IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 3:08-cr-170-DPJ-JCS

CASSANDRA FAYE THOMAS

MEMORANDUM IN SUPPORT OF MOTION FOR NEW TRIAL DUE TO INEFFECTIVE ASSISTANCE OF COUNSEL

Defendant, Dr. Cassandra Thomas, by and through her counsel, files the present Memorandum in Support of Motion for New Trial Due to Ineffective Assistance of Counsel and moves that this court vacate the guilty verdicts in this case and order a new trial on all charges against Dr. Thomas. In support of this motion, Dr. Thomas will show the following:

BACKGROUND

Dr. Thomas was charged with a total of ten counts for federal offenses related to reimbursements from Medicare for providing in-home physical medicine treatment to patients using technical personnel. Dr. Thomas was tried on all counts as part of a week-long trial that occurred between Monday April 4, 2011 and Friday April 8, 2011. Dr. Thomas was represented by Thomas Freeland and Joyce Freeland (the "Freelands"), and was convicted on all counts. The Freelands made several critical and unreasonable errors during and immediately preceding Dr. Thomas's trial that substantially contributed to Dr. Thomas's conviction. Dr. Thomas believes that many of these errors stemmed from the fact that Thomas Freeland was arrested and charged on a personal matter ten (10) days before the trial and was unable to perform any meaningful trial preparation in the critical days before trial. Dr. Thomas also believes that Mr. Freeland's arrest on these charges negatively impacted Tom and Joyce Freeland's mental state,

and impaired their working relationship and ability to prepare. *See* Affidavit of Dr. Cassandra Thomas par. 20; Affidavit of Kae Patterson.

I. The *Strickland v. Washington* Standard for Ineffective Assistance of Counsel

Every defendant has a sixth amendment right to counsel during criminal trials to ensure that the trial is fair. *Strickland v. Washington*, 466 U.S. 668 (1984). A defendant must receive a new trial when their trial counsel is ineffective to the point that said counsel is not functioning as the counsel required by the sixth amendment. *Id* at 687. *Strickland* sets out two requirements that must be met before a defendant may receive a new trial because of ineffective assistance of counsel, namely (1) the defendant must show that counsel's representation fell below an objective standard of reasonableness, and (2) the defendant must show that counsel's errors were so serious as to deprive the defendant of a trial whose result is reliable. *Id* at 685. The Freelands' representation fell below an objective standard of reasonableness. The Freelands' errors were so serious that they deprived Dr. Thomas of a trial whose result is reliable.

In order to meet the performance prong of the *Strickland* test, the defendant must show that their counsel's actions were unreasonable considering all the circumstances and must overcome the presumption that the complained of acts were part of a sound trial strategy. *Id* at 688-689. To meet the prejudice prong of the *Strickland* test, the defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. *Id* at 694. A reasonable probability is a probability sufficient to undermine confidence in the outcome. *Id*.

Errors on the part of the Freelands that rise to the level of ineffective assistance of counsel under *Strickland v. Washington* can be grouped into five categories as discussed more fully herein.

II. Failure to Exclude Irrelevant and Prejudicial Evidence and Information

The Fifth Circuit has ruled that failure to seek the exclusion of prejudicial and irrelevant evidence is ineffective assistance of counsel. *See White v. Thaler*, 610 F.3d 890 (5th Cir. 2010); *Lyons v. McCotter*, 770 F.2d 529 (5th Cir. 1985). The defendant in *White* was on trial for murder when the prosecution introduced evidence that the victim was pregnant at the time of her death. *White*, 610 F.3d at 907. Defense counsel failed to file a motion in limine or otherwise object to the introduction of the evidence, and the defendant was found guilty. *Id.* The Fifth Circuit ruled that, the victim's pregnancy was not relevant given the facts of the case. *Id.* The Court also found that there was no reason to believe that allowing information of this type into evidence was sound trial strategy and that counsel's failure to object fell below an objective standard of reasonableness, satisfying the performance prong of *Strickland*. *Id* at 908. The Court went on to find that there was a reasonable probability that, but for counsel's failure a different verdict would have been reached, satisfying the prejudice prong of Strickland. *Id* at 911.

