time and money spent to prepare, file and present this lawsuit for the reasonable costs and expenses of this action, and in the event of appeal to the Eleventh Circuit of the United States Court of Appeals and the Supreme Court of the United States, Plaintiff have and recover additional attorneys' fees and reasonable cost and expense of that action.

o. Granting Plaintiff such other and further relief as may be just.

COUNT TWO

13. Plaintiff repeats and realleges paragraphs 1 through 12 as if the aforesaid paragraphs were expressly stated herein.

14. At all times mentioned, pursuant to "prior agreement" and "personal motivation" and outside their authority, and for some time prior, Defendants, and each of them, had or in the exercise of due care should have had knowledge and experience and education in their respective occupations to prevent the damages that have resulted to Plaintiff.

15. Defendant Norman W. Black had a duty of care as a United States District Judge to obey the Constitution of the United States of America and grant each and all citizens equal protection of the law and due process, trial by jury, freedom of speech, trial by jury, the right to know the accusations against the

accused and the right to the scope of the general testimony and evidence being presented so a citizen can prepare a adequate defense. Defendant had a duty of care as a United States District Judge not to issue "SHAM ORDERS", false and fictitious Orders, interposed in bad faith, and manifestly untrue, insufficient and irrelevant on its face and not supported by law and evidence and facts and being based on passion, bias, prejudice, concealment and not disclosure, but on "prior agreement" and "personal motivation", and not orders that are arbitrary, capricious and unreasonable. Defendant Norman W. Black had a duty of care to have appointed a licensed attorney to represent Plaintiff who was honest and ethical and not a "co-conspirator" to ensure Plaintiff is "falsely imprisoned" and subjected to "character assassination" and libel and slander and a "fraudulent federal computer database file" against Plaintiff.

16. Defendant Thomas S. Berg had a duty of care to be honest and ethical and not lie to Plaintiff and defend Plaintiff honestly and ethically and present Plaintiff's expert witnesses and not to conspire with "co-conspirators" to give "falsehoods" against Plaintiff to ensure Plaintiff is "falsely imprisoned" and so a "fraudulent federal computer database file" is generated on Plaintiff. Defendant Thomas S. Berg had a duty of care to file a timely appeal on behalf of Plaintiff since Plaintiff did not have the proper facilities in the "false imprisonment" and Defendant Thomas S. Berg had a duty of care to answer Plaintiff's telephone calls and have conferences with Plaintiff to properly defend Plaintiff to present each and all witnesses in reference to each and all appeals and a duty of care to have Plaintiff released on bail pending the appeal. Defendant Thomas S. Berg had a duty of care not to conspire with Defendant Norman S. Black and the "co-conspirators" to ensure Plaintiff is subjected to the "false

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imprisonment" and the "fraudulent federal computer database file" and the "character assassination" and libel and slander and the "falsehoods" from witnesses presented by the United States government and the duty to be defended just as Plaintiff had placed a one million dollar retainer fee with Defendant Thomas S. Berg.

17. As a proximate result of Defendants negligence, pursuant to "prior agreement" and "personal motivation" and outside their authority, throughout the occurrences described above in paragraphs 13 through 17, Plaintiff lost property in the amount of ONE BILLION THRITY-FIVE THOUSAND DOLLARS (\$1,000,035,000.00).

18. As a further proximate result of Defendants negligence throughout the occurrences described above in paragraphs 13 through 17 pursuant to "prior agreement" and "personal motivation" and outside their authority, and as a direct and proximate result of Defendant's willful, intentional and malicious actions by Defendants, individually and in concert, Plaintiff has suffered great mental pain and suffering with fright, nausea, nightmares, difficulty sleeping, nervousness, depression, distractability, weight loss, fear, humiliation, embarrassment and his social life destroyed, in the amount of FIVE BILLION DOLLARS (\$5,000,000,000.00), and will continue to suffer damages.