Likewise in *Lyons v. McCotter*, the prosecution presented testimony relating to the defendants past criminal record, despite the fact that his criminal record was inadmissible under Texas law. *Lyons*, 770 F.2d at 534. Defense counsel failed to seek the exclusion of the evidence, and the defendant was convicted. *Id.* The Fifth Circuit found that there was no strategic value in failing to object to clearly inadmissible evidence, satisfying the performance prong of *Strickland*. *Id.* The Court went on to find that the defendant was prejudiced, especially in light of the fact that counsel failed to request a limiting instruction to the jury. *Id.*

Like both *Lyons* and *White*, the prosecution in Dr. Thomas's case introduced evidence that was nonprobative and highly prejudicial and defense counsel failed to object. During the

investigation that led to Dr. Thomas's arrest, the federal government seized over two million dollars from bank accounts related to Dr. Thomas's business. Trial Transcript Vol. 1, p. 334: 19 – p. 336:8. At trial, the prosecution made several references to the seizure and the amount of money contained in the accounts. *See* Thomas Transcript, vol. 1, p. 334: 19 – p. 336: 8; Trans. vol. 3, p. 490: 17; Trans. vol. 5, p. 1108: 17.

The fact that Dr. Thomas's business bank accounts were seized and the amount of money in those accounts was not relevant to the legality of Dr. Thomas's methods of providing in home physical medicine services, Dr. Thomas's billing practices, or any other element of the charges against Dr. Thomas. However, this information was highly prejudicial for several reasons. The fact that the money in Dr. Thomas's business accounts was seized would have implied to the jurors that Dr. Thomas had already been proven guilty of some sort of financial malfeasance. Also, given the nature of the charges, fraud resulting in the improper reimbursement of almost seven million dollars, the jury would have implied that the only way Dr. Thomas could have that much money in her accounts was because she fraudulently obtained it from the government. Finally, the fact that Dr. Thomas possessed such a large amount of liquid cash, likely more than the entire jury pool will make in several years, had the effect of alienating Dr. Thomas from the jury. As the evidence in question was significantly more prejudicial than probative, the evidence would likely have been excluded had the Freelands made any attempts to prevent the jury from reviewing it.

As the Fifth Circuit found in both *White* and *Lyons*, an objectively reasonable attorney in this situation would have (1) filed a motion in limine to exclude the information, (2) objected to the information when it was presented in trial, and (3) requested a limiting instruction to the jury to mitigate any prejudice. *See White*, 610 F.3d at 908; *Lyons*, 770 F.2d at 534. The Freelands

failure to take any of these anticipatory or remedial actions to exclude this highly prejudicial and irrelevant information from consideration by the jury fell below an objective standard of reasonableness. There was no possible tactical benefit to be gained by allowing the account balance and the fact of its seizure into evidence unchallenged. This failure satisfies the performance prong of the *Strickland* test. 466 U.S. at 689. Furthermore, due to the prejudicial nature of the evidence, there is a reasonable probability that but for the Freelands' failure; a different verdict would have been reached, satisfying the prejudice prong of *Strickland*. *Id* at 694. Based on the foregoing, the Freelands provided ineffective assistance of counsel by allowing the prosecution to reference Dr. Thomas's account balance and its seizure to the jury, and Dr. Thomas should be granted a new trial. *Id.*

III. Dr. Thomas' Due Process Rights Were Violated

A. Due Process Violations

It is well settled law that a defendant has the right to be present during all stages of their trial. *See United States v. Gagnon*, 470 U.S. 522, 526, (1985). Due process is violated to the extent that "a fair and just hearing would be thwarted in [the defendant's] absence…" *Id.* The Fifth Circuit has interpreted this language to require that any technical due process violation constitute prejudicial error before a reversal is required. *United States v. Gulley*, 526 F.3d 809, 822 (5th Cir. 2008).

In Dr. Thomas's case, she was not told by her attorneys that she was allowed to be present at all stages of the trial. *See* Affidavit of Dr. Cassandra Thomas par. 14. Without her knowledge or consent, Mr. Freeland waived her rights in this regard. *Id*. Because she was not informed of her rights, she was not present when the jury requested additional instruction as discussed below. In fact, Dr. Thomas stated Mr. Freeland lied when he informed the Court that

she waived her right to be present in chambers at any time. *Id*. To the contrary, Dr. Thomas stated the Freelands never informed her of her right to be present in chambers during the trial. This due process violation was as prejudicial to Dr. Thomas's case as the Freelands' errors were prejudicial, as discussed more fully below.

B. Ineffective Assistance Of Counsel – Failure to Respond to Jury Question

The Fifth Circuit has not specifically addressed whether it is ineffective assistance of counsel for an attorney to make a false and damaging statement in response to a jury note. However, the third circuit has addressed a similar situation. In *Carpenter v. Vaughn*, the defendant was being sentenced for capital murder. *Carpenter v. Vaughn*, 296 F.3d 138, (3d Cir. 2002). During jury deliberation, the jury sent a note to the court, which was read in front of both defense counsel and the prosecution. *Id* at 141. The note asked whether the jury could recommend a sentence of life without parole. *Id*. The judge focused on the word recommend and sent a response that informed the jury that it was rendering a criminal sentence, not a recommendation. *Id*. The judge began his response with the phrase "No, absolutely not." *Id*. The jury returned a death sentence. *Id*. The Third Circuit ruled that, in context, the answer misled the jurors into believing that life without parole was not a possible verdict, which affected the outcome. *Id.* The third circuit found that defense counsel's failure to object to the misleading wording was unreasonable, and that the defendant was prejudiced because of counsel's failure. *Id.*

Mr. Freeland's actions during jury deliberation were far more egregious than the actions of defense counsel in *Carpenter*. During jury deliberation, the jury sent a note to the Court asking if there are any CPT codes that define physical medicine. According to what the Freelands related to Dr. Thomas, the note was read in chambers with the prosecution and

Defense counsel present. However, because Dr. Thomas was not told of her right to be present in chambers during all aspects of the trial, including when jury questions are read and responded to, she was excluded in violation of her due process rights as discussed above. The jurors' question went to the heart of Dr. Thomas's case by effectively asking if the services Dr. Thomas was billing for were sanctioned by the federal government. Without consulting Dr. Thomas, the Freelands responded that there were no such codes. *See* Affidavit of Dr. Cassandra Thomas. par. 17. This is despite the fact that (1) CPT Codes have sections covering physical medicine, (2) Dr. Thomas was actually aware of the existence of the CPT Codes, and (3) Dr. Thomas could and would have provided the correct response and documentation to the question had she been present in chambers.

A reasonable attorney would have protected Dr. Thomas's due process rights by informing her that she had a right to be present when the note was read. In addition, a reasonable attorney would also have consulted with his or her client prior to making an uninformed, reckless, and ultimately incorrect response to a jury question that was central to his client's case. Because the Freelands' actions fell below an objective standard of reasonableness, the jury was purposely misinformed about a key piece of evidence related to a central issue of Dr. Thomas's case that was actively being debated. Given the nature and context of the Freelands' incorrect response to the jury note, there is a reasonable probability that the jury's verdict was affected, undermining any confidence in the verdict. Based on the precedent set forth in *Carpenter*, the Freelands provided ineffective assistance of counsel by making a reckless or knowingly false and detrimental statement in response to a jury note outside of Dr. Thomas's presence, and without informing her of her right to be present during such proceedings in chambers. Consequently, Dr. Thomas should be granted a new trial because of these actions by her attorneys. *Id.*

C. Ineffective Assistance Of Counsel During Jury Selection Process

An attorney's actions during voir dire are considered to be a matter of trial strategy. A decision regarding trial tactics cannot be the basis for a claim of ineffective assistance of counsel unless counsel's tactics are shown to be so ill chosen that it permeates the entire trial with obvious unfairness. *Teague v. Scott*, 60 F.3d 1167, 1172 (5th Cir. 1995). As discussed above, Mr. Freeland waived Dr. Thomas's due process rights to be present at all stages of her trial without discussing those rights with her and without her informed consent. Trans. Vol. 2, p. 239:9-11; Affidavit of Dr. Cassandra Faye Thomas par. 13. As a result, Dr. Thomas was effectively precluded from attending all proceedings that occurred in chambers, and was not present during the jury impanelment. In addition, Mr. Freeland told Dr. Thomas that he was uncomfortable impaneling a jury in the Southern District of Mississippi. *Id*. As a result, Dr. Thomas and the Freelands agreed to hire an investigator to assist him in jury selection. However, the Freelands ignored their agreement with Dr. Thomas. *Id*. Consequently, the Freelands did not have an investigator to do background checks on potential witnesses listed on the potential jury pool, they did not have an investigator sit through the voir dire of potential jurors to determine whether any of them were withholding information, and the Freelands did not have Dr. Thomas in chambers with them while the jury was being selected. One specific reason they all decided to hire an investigator was to ensure Dr. Thomas's wishes were carried out regarding the composition of a jury of her peers. Dr. Thomas specifically requested that Mr. Freeland attempt to keep at least one African American male juror on the panel. Id. However, Mr. Freeland allowed juror 19, an African American male, to be stricken for cause without any challenge. Trans. vol. 1, p 121:19 - 122:3. A review of the transcript makes it clear that the Freelands were completely unaware of the race of the jury pool during impanelment. Trans. vol. 1, p 129: 19-22.