19. The wrong done by Defendant's negligence pursuant to "prior agreement" and "personal motivation" and outside their authority was aggravated by that kind of willfulness, wantonness and malice for which the law allows the imposition of exemplary damages. Plaintiff shows that an award of substantial exemplary damages would serve not only to deter these Defendants from again engaging in the aforesaid actions, but it would also serve as a warning or deterrent to others similarly situated. Accordingly, Plaintiff hereby sues for exemplary damages in the amount of

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TEN BILLION DOLLARS (\$10,000,000,000.00).

ATTACHMENT 13

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that the following relief be granted:

a. Plaintiff repeats and realleges the "prayer" in COUNT ONE of the instant Complaint as if the "prayer" was expressly stated herein.

COUNT THREE

20. Plaintiff repeats and realleges paragraphs 1 through 12 as if the aforesaid paragraphs were expressly stated herein with the exception this is an action for fraud.

21. Defendant Norman W. Black, pursuant to "prior agreement" and "personal motivation" and outside his authority, entered "SHAM ORDERS" against Plaintiff to have Plaintiff "falsely imprisoned" and to generate a "fraudulent federal computer database file" on Plaintiff, and said "SHAM ORDERS" were false and fictitious Orders, interposed in bad faith, and manifestly untrue, insufficient and irrelevant on its face and not supported by law and evidence and facts and being based on passion, bias, prejudice, concealment and not disclosure, but "prior agreement" and "personal motivation", and orders that were arbitrary, capricious and unreasonable.

22. Defendant Thomas S. Berg misrepresented to Plaintiff that Defendant Berg was honest and ethical and follows the

Rules of Professional Conduct, when in fact, Defendant Berg is dishonest and unethical and does not follow the Rules of Professional Conduct. Defendant Norman W. Black appointed Defendant Thomas S. Berg to represent Plaintiff in the "false imprisonment", but in reality, Defendant Thomas S. Berg was conspiring with Defendant Norman W. Black and the "co-conspirators" to ensure Plaintiff was "falsely imprisoned"

and a "fraudulent federal computer database file" was generated against Plaintiff to ensure Plaintiff was subjected to "character assassination" and libel and slander, and the attempt to economically starve Plaintiff to death by having employers obtain a "fraudulent federal computer database file" on Plaintiff. Defendant Thomas S. Berg represented to Plaintiff that an appeal would be filed on Plaintiff's false imprisonment and Plaintiff would be able to obtain release from the "false imprisonment" during the appeal process, when in fact, Defendant Berg was conspiring with Defendant Norman W. Black and the "co-conspirators" and was misrepresenting to Plaintiff that an appeal would be filed and Plaintiff would be released pending the appeal. Defendant Thomas S. Berg conspired with Defendant Norman W. Black and a "co-conspirator" to entice Plaintiff to take a battery of test by misrepresenting to Plaintiff that Plaintiff would be released long enough to obtain Plaintiff's personal property if the battery of test were taken, when in fact, Defendant Thomas S. Berg knew that Plaintiff was not going to be released and the battery of test were going to be used to "falsely imprison" Plaintiff with "altered and changed answers" to fit a "trumped-up" psychological profile to ensure Plaintiff is "character assassinated", with an overlay of libel and slander. Defendant Thomas S. Berg misrepresented to Plaintiff that conferences would be held to plan a defense on the "false imprisonment" and plan an appeal, when in fact, Defendant Thomas S. Berg would not even accept Plaintiff's telephone calls and never would have a conference to discuss the appeal and a release pending the appellate process.

23. Plaintiff repeats and realleges COUNT ONE as if COUNT ONE was expressly stated herein. Such a course of illegal conduct by Defendants operated as a "fraud" on Plaintiff from the "false

imprisonment" to the generation of the "fraudulent federal computer database file" on Plaintiff.

24. As a proximate result of Defendants' FRAUD, pursuant to "prior agreement" and "personal motivation" and outside their authority, throughout the occurrences described above in paragraphs 20 through 23, Plaintiff lost property in the amount of ONE BILLION THIRTY-FIVE THOUSAND DOLLARS (\$1,000,035,000.00).

25. As a further proximate result of Defendants' FRAUD throughout the occurrences described above in paragraphs 20 through 23 pursuant to "prior agreement" and "personal motivation" and outside their authority, and as a direct and proximate result of Defendants' willful, intentional and malicious actions by Defendants, individually and in concert, Plaintiff has suffered great mental pain and suffering with fright, nausea, nightmares, difficulty sleeping, nervousness, depression, distractability, weight loss, fear, humiliation, embarrassment and his social life destroyed, in the amount of FIVE BILLION DOLLARS (\$5,000,000,000.00), and will continue to suffer damages.

26. The wrong done by Defendants' FRAUD, pursuant to "prior agreement" and "personal motivation" and outside their authority, was aggravated by that kind of willfulness, wantonness and malice for which the law allows the imposition of exemplary damages. Plaintiff shows that an award of substantial exemplary damages would serve not only to deter these Defendants from again engaging in the aforesaid actions, but it would also serve as a warning or deterrent to others similarly situated. Accordingly, Plaintiff hereby sues for exemplary damages in the amount of TEN BILLION DOLLARS (\$10,000,000,000.00).

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that the following relief be granted: (P. 38) (EX "1")

a. Plaintiff repeats and realleges the "prayer" in COUNT

ONE of the instant Complaint as if the "prayer" was expressly stated herein.

b. Declare that Defendants have defrauded the United States taxpayers by having Plaintiff "falsely imprisoned" and having a "fraudulent court hearing" to generate a "fraudulent federal computer database file" on Plaintiff and to have Plaintiff "falsely imprisoned" at the taxpayer's expense; declare that Defendants are to refund the United States taxpayers for time and money spent for the "fraudulent court hearing" and the "false imprisonment" of Plaintiff; declare that Defendants course of illegal conduct as more fully stated in the instant Complaint is to be turned over to the Federal Bureau of Investigation and then to a Federal Grand Jury.

NOTE: See Plaintiff's First Notice Of Filing filed on March 19, 199

REQUEST FOR TRIAL BY JURY

Plaintiff in the above-entitled matter demands a trial by jury of all issues so triable, each and every count, in said matter on the grounds that Plaintiff is entitled to such trial in said matter on the grounds that Plaintiff is entitled to such trial by virtue of having complied with all requisites of the Federal Rules of Civil Procedure and there exist in this case adequate and complete remedy at law.

c. SPECIAL DECLARATORY REQUEST: The deputy clerks and U.S. Marshal will understand the special request; Declare that Defendant Norman W. Black is not a man of stature due to his course of illegal conduct, in the alternative, a "gnome", "a three foot little runt"; post this notice on the deputy clerks bulletin board on the 5th floor - "three foot little runt" - they'll understand! In the second alternative, a "Napoleonic Complex" ("three feet tall")!

Respectfully submitted,

Roy A. Day

Roy A. Day
P.O. Box 33

Tarpon Springs, Florida 34688-0033

NOTE: The instant Complaint is also filed for the citizens of the the United States and the 48 contiguous states and the 2 non-contiguous states to see the true and correct facts on the fraudulent computer database file generated by the Federal Government on Roy A. Day and also for the "BOOK" and the "news consortiums". (also for future employers of Roy A. Day)

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ATTACHMENT 13

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ROY A. DAY,
Plaintiff

VS.

NORMAN W. BLACK, ET AL.,
Defendants

THE STATE OF FLORIDA
COUNTY OF PINELLAS

C.A. NO. 90-290-CIV-T-10(B)

BEFORE ME, the undersigned authority, on this day personally appeared Roy A. Day, who being by me duly sworn on his oath deposed and said that he is the Plaintiff in the above-entitled action, that he has read Plaintiff's Complaint and that every statement therein is within his personal knowledge true and correct.

Roy A. Day
Roy A. Day, Affiant

SUBSCRIBED AND SWORN TO BEFORE ME by the said Roy A. Day on this 14th day of February, 1990, to certify which witness my hand and official seal.

Jane E. McKinley
Notary Public in and for
Pinellas County, State of Florida

Notary Public, State of Florida
My Comm. expires Nov. 20, 1990

(P 40) (EX. 17")
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