Based on the foregoing, Mr. Freeland was completely unwilling to follow the instructions of his client.

Also, during voir dire, the Freelands discovered that juror number 17, Rufus Rushing, had worked with the Office of the Inspector General to "get" a thief. Trans. vol. 1 p. 101:9-13. Such testimony makes it likely that the juror was biased in favor of the Office of the Inspector General, and therefore biased in favor of the prosecution in this case. During the impanelment process, Mr. Freeland forgot his glasses, and was unable to effectively consult his notes, repeatedly exhibited confusion as to the process, attempted to impanel a juror that had been disqualified, and repeatedly stated that he was lost or had lost count of his strikes. Trans. vol. 1 p. 123:22 - p. 130:6. As a result of this general confusion, Mr. Freeland failed to strike juror number 17 or challenge him for cause. Had Mr. Freeland informed Dr. Thomas of her rights, she would have been in a position to request that juror 17 be stricken, and request that Mr. Freeland fight to keep juror 19. In Addition, the Freelands failed to raise a Batson challenge when it was clear that the prosecution was attempting to strike black jurors.

The Freelands failure to follow Dr. Thomas's instructions and their failure to remove a biased juror were trial tactics that were so ill chosen as to permeate the entire trial with obvious unfairness. *Teague*, 60 F.3d at 1172. Based on the foregoing, the Freelands provided ineffective assistance of counsel and Dr. Thomas should be granted a new trial under *Strickland*. *Id*

IV. Lack of Preparation that Led to the Omission of Critical Evidence and Unreasonable Failure to Pursue a Valid Defense

To prove that defense counsels' lack of pretrial preparation was ineffective, a defendant must overcome the presumption that such lack of preparation is not part of a trial strategy. See *Schwander v. Blackburn*, 750 F.2d 494 (5th Cir. 1985). However the Supreme Court also ruled

that, *Strickland* does not "…establish that a cursory investigation automatically justifies a tactical decision…" *Wiggins v. Smith*, 539 U.S. 510, 527, (2003). It held the reviewing court must instead consider the reasonableness of the investigation that supports the strategy. *Id.* The court must consider not only the evidence known to counsel, but also whether that evidence would have led a reasonable attorney to investigate further. *Id.* As stated by the Sixth Circuit, "[t]o make a reasoned judgment about whether evidence is worth presenting, one must know what it says." *Couch v. Booker*, 632 F.3d 241, 246 (6th Cir. 2011). Tactical decisions must be made in the context of a reasonable amount of investigation, not in a vacuum. *Bouchillon v. Collins*, 907 F.2d 589, 597 (5th Cir. 1990). Once defense counsel has notice of potential defense, it is typically unreasonable for him to refuse to investigate further. *See Id.* (holding that defense counsels failure to investigate defendant's mental capacity after being given notice of a history of mental illness was ineffective assistance of counsel). Also, failure to pursue a defense may be ineffective assistance of counsel when decision is based on unreasonable assumptions and a lack of investigation. *Martin v. Maggio*, 711 F.2d 1273, 1280 (5th Cir. 1983) (finding that counsel's failure to pursue intoxication defense was unreasonable because decision was not founded on substantial investigation, but not finding ineffective assistance of counsel for lack of prejudice).

Apparently, due in part to Mr. Freeland being charged with a misdemeanor ten (10) days immediately preceding the trial, the Freelands failed to sufficiently prepare for a week-long trial involving the complex legal issues surrounding Medicare. See exhibit 11. The primary basis for the charges against Dr. Thomas was that she committed fraud because she was not physically present in her patients' homes when her staff provided in-home physical medicine to those patients. Trans. Vol. 1 p. 144: 8-11. As a result of poor preparation, the Freelands failed to uncover a Medicare Benefits Policy Manual which states that it is appropriate in medically

underserved areas for medical personnel to provide homebound service to patients through the use of nurses and technical personnel under general rather than direct supervision. *See* Exhibit 10. Had the Freelands uncovered this Medicare Benefits Policy Manual, they could have shown the jury that Dr. Thomas's billing practices were consistent with policies approved by Medicare and that such practices are not illegal. In the alternative, they could have shown that Dr. Thomas had no intent to defraud Medicare because of her reliance on a Manual that was approved and/or sanctioned by Medicare and was consistent with a general industry understanding based on Manuals, publications, and documents of this type.

Prior to trial, the Freelands should have discovered that such billing manuals existed and that they contained pertinent information regarding appropriate Medicare billing requirements. Once the Freelands became aware of the existence of these types of manuals, it was unreasonable for them to fail to research the matter further, satisfying the performance prong of the *Strickland* test. *Bouchillon*, 907 F.2d at 597. *Strickland*, 466 U.S. at 689. Further investigation by the Freelands would have uncovered information showing that Dr. Thomas understood that she was allowed to bill for these medical services even though she was not physically present in a patients home at the time the services were provided. Because the Medicare Benefits Policy Manual authorizes Dr. Thomas's actions of billing for such services without being present in the patient's homes, there is a reasonable probability that the jury's verdict was affected by the absence of this information, undermining any confidence in the verdict and satisfying the prejudice prong of *Strickland*. *Id* at 694.

Additionally, as was the case in *Martin*, the Freelands disregarded a potential defense, ie that Dr. Thomas's actions were not criminal, based on unreasonable assumptions and a substantial lack of investigation. *Martin*, 711 F.2d at 1280. The Freelands failure to investigate

the legality of Dr. Thomas's conduct was unreasonable. However, unlike *Martin*, had the Freelands relied on a defense that Dr. Thomas's practices were not criminal, and had they presented the Medicare Benefits Policy Manual supporting that theory, the jury would likely have found her innocent of all charges. This shows both an unreasonable failure by counsel and prejudice against Dr. Thomas. Based on the foregoing, the Freelands provided ineffective assistance of counsel by failing to sufficiently prepare for a trial and unreasonably failing to pursue a valid defense; and Dr. Thomas should be granted a new trial under *Strickland*. 466 U.S. at 689.

V. Failure to Call Indispensable Witnesses

A defendant may demonstrate *Strickland* prejudice when counsel refuses to call a witness, but the defendant must show that the testimony would have been favorable and that the witness would have actually testified if called. *Alexander v. McCotter*, 775 F.2d 595 (5th Cir. 1985). The Defendant is entitled to have as many witnesses as will assist him in receiving a fair trial under the circumstances of the case, but the defendant must show that there is some colorable need for the witness to be summoned. *Ross v. Estelle*, 694 F.2d 1008, 1011 (5th Cir. 1983); *Hoskins v. Wainwright*, 440 F.2d 69, 71 (5th Cir. 1971).

The Fifth Circuit has recognized that, at a minimum, counsel has the duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case. *Nealy v. Cabana*, 764 F.2d 1173, 1177 (5th Cir. 1985). Also, while the Mississippi courts have never specifically ruled on this issue, the North Carolina courts have found that while decisions regarding which witnesses to call at trial is the province of the lawyer, when counsel and a fully informed criminal defendant reach an absolute impasse as to tactical decisions, the clients wishes must control. *State v. Ali*, 407 S.E.2d 183, 189 (1991).

Despite Dr. Thomas's instructions, the Freelands failed to make any significant attempts to identify or locate prospective witnesses. *See* Affidavit Dr. Cassandra Faye Thomas par. 5. Due to this inactivity, all responsibility for identifying potential witnesses and making sure they were present for trial fell to Dr. Thomas. *See Id*; Affidavit of Charlotte Priest. Despite being specifically notified which witnesses had pertinent information, the Freelands failed to even interview Thresa Smith, Clara Reed or Vonetta James. See Affidavit of Dr. Cassandra Thomas par. 10; Grand Jury Testimony of Thresa Smith, Affidavit of Clara Reed and; Affidavit of Vonetta James. Clara Reed is the CEO of a home health care business servicing homebound patients in a medically underserved area and is a Medicare provider and would have testified regarding the relationship between the financial intermediary and the Medicare Provider. She would have also explained what a home bound patient is and how Medicare allows certain billings for services to home bound patients. Vonetta James was ready, willing and able to testify as to the nature of physical medicine provided by Dr. Thomas's technical personnel and its benefits to the patients. Thresa Smith, a nurse practitioner for Dr. Thomas, was never located by the Freelands; however, pursuant to her Grand Jury testimony she would have testified that she attended in-service meetings and training sessions for all technicians in Dr. Thomas' offices. She would have also testified that all of her technicians were being supervised monthly by her and that she evaluated and re-evaluated her patients and determined the services were medically necessary. *Id*.

The witnesses that were ultimately interviewed by the Freelands received cursory review. *See* Affidavits of Betty Russell, Charlotte Priest, Claud Barry, Kae Patterson, Mary Brown, and Marie Jones. Each of these witnesses felt that they were not properly prepared to testify and that the Freelands were so unprepared that they were unsure what information each witness

possessed. See *Id*. The only witness that received any significant preparation was Dr. Robert Smith, and that was only because of Dr. Smith's insistence. See Affidavit of Dr. Cassandra Faye Thomas par. 7.

In addition, the Freelands failed to follow Dr. Thomas's instructions and failed to uncover witness testimony that would have shown that Dr. Thomas's use of technicians to provide home bound physical medicine in a medically underserved area was permissible with and pursuant to Medicare policies, was acceptable practice, and patients benefitted from these medically necessary services. See Affidavit of Clara Reed; Affidavit of Vonetta James. Furthermore, the Freelands' general failure to sufficiently interview any of the witnesses caused the Freelands to present a defense that was completely unfocused with no apparent trial strategy.

Reasonable attorneys would have followed their client's instructions and reviewed potentially critical witness testimony before developing a trial strategy. There is no arguable strategic benefit in refusing to contact known witnesses with relevant and non-duplicative information. Each of the witnesses listed above would have testified and would have testified favorably and in a more detailed manner had the Freelands taken the time to determine what information these individuals could have provided. See Affidavits of Clara Reed, Vonetta James, Betty Russell, Charlotte Priest, Claud Barry, Kae Patterson, Mary Brown, and Marie Jones. Given the fact that Dr. Thomas provided the Freelands with a witness list and personally coordinated with each of the witnesses, the actions of the Freelands can be characterized as willful ignorance and not trial strategy. As such the Freelands failure to interview witnesses fell below an objective standard of reasonableness, satisfying the performance prong of *Strickland*. *Strickland* 466 U.S. at 689. Furthermore, the fact that the witnesses could have provided testimony that would have shown that Dr. Thomas was providing medically necessary services

which are recognized and authorized by Medicare in the Medicare Benefits Policy Manual and in the medical community would likely have changed the verdict had such testimony been offered. As such, the prejudice prong of *Strickland* is satisfied. *Id* at 694. Based on the foregoing, the Freelands provided ineffective assistance of counsel by failing to sufficiently prepare for a trial of this type, and Dr. Thomas should be granted a new trial under *Strickland*. *Id.*

Conclusion

Based on the forgoing, Dr. Thomas received ineffective assistance of counsel that fell below an objective standard of reasonableness and prejudiced Dr. Thomas sufficiently to undermine any confidence in the verdict rendered by the jury. Due to both the individual prejudicial errors and the cumulative nature of those errors Dr. Thomas was effectively deprived of counsel in violation of her Sixth Amendment rights. Therefore, Dr. Thomas respectfully requests that the Court consider the present motion, and upon hearing of same, vacate all guilty verdicts in the present case and order a new trial on all charges against Dr. Thomas.

Respectfully submitted,

COUNSEL FOR CASSANDRA
FAYE THOMAS

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CERTIFICATE OF SERVICE

I, Robert L. Gibbs, hereby certify that I caused to be electronically filed the foregoing with the Clerk of Court using the ECF system which sent notification of such filing to the following:

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This the 22nd day of August, 2011.

__/s/ Robert L. Gibbs_____
Robert L. Gibbs, Esq.

